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**TOWN OF JERICHO**

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**TO:** SELECTBOARD  
**FROM:** TODD ODOT, TOWN ADMINISTRATOR  
**SUBJECT:** NOISE ORDINANCE  
**DATE:** 6/9/2011

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**ISSUE:**

The issue is providing the Selectboard with a draft noise ordinance for consideration.

**DISCUSSION:**

Attached is a draft noise ordinance that is modeled on similar ordinances adopted in Middlebury, Woodstock, Essex Junction and Johnson. In general, a noise ordinance will be broader in reach than a noise ordinance incorporated in zoning regulations. For example, the draft ordinance covers animals, vocal disturbances and "any act... [that] will make or continue any excessive, unnecessary, or unreasonably load 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."

While a standalone noise ordinance can result in a fine being levied sooner, the major drawback to such an ordinance for Jericho would be enforcement. For example, all of the towns cited above that have noise ordinances also have a police department that is able to respond 24 hours a day to a noise complaint. Obviously Jericho does not have a police department, so enforcement of the ordinance would fall on the State Police, which prioritizes its response to calls, so they may not always be able to respond to a complaint while an alleged violation is occurring. In addition, since the Town does not have the capability to create an ordinance with specific sound limits, whether or not a violation is occurring will be left to the discretion of the responding officer. With fairly subjective standards, enforcement could be an issue.

**COST:**

Not applicable.

**RECOMMENDATION:**

It is recommended that the Selectboard decided whether or not to proceed with the adoption of a noise ordinance.

An Ordinance for  
the Regulation of Noise

**ARTICLE I - PURPOSE**

In order to protect the comfort, quiet, repose, health, peace, or safety of others within the immediate vicinity of the noise or disturbance, the Board of Selectmen of the Town of Jericho adopt an ordinance to prohibit and/or appropriately regulate a person or persons from making or continuing any excessive, unnecessary, or unreasonably loud noise or disturbance.

**ARTICLE II - REGULATION**

**SECTION X - Prohibitions Generally**

No person or persons shall make or continue, or cause to be made or continued, any excessive, unnecessary, or unreasonably loud 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. Although intended as examples only, and not exclusive of other acts constituting a violation of this Article, the commission of one or more of the following acts, if done in such a manner, shall be deemed a violation of this Article:

- a. Electronic sound producing devices. The playing or use of an electronic sound producing device in such manner or with such volume at unreasonable hours. For the purposes of this subsection, the term "electronic sound-producing devices" shall include any radio, phonograph, stereo, television set, amplified musical instrument, loud speaker, tape, cassette or compact disc recorder or any other similar device. On Sunday through Thursday, the hours between 10:00 p.m. and 7:00 a.m. shall be deemed unreasonable whenever any person shall make complaint of the disturbance during such hours. On Friday, Saturday and special holidays (New Years Eve and Fourth of July) the hours between 1:00 a.m. and 7:00 a.m. shall be deemed unreasonable whenever any person shall make complaint of the disturbance during such hours. The complaint of the disturbance, if or when confirmed by a Law Enforcement Officer, shall also be deemed a violation as well.
- b. Vocal Disturbances. Yelling, shouting, whistling, singing, or making any other loud vocal disturbance which is deemed to be objectionable because of volume, frequency or beat and is not muffled or otherwise controlled.
- c. Devices to attract attention. The use of any drum, musical instrument, loud speaker, 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 persons practicing or performing in a school or town band, orchestra or participating in or practicing for an authorized parade or assembly in a public place.
- 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 or screaming. Customary agricultural activities are exempt from this Ordinance.

e. Construction noises. 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 repairs to protect property of persons when such activity utilizes motorized or powered tools or equipment.

### **ARTICLE III – EXEMPTIONS**

- a. Any person or organization that has obtained a noise waiver from the Selectboard.
- b. Any vehicle owned by and operated by government or a utility in the performance of its duties.
- c. Noise associated with routine snow removal activities where customary practices and equipment are used.
- d. Any government or utility emergency repair. Any construction activity, other than government or utility emergency repairs, that has obtained approval by the Selectboard to occur between the hours of 9 PM and 7 AM that is deemed in the best interest of the public health, safety and welfare.
- e. Any siren or other warning device used for public safety.
- f. Noise associated with a bona fide response to an emergency situation that poses a threat to the public health, safety or welfare.

### **ARTICLE IV - ACTS NOT SPECIFICALLY PROHIBITED**

The commission of any act not specifically prohibited by any other section or subsection of this chapter shall be deemed a violation of this chapter if it is determined that such act will make or continue any excessive, unnecessary, or 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.

### **ARTICLE V - AUTHORITY**

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.

### **ARTICLE VI - PENALTY**

A person who violates any provision of these regulations shall be subject to a civil penalty of up to Five Hundred Dollars (\$500) per day for each day that such violation continues. Any authorized Vermont Law Enforcement officer shall be authorized to act as Issuing Municipal Officials to issue and pursue before the Traffic and Municipal Ordinance Bureau a municipal compliant.