

SWANTON VILLAGE NOISE CONTROL ORDINANCE

NOISE CONTROL

SECTION 5600. DEFINITIONS.

- a. **Plainly Audible:** Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of the song, specific words or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.
- b. **Residential Property or Receiver:** Property used for human habitation or sleeping.
- c. **Commercial/Industrial Property or Receiver:** All other property, e.g. restaurants schools, churches.
- d. **Background Level:** The composite of all sounds exclusive of the sound under evaluation.
- e. **DBA:** The sound pressure level measured using the A weighting network as prescribed by the American National Standards Institute.
- f. **Receiving Property:** The location that is receiving the sound in question.
- g. **Emergency:** Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.
- h. **Emergency Work:** Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- i. **Noise:** Any sound which annoys or disturbs humans, or which causes or tends to cause an adverse psychological or physiological effect on humans.

SECTION 5601. PROTECTING PUBLIC TRANQUILITY.

Purpose: In order to preserve the peace and promote civility and to prevent hearing loss, sleep loss and a general reduction in the quality of life, the Village of Swanton will protect the public tranquility.

SECTION 5602. PROHIBITIONS.

General Prohibitions: No person shall make or continue any excessive, unnecessary, unreasonably loud noise or disturbance, or any noise or disturbance which disturbs, destroys, or endangers the comfort, quiet, repose, health, peace, or safety of others within the immediate vicinity of the noise or disturbance. Without limitations, the commission of one or more of the following acts, if done in such manner, shall be deemed a violation of this Ordinance:

- (a) **Mobile, Portable or Outdoor Electronic Sound-producing Devices.** The playing or use of a mobile, portable or outdoor electronic sound-producing device in such manner or with such volume at any time and place so as to disturb, destroy or endanger the comfort, repose, or peace of persons. Evidence of such disturbance shall be the use of electronic sound producing devices that are operated in such a manner to be plainly audible at 50 feet in any direction from the operator.
- (b) **Vocal Disturbances.** Yelling, shouting, whistling, singing, or making any other loud vocal disturbance to disturb, destroy, or endanger the comfort, quiet, repose or peace of persons in the immediate vicinity of the noise or disturbance. This section shall not be construed to prohibit a vocal disturbance, whether or not it is electronically amplified, by spectators or participants in an athletic event or assembly sponsored by a public or private school conducted on Village or school property with proper permission by Village or school officials.
- (c) **Devices to Attract Attention.** The use of any drum, musical instrument, loudspeaker, amplifier, or other instrument or device for the purpose of attracting attention. This section shall not be construed to prohibit the playing of musical instruments by students practicing or performing in a school band or orchestra, or other persons participating in an authorized parade or assembly in a public place, nor shall this section be construed to prohibit the sounding of any signaling device under the control of the Village of Swanton, a church or a school.

(d) Dogs, Cats and Other Animals. The keeping of any dog, cat or other animal which shall become a nuisance to another person in the vicinity where such dog, cat or other animal is kept, by frequent or continued barking, howling, yelping, crowing or screaming.

(e) Construction and Maintenance Sounds. The excavation, erection, demolition, alteration, or repair of any buildings, structure, property, or street between the hours of 9:00 P.M. and 7:00 A.M., except for necessary emergency construction and maintenance to protect property or persons.

(f) Trash Removal. The removal of household and commercial trash by authorized commercial trash haulers utilizing mechanized conveyances within 500 feet from a residential receiver between the hours of 9:00 P.M. and 6:00 A.M.

(g) General Property Line Standard. This general property line standard is a numerical standard for determining whether the sound from a particular source is a violation of this Ordinance. The sound pressure level is measured at or within the property lines of a receiving property. When a sound exceeds the dBA sound level specified in Table A, it is a violation of this Ordinance.

TABLE A

	<u>Time of Day</u>	<u>Time of Day</u>
Receiving Property	6:00 AM to 9:00 PM	9:00 PM to 6:00 AM
	DBA	DBA
Residential	60	55
Commercial/Industrial	65	65

SECTION 5603. EVIDENCE OF VIOLATION.

