



# TOWN OF SANDWICH

8 MAPLE STREET ~ PO BOX 194  
SANDWICH, NEW HAMPSHIRE 03227

## ORDINANCE RELATIVE TO UNREASONABLE NOISE

Recognizing that people have a right to and should be ensured an environment free from excessive sound and vibration capable of jeopardizing health, safety or welfare, or of degrading quality of life, this Ordinance is enacted to protect, preserve and promote the health, safety, welfare and quality of life for residents and visitors to the Town of Sandwich. This Ordinance provides for the reduction, control and prevention of unreasonable noise. This ordinance is intended to supplement existing state statutes that pertain to noise including: RSA 259:66, RSA 259:109, RSA 644:2, and RSA 259:115-b.

### DEFINITIONS

- (1) **Domestic Power Equipment:** power equipment intended for use in residential areas by homeowners. Examples include, but are not limited to, chain saws, log-splitters, power saws, drills, grinder, lawn and garden tools.
- (2) **Agricultural equipment:** equipment, tools, or machinery used for agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, silviculture, and animal and poultry husbandry. Examples include, but are not limited to, tractors, backhoes, and irrigation machinery. (RSA 432:32 and RSA 21:34-a)
- (3) **Construction activities:** for the purposes of this ordinance, the operation of any equipment used in the construction, repair, alteration or demolition work on buildings, structures, streets, or appurtenances thereto. Examples include site preparation, excavation, grading, assembly, erection, substantial repair or alteration of any building, structures or land.
- (4) **Emergency:** any occurrence or set of circumstances involving actual or imminent physical trauma or property damage that demands immediate action.
- (5) **Muffler:** a device consisting of a series of chambers or baffle plates, or other mechanical design for the purposes of receiving exhaust gases and effectively reducing noise. (RSA 259:66)
- (6) **Noise Disturbance:** causing a breach of the peace, public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, by:
  - (a) Making loud or unreasonable noises in a public place, or in a private place that can be heard in a public place or other private places, which noises disturb a

person of average sensibilities; or,

- (b) Disrupting the orderly conduct of business in any public or governmental facility; or,
- (c) Disrupting any lawful assembly or meeting of persons without lawful authority; or,
- (d) Creating any sound that endangers or injures the safety or health of a person, or annoys or disturbs a reasonable person of normal sensitivities that can cause one or more of the following affects:
  - (i) Temporary or permanent hearing loss in persons exposed;
  - (ii) Injury to or tendency to injure, based on current information, the public health or welfare;
  - (iii) Unreasonable interference with the comfortable and reasonable enjoyment of life or property, or interference with the conduct of business; or,
  - (iv) Exceeding the limits or restrictions established herein or pursuant to the granting of any permit by the Town.

(7) **Person:** an individual, partnership, association, firm, syndicate, company, trust, corporation, department, bureau or agency or any other entity recognized by law as having rights and duties.

(8) **Person of Average Sensibilities:** a law enforcement officer shall be considered a person of average sensibilities for the purposes of this Ordinance. (RSA 644:2)

(8) **Tractor-Trailer:** any truck, tractor and semi-trailer. (RSA 259:109)

(9) **Truck:** every motor vehicle designed, used or maintained primarily for the transportation of property. (RSA 259:115-b)

## **NOISES PROHIBITED – UNREASONABLE NOISE STANDARD**

All unreasonable Noise Disturbances are prohibited by this Ordinance. The following are examples of unreasonable noise disturbances prohibited by this Ordinance:

- 1) Noise emanating from a vehicle's sound system or any portable sound system located within a vehicle in a manner that constitutes a breach of the peace, public inconvenience, annoyance or alarm. (RSA 644:2)
- 2) The using, operating or permitting to be played of any radio receiving set, musical instrument, stereo, public address system or other machine or device for the producing or reproduction of sound in such manner as to disturb the health, safety and welfare of the neighboring inhabitants at any time; the operation of any such set, instrument, stereo, machine or device between the hours of 10:00 p.m. and 7:00 a.m., Sundays through Thursdays; 12:00 a.m. and 7:00 a.m., Fridays and Saturdays (and Sundays during a three-day weekend), in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

