TOWN OF SWANZEY
Town Ordinance
(RSA 31:39, I(n))

NOISE ORDINANCE

I. STATEMENT OF PURPOSE.

It is declared to be the intent of the Town of Swanzey to protect, preserve and promote the health, safety, welfare, peace and quiet of the residents of town of Swanzey through the reduction, control and prevention of noise, and to establish standards that will eliminate and reduce unnecessary environmental noise throughout the community.

II. DEFINITIONS.

For the purposes of this Section, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

A. **Annoy**: means to disturb or irritate, especially by continued or repeated acts; to bother with unpleasant deeds; to do something to upset or anger someone; to be troublesome; a feeling of discomfort.

B. **Disturb**: means to agitate, to arouse from a state of repose, to interrupt; the unsettling of proper order in a public place, or the unsettling of proper order in a public place from a private place; to disturb includes but is not limited to creating noise likely to injure, by fighting or challenging to fight riots, disturbing others by loud, unusual and unnecessary noise, or using offensive words or insults likely to incite violence.

C. **Intra-Property Real Property Division:** shall mean the ceilings, walls, floors, doors and windows of any duplex, multi-family or condominium dwelling or structure which separate the real property leased or owned by one person from that owned or leased by another person.

D. **Person:** any individual, association, partnership, or corporation, and including any officer, employee, department,

agency or instrumentality of a state or any political subdivision of a state.

E. **Public Right-of-Way:** any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

F. **Public Space:** any real property or structure thereon which is owned or controlled by a governmental entity.

G. **Private Place**: any building, property or other place where the general public may be excluded by the owner or other person in control of the private place.

H. **Real Property Boundary:** any imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

I. **Noise**: a sound of any kind produced in a manner to annoy or to disturb.

J. **Noise Disturbance:** any sound created or allowed to continue within a real property boundary or intra-building real property division or public right-of-way or public space, which can be heard across said boundary or intra-building real property division in the confines of another or adjacent real property boundary or intra-building real property division or a public right-of-way or public space which (a) endangers or injures the safety or health of humans or animals, or (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal or real property.

III. GENERAL PROHIBITION.

Notwithstanding the specific prohibitions stated herein, it shall be unlawful for any person to make, permit, continue or cause to be made any noise which annoys, disturbs, injures or is likely to endanger the comfort, repose, health, peace or safety of others within the town limits. For the purpose of this section, persons shall include the owner, tenant, or other person in control of a private place who permits or allows noise that can be heard in a

public place or other private place, or who fails to take necessary steps and precautions to prevent animals, guests or other persons on the property from engaging in conduct that creates noise.

IV. SPECIFIC PROHIBITIONS.

It shall be unlawful to cause a noise disturbance as defined herein.

A. **Between 10:00 PM and 6:00 AM** : noise created by:

1. Loading, unloading, opening, closing, or otherwise handling boxes, crates, containers, building materials, trash cans, dumpsters or similar objects.

2. The operation or use of agricultural equipment to include, but not limited to tedders, balers and tractors.

B. **Between 10:00 PM and 7:00 AM : noise created by:**

1. The operation or use of construction vehicles to include, but not limited to, bulldozers, graders, dump trucks, backhoes, earth moving equipment, front end loaders and log skidders on the job site.

2. The operation or use of tools, or construction equipment to include but not limited to, cement mixers, hammers, staple or nail guns, power tools; (i.e., saws, drills, grinders, sanders); chain saws, lawnmowers, electric hedge trimmers, lawn edgers, and jack hammers.

3. A noise disturbance created by operating, playing, or using of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which amplifies sound or by the display of permissible fireworks.

C. **Unnecessary Noise From Motor Vehicles as follows**:

1. A person operating in or in control of a parked or moving motor vehicle shall not operate or permit the operation of an electrically amplified sound system in or on the motor

vehicle so as to produce sound that is clearly audible in a public right-of-way or way or public space more than fifty (50) feet from the motor vehicle except as otherwise authorized.

