

SWAIN COUNTY
NOISE ORDINANCE

SECTION 1: AUTHORITY & PURPOSE.

This Ordinance is adopted pursuant to the authority granted in G.S. 153A-133, G.S., 153A-123, and G.S. 14-4. This Ordinance is adopted for the purpose of regulating the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb or frighten the county's citizens.

SECTION 2: LOUD, DISTURBING AND UNNECESSARY NOISES

PROHIBITED.

It shall be unlawful for any person or group of persons, regardless of number, to willfully make, continue or cause to be made or continue any loud, raucous and disturbing noise, which term shall mean any sound which, because of its volume level, duration and character, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the County of Swain. The term loud, raucous and disturbing noise shall be limited to loud, raucous and disturbing noises heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit or upon the grounds thereof, which

residential unit is not the source of the noise.

SECTION 3: SPECIFIC PROHIBITED ACTS.

The following acts, among others, are declared to be loud, raucous and disturbing noises in violation of this Ordinance, but such enumeration shall not be deemed to be exclusive:

(a) Blowing horns. The sounding of any horn, whistle or signal device, intermittently or continuously for a period in excess of sixty (60) seconds, on any automobile, motorcycle, bus, or other vehicle or railroad train, except as a danger signal or as required by law, so as to annoy, disturb, injure or endanger the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the County of Swain.

(b) Sirens. The use of any gong or siren upon any vehicle other than police, fire, ambulance or other emergency vehicle, so as to annoy, disturb, injure or endanger the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the County of Swain.

(c) Radio, Amplifiers, Phonographs, Group Gatherings. The playing, using or operating or permitting to be played, used or operated any radio, amplifier, musical instrument, phonograph, interior or exterior loudspeakers, or other device for the producing or reproducing of sound in such manner as to annoy, disturb, injure or endanger the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the County of Swain.

(d) Blowing Whistles. The blowing of any steam whistle attached to any stationary blower and used in the manufacturing process, except as a warning of danger, to the extent that it annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the County of Swain.

(e) Construction Operations. Any noise created by the erection, including excavation, demolition, alteration, or repair of any building, residence or other structure, other than between the hours of 7:00 A.M., and 10:00 P.M., on Monday through Saturday, except by permit from the building inspector, when in the inspector's opinion, such work will not create noise in violation of this Ordinance, but upon complaint in writing of the occupant or property near the location of the work, the building inspector shall immediately revoke the permit and the work shall be immediately discontinued. The building inspector may permit emergency work in the preservation of public health or safety at any time. Only noises which annoy, disturb, injure or endanger the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the County of Swain shall be prohibited by this subsection.

(f) Pets. Allowing any animal, including dogs, cats and birds, in a person's possession or control to make any noise that annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the County of Swain. This section shall not apply

to hunting dogs while in the actual process of hunting.

(g) Fireworks. The explosion of any fireworks unless under a written permit obtained from Swain County.

(h) Hawking, Peddling or Soliciting. Any shouting and crying of peddlers, hawkers or vendors, which annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the County of Swain.

(I) Noises to Attract Attention. The use of any drum, loudspeaker or other instrument for the purpose of attracting attention to any performance, show, sale, display or advertisement of merchandise, to the extent that it annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the County of Swain.

(j) Blowers and Engines. The operating of any noise creating blower, power fan, or other internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise emitting therefrom is sufficiently muffled and the engine is equipped with a muffle device sufficient to deaden such noise to the public so as not to disturb the rest and quiet of persons on adjacent premises or within the vicinity thereof between the hours of 10:00 P.M., and 7:00 A.M.

(k) Loud Language. Using any language, singing or shouting so as to annoy, disturb, injure or endanger the comfort, health,

peace or safety of reasonable persons of ordinary sensibilities within the limits of the County of Swain.

(1) Operation of Vehicles. All noises coming from motor vehicles not equipped with the manufacturers' standard mufflers and noise reducing equipment in proper operating condition, to the extent that said noises annoy, disturb, injure or endanger the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the County of Swain.

SECTION 4: EXEMPTIONS.

The following uses and activities shall be exempt from the noise regulations set forth in this Ordinance.

(a) Any bell or chime from any building clock, school or church.

(b) Any siren, whistle, or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation; provided, however, that burglar alarms not terminating within thirty (30) minutes after the responsible person has been notified, shall not be exempt.

(c) Warning devices required by OSHA or any local, County, State or Federal safety regulations.

(d) Agricultural and horticultural operations conducted in a reasonable manner on property classified as bona fide farms for ad valorem tax purposes.

(e) Noise caused by any type of construction equipment while it is being used for the purpose for which it is designed and for which it was purchased, except during the hours from

10:00 P.M., to 7:00 A.M., and all day Sunday.

(f) The operation of an automobile race track except between the hours of 11:30 P.M., and 12:00 noon.

(g) Any town, county, or public school sponsored athletic event, except between the hours of 11:30 P.M., and 7:00 A.M.

(h) Nothing herein shall be construed to hold a landlord liable, responsible or in violation of this Ordinance unless the landlord sponsors or in any way participates in the activity that violates any provisions of this Ordinance.

SECTION 5: ENFORCEMENT.

Subject to the provisions of Section 6 hereinafter, violations of this Ordinance may be enforced by any one or more of the remedies authorized by G.S. 153A-123 of the North Carolina General Statutes, including, but not limited to, the following:

(a) Civil Penalty: Any person who is found in violation of this Ordinance shall be subject to a civil penalty of \$50.00 to be recovered by the County of Swain in a civil action in the nature of a debt. Each day's violation shall be treated as a separate offense.

(b) Criminal Penalty: Any person violating this Ordinance shall be guilty of a misdemeanor punishable by a fine not to exceed \$500.00 or imprisonment for not more than thirty (30) days, or both. Each day's violation shall be treated as a separate offense.