- 3) The discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motorboat or motor vehicle, except through a muffler or other device that effectively prevents loud or explosive noises there from. (RSA 259:66, 266:54, 266:59, 266:59-a, 270:25)
- 4) The use of any automobile, motorcycle or vehicle that is in such ill repair, so loaded or operated in such a manner to create loud and unnecessary grating, grinding, rattling, explosive or other noise.
- 5) Consumer fireworks (as defined by CFR 555.11 and NH RSA 160-C:1) are prohibited except a) between 12 noon and 10:00 pm on weekdays, or between 12 noon and 11:00 pm on weekends (and three-day weekends); b) on the 4<sup>th</sup> of July between the hours of 12 noon to 12 midnight; and c) New Year's Eve between the hours of 12 noon and up to 30 minutes past midnight of the holiday.

#### EXEMPTIONS

The following uses and activities shall be exempt from the foregoing noise restrictions:

- 1) Any bell or chime from any school or place of worship.
- 2) Any siren, whistle or bell lawfully used by emergency vehicles or noise created by emergency vehicles in lawful performance in response to or relating to an emergency.
- 3) Any siren, whistle, bell or other sound-generating device used by an alarm system in an emergency provided, however, that burglar alarms not terminating within thirty (30) minutes after activation shall be unlawful.
- 4) Noise from domestic power equipment.
- 5) Noise from agricultural equipment.
- 6) Noise from construction activities.
- 7) Noise from any snow removal equipment.
- 8) Noise created to perform emergency work to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger or damage.

**PENALTY.** Any person violating any of the provisions of this ordinance shall be guilty of a violation. The penalty for a first offense shall be one hundred dollars (\$100). The fine for a second offense occurring in a calendar year shall be two hundred fifty dollars (\$250). The fine for a third or subsequent offense occurring in a calendar year shall be five hundred dollars (\$500). All fines shall be payable within fourteen (14) days to the Sandwich Town Clerk.

#### MANNER OF ENFORCEMENT

Town Officials and Agents shall prosecute violations of this ordinance in the same manner as other violations of the Ordinances of the Town of Sandwich. The Police Department, the Board of Selectmen of the Town of Sandwich, or their Agents, may bring forward complaints regarding non-compliance with the provisions of this ordinance.

#### ADDITIONAL REMEDY – INJUNCTION

As an additional remedy, the ongoing operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to the reasonable person of average sensibilities or which endangers the comfort, repose, health or peace

of residents in the area shall be deemed, and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

**SEPARABILITY**

It is the intention of the Board of Selectmen that each separate provision of this ordinance shall be independent of all other provisions herein. It is further the intention of the Board of Selectmen that should proper authority declare any provision of this ordinance to be invalid, all other provisions thereof shall remain valid and enforceable.

**APPEAL**

Appeal of an issuance of a fine may be made to the Board of Selectman or the Chief of Police. Failure to pay the fine shall result in the issuance of a summons to appear in District Court.

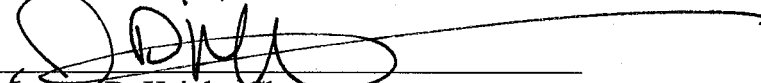
This ordinance shall be in effect upon its passage and shall remain in effect until amended or rescinded.

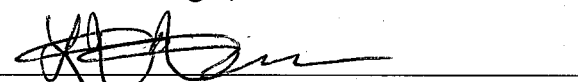
**QUESTIONS AND/OR CLARIFICATIONS RELATED TO THIS POLICY**


All questions and/or clarifications of this policy and its related content should be addressed to the Board of Selectmen, who shall be responsible for the administration, revision, interpretation, and application of this policy.

**Approved by the Board of Selectmen:**

Date: May 1, 2021

  
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Joanne D. Haight, Chairman

  
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Leo D. Dwyer

  
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Todd R. Horn

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Date Adopted: May 1, 2021

This Policy received, reviewed, revised and updated on: \_\_\_\_\_