2. A person shall not operate a motor vehicle so as to make any loud, unusual, or unnecessary noise occasioned by any one or more of the following actions by the operator:

   (a) Misuse of Power – exceeding tire traction limits in acceleration, sometimes known as "laying down rubber" or "peeling rubber", or excessive acceleration where there is no emergency.

   (b) Misuse of braking power exceeding tire traction limits in deceleration where there is no emergency.

   (c) Rapid acceleration by means of quick up-shifting of transmission gears with either a clutch, manual transmission or automatic transmission.

   (d) Rapid deceleration by means of quick downshifting of transmission gears with either a clutch, manual transmission or automatic transmission.

   (e) Racing of engines by manipulation of the accelerator, gas pedal, carburetor, or gear selection whether the vehicle is in motion or standing still.

   (f) Misuse of air brakes by using them when there is nothing in tow behind the vehicle equipped with said air brakes.

   (g) Sound of the horn of a vehicle for any purpose except to give warning of the presence of such vehicle upon the street to other users of the street. Such use of a horn shall in all cases be limited to the extent reasonably necessary under the circumstances to give such warning.

(h) Modification of the exhaust system in such a manner which will amplify or increase the sound level emitted by the vehicle motor above that emitted by a muffler originally installed on the vehicle as manufactured for initial sale.

V. EXEMPTIONS

The following uses and activities shall be exempt from noise level regulations:

A. Noise of safety signals, warning devices, and emergency pressure relief valves.

B. Noises resulting from any authorized vehicle, when responding to an emergency call or acting in time of emergency.

C. Noises resulting from emergency maintenance work as performed by the Town, the State, or public utility companies, to include snow removal operations.

D. Municipal maintenance work where the abutters to the work site have been given prior notice of the project.

E. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the Town.

F. Snow blowers and other types of private or commercial snow removal operations.

G. Parades and public gatherings for which the Town has issued a permit.

H. Bells, chimes or carillons while being used for religious purposes or in conjunction with religious services, and those bells, chimes, or carillons that are presently installed and in use for any purpose.

I. The unamplified human voice, except where otherwise prohibited by the provisions of this Section.

VI. TEMPORARY SPECIAL PERMIT

The Police Chief or his or her designee is hereby authorized to issue special permits for periods not exceeding thirty (30) days to persons wishing to exceed those limited provided herein, based upon a demonstration as follows:

A. Activity sought to be engaged in is in furtherance of a substantial public interest or benefit and will not be inconsistent with the statement of purpose.

B. Activity sought to be engaged in is necessary in order to avoid undue hardship and will not be inconsistent with the statement of purpose.

VII. VIOLATIONS AND PENALTIES.

A. Evidence of a specific complaint or complainant is not necessary to establish a violation of this chapter.

B. Any person who violates the provisions of this chapter shall be guilty of a violation for each offense and shall be subject to a fine of no less than one hundred ($100) dollars for each offense. The amount of this fine shall not be fixed and may be adjusted one time per year by the Board of Selectmen.

VIII. ENHANCED PENALTY

Any person who violates the provisions of this Section three (3) or more times in a year shall be subjected to the provision of an enhanced penalty and shall be subject to a fine of no less than five hundred ($500) dollars for each offense. For the purpose of this Section, a year shall be defined as the period of January 1 to December 31. The amount of this enhanced penalty shall not be fixed and may be adjusted one time per year by the Board of Selectmen.

IX. SEVERABILITY

If any provisions of this Section or the application of such provisions to any person or circumstances shall be held invalid, the validity of the remainder

of this Section and applicability of such provisions to other persons or circumstances shall not be affected thereby.

X. EFFECTIVE DATE

This ordinance shall be considered to be adopted upon vote at Town Meeting.

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Recommended by the Town of Swanzey Board of Selectmen on January 27, 2014

Nancy L. Carlson, Chair
Kenneth P. Colby, Jr.
Deborah J. Davis

APPROVED BY THE VOTERS OF THE TOWN OF SWANZEY ON MARCH 11, 2014 (Town Meeting Article 7)

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