

NOISE CONTROL (P-1-2008)

An ordinance for enforcement relating to the control of motor vehicle & *non-motor vehicle* noise in the Town of Swayzee.

P-1-2008

SECTION 1: PURPOSE

The purpose of this ordinance is to regulate the compliance of excessive motor vehicle noise within the Town of Swayzee for the protection of public health, safety, and welfare.

SECTION 2: DEFINITIONS AND STANDARDS

“EMERGENCY” – means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss, which demands immediate action.

“EMERGENCY WORK” – any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

“MODIFIED EXHAUST SYSTEM” – any vehicle defined as a motor vehicle under the traffic ordinance, including but not limited to, passenger cars, trucks, truck/trailers, campers, go-carts, snowmobiles and motorcycles.

“REAL PROPERTY BOUNDARY” – the property line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another.

“NON-MOTOR VEHICLE RELATED NOISE” – Any noise which is not primarily caused, driven or powered by a motor vehicle such as a passenger car, truck, semi-truck, golf cart, motor home, RV, go-cart, dirt bike, ATV or UTV.

SECTION 3: MOTOR VEHICLE PROHIBITIONS AND ENFORCEMENT

Motor vehicle noise – No person shall operate a motor vehicle which causes excessive noise levels as a result of a defective or modified exhaust system, or as a result of an unnecessary rapid acceleration, deceleration, engine revving, tire squealing, testing of vehicles, or loud musical devices. The generality of this section shall not be construed as limited to the following enumerated offenses:

- (1) The continuous or repeated sounding of any horn or signal device of a motor vehicle when not used as a danger signal. Continuous shall be defined to include unnecessary or unreasonable periods of time.
- (2) The use of any musical instruments, radio, tape player, compact disc player, amplifiers, speakers, and any similar device that creates excessive noise or vibrations above the perception threshold of an individual at or beyond the source if on private property or at a distance of 50 feet from the source if on public property or roadways.
- (3) The use of any motor vehicle with or without the attachment of various appurtenances thereto so to create loud or unnecessary grating, grinding, rattling or other noise or noises. This shall include the

use of any vehicle, said use of which causes excessive noise as a result of a defective or modified exhaust system, or as a result of unnecessary acceleration, deceleration, revving the engine, or tire squeal.

- (4) The use of a compression engine release brake, A/K/A “jake brake” system or any device known by a similar name, on a motor vehicle without a properly installed and operational engine brake muffler. The term compression engine release brake, jake brake, or any similar device shall be defined as a device used to slow a motor vehicle by engine compression creating a loud or excessive noise to be emitted through the vehicle’s exhaust system.

SECTION 4: EXEMPTIONS

Provisions of this noise article shall not apply to the following;

- (1) Emergencies – including the emission of sound for the purpose of alerting persons to an emergency, or sounds made in connection with the performance of emergency work.
- (2) Public Speech – shall not apply to noncommercial public speech or public assembly activities conducted on any public space for which a permit has been obtained.
- (3) School or Public Program – organized school-related programs, activities, events or parades or other public programs or events.
- (4) Holiday celebrations, concerts, parades or other special events with prior approval from the town council.
- (5) Town of Swayzee employees utilizing equipment and acting within parameters of their occupation conducting official business.

SECTION 5: VIOLATION

Any person who violates this ordinance shall be fined not less than \$50 and not more than \$250 plus court costs upon conviction per ordinance violation.

SECTION 6: NON-MOTOR VEHICLE RELATED NOISE

- (a) Noise not associated with a motor vehicle as described in the above definition; and
- (b) That is considered unreasonable, disturbing or provoking to the surrounding area beyond the property line in which possesses the source of the noise.
- (c) Non-Motor Vehicle Noise shall be limited to the daytime hours between 6am – 9pm except for a Town of Swayzee Event, an event approved by the Town Council, or a Town of Swayzee employee utilizing their equipment operating within the duties of their occupation.
 - a. Section 6 includes non-motor vehicle noise such as but not limited to the following:
 - i. Construction/Home Improvement
 - ii. Snow/Leaf Blowing
 - iii. Mowing/Weed Trimming
 - iv. Home & Outdoor Stereo Systems / Musical Instruments
 - v. Any noise which would be described in section 3(2); and that would pertain to non-motor vehicle noise on private or public property.

- b. During the above quiet hours, any and all noise shall not be heard or felt beyond the boundary of the source in which contains the noise.

(d) DISTURBING THE PEACE CLAUSE

- a. Noise projected in an excessive, tumultuous, provoking or disturbing manner outside of the above quiet hours may still be in violation if the noise can be heard beyond 50 feet from the source; and after receiving a verbal warning from the Swayzee Police Department Town Marshal or Deputy Marshal; and has not ceased the prevention of the noise causing the disturbance which is being projected in the above manner.
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