For the purposes of subsections (a), (b), (c), (d) and (e) of Section 5602, a noise or disturbance of such magnitude so as to be plainly audible in another building or in another dwelling unit located in the same building, shall be deemed prima facie evidence of a violation of this Article.

SECTION 5604. MUFFLERS.

A motor vehicle, including a motorcycle, moped, snowmobile, all-terrain vehicle, or other vehicle equipped with and propelled by engine, whether operated on a public street or on private property, shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. A person shall not remove, destroy, or damage any of the baffles contained in the muffler, nor shall a person use a muffler cutout, bypass, or similar device upon any such vehicle. Such vehicle shall always be equipped with a properly operating exhaust system which shall include a tail pipe and a resonator on a vehicle where the original design included a tail pipe and a resonator.

SECTION 5605. ENFORCEMENT.

(a) No owner or occupier of premises, or any person who has been given lawful permission to use or control any premises, shall knowingly permit a violation of this Ordinance by another person on such premises.

(b) Any person violating the provisions of this Ordinance shall be fined \$100 for the first offense, \$250 for the second offense and \$500 for the third and subsequent violations. Notwithstanding, persons found in violation of this Ordinance may, within ten days from the date of such violation, admit the violation and waive the issuance of any process in a trial by court or by jury or hearing, by voluntarily paying to the Village of Swanton \$100 or by satisfying other conditions as may be imposed.

SECTION 5606. VARIANCES.

Any person may apply to the Swanton Village Board of Trustees for a variance from the requirements of this Ordinance prior to doing those acts. The applicant shall provide a certified list of property owners within two hundred fifty (250) feet of the site(s) where the activity is to occur. Ten (10) days advance written notice of the Swanton Village Board of Trustees meeting shall be provided to the property owners and residents appearing on the list. For good cause shown, the Village of Swanton Board of

Trustees may, in its sole discretion, either grant or deny the variance. If the variance is granted, the Board of Trustees may impose reasonable conditions to it.

SECTION 5607. EXEMPTIONS.

Sounds from the following sources shall be exempt from the prohibitions specified herein and shall not be included in any measurements performed to determine compliance with Table A of Section 5602:

- a. All safety signals and warning devices or any other device used to alert persons to any emergency or used during the conduct of emergency work including but not limited to police, fire, and medical/rescue vehicle sirens.
- b. The repair and maintenance of municipal facilities, services, or public utilities when such work must be accomplished outside of daytime hours.
- c. Snow removal equipment operated within the manufacturer's specifications and in proper operating condition.
- d. Musical, recreational and athletic events conducted by and on the site of a school or education institution and municipal institutions.
- e. Events conducted by or permitted by the Village of Swanton. Persons operating an event under the authority of an entertainment permit, parade, street event, or special use permit shall comply with all conditions of such permits with respect to noise control issues.
- f. Construction or repair work which must be done to address an emergency health or safety concern and that cannot be accomplished during daytime hours and which is not work which includes normal maintenance and repair.
- g. Equipment for maintenance of lawns and grounds during the hours of 7:00 A.M. to 9:00 P.M. (including but not limited to lawn mowers, hedge trimmers, weed whackers, chain saws, and leaf blowers).
- h. Vehicles that meet state standards on the public right-of-way.

SECTION 5608. NOTIFICATION BY PROPERTY OWNERS OF RENTAL HOUSING.

Owners of rental housing shall be required to provide a copy of this Ordinance to a tenant at the start of the tenancy. However, the failure of an owner to provide a copy of the Ordinance shall not be a defense to a violation of this section.

Adopted on _____

Swanton Village Board of Trustees

Eugene LaBombard, Trustee

Neal Speer, Village President

Chris Leach, Trustee

Adam Paxman, Trustee

ATTEST: _____
Dianne Day, Village Clerk