(c) Injunction: A civil action seeking an injunction and order of abatement may be directed toward any person violating this Ordinance.

SECTION 6: COOPERATION OF COMPLAINANT.

Before initiating a civil or criminal proceeding pursuant to this Ordinance, Swain County, its officers and staff members, and/or the Swain County Sheriff shall have the option of requesting the complaining party to sign a sworn statement of the alleged offense and to require the cooperation of the complaining party in court appearances arising from said complaint. Nothing contained in this Ordinance shall obligate Swain County, its officers and staff members, and/or the Swain County Sheriff to pursue civil or criminal proceedings hereunder where the complaining party is unwilling to sign such sworn statement and cooperate in court appearances arising therefrom.

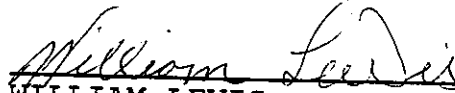
SECTION 7: SEVERABILITY.

If any article, section, subsection, sentence, or clause of this Ordinance is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance. It is hereby declared that this Ordinance would have been passed, and each article, section, subsection, sentence, or clause hereof, irrespective of the fact that any one or more articles, sections, subsections, sentences, or clauses might be adjudged to be unconstitutional or for any other reason invalid.

SECTION 8: EFFECTIVE DATE.

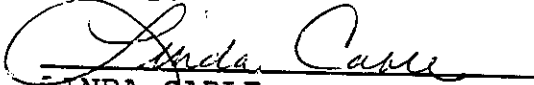
This Ordinance shall become effective upon adoption.

Adopted this the 14 day of November, 1996.



WILLIAM LEWIS
Chairman, Board of Commissioners
Swain County

ATTEST:



LINDA CABLE
Clerk to the Board

STATE OF NORTH CAROLINA
COUNTY OF SWAIN

AMENDMENT TO SWAIN COUNTY NOISE ORDINANCE

WHEREAS SWAIN COUNTY duly adopted a Noise Ordinance on the 14th day of November 1996.

WHEREAS, the Swain County Board of Commissioners has found it necessary to amend said Noise Ordinance as set forth hereinbelow;

WHEREAS, at a duly called properly noticed meeting of the Swain County Board of Commissioners, the Amendment to said Noise Ordinance was introduced and voted on and passed unanimously by the three members of the Board of Commissioners present at said meeting.

NOW, THEREFORE, THE SWAIN COUNTY NOISE ORDINANCE IS HEREBY AMENDED AS FOLLOWS:

1. By adding to Section 4 (Exemptions) the following subparagraphs:

"(i) The firing or discharging of weapons for the purpose of taking game or birds by properly licensed hunters pursuing game legally and in compliance with all local, state and federal regulations and laws.

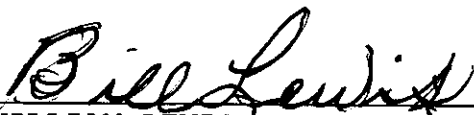
(j) The firing or discharging of weapons for the purpose of sport shooting (such as trap and skeet shooting) if done between the hours of sunrise and sunset; provided that such firing and discharging is done legally and in compliance with all local, state and federal regulations and laws.

(k) The firing or discharging of weapons for the purpose of firearms practice, between the hours of sunrise and sunset; provided that such firing and discharging is done legally and in compliance with all local, state and federal regulations and laws."

2. Except as herein amended, the Swain County Noise Ordinance remains in full force and effect.

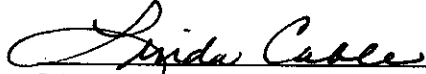
3. This Amendment to the Noise Ordinance shall become effective upon adoption.

Adopted this the 14th day of August 1997.



WILLIAM LEWIS
Chairman, Board of Commissioners
Swain County

ATTEST:



LINDA CABLE
Clerk to the Board

STATE OF NORTH CAROLINA
COUNTY OF SWAIN

AMENDMENT TO SWAIN COUNTY NOISE ORDINANCE

WHEREAS SWAIN COUNTY duly adopted a Noise Ordinance on the 14th day of November 1996.

WHEREAS, said Noise Ordinance was amended on August 14, 1997;

WHEREAS, the Swain County Board of Commissioners has found it necessary to further amend this Noise Ordinance as set forth hereinbelow;

WHEREAS, at a duly called properly noticed meeting of the Swain County Board of Commissioners, the Amendment to said Noise Ordinance was introduced and voted on and passed unanimously by the three members of the Board of Commissioners present at said meeting.

NOW, THEREFORE, THE SWAIN COUNTY NOISE ORDINANCE IS HEREBY AMENDED AS FOLLOWS:

1. By deleting from Section 4 (Exemptions) the following subparagraphs:

"(j) The firing or discharging of weapons for the purpose of sport shooting (such as trap and skeet shooting) if done between the hours of sunrise and sunset; provided that such firing and discharging is done legally and in compliance with all local, state and federal regulations and laws.

(k) The firing or discharging of weapons for the purpose of firearms practice, between the hours of sunrise and sunset; provided that such firing and discharging is done legally and in compliance with all local, state and federal regulations and laws."

2. Except as herein amended, the Swain County Noise Ordinance remains in full force and effect.

3. This Amendment to the Noise Ordinance shall become effective upon adoption.

Adopted this the 11th day of September 1997.

William Lewis

WILLIAM LEWIS
Chairman, Board of Commissioners
Swain County

ATTEST:

Linda Cable

LINDA CABLE
Clerk to the Board

STATE OF NORTH CAROLINA
COUNTY OF SWAIN

AMENDMENT TO SWAIN COUNTY NOISE ORDINANCE

WHEREAS, Swain County duly adopted a Noise Ordinance on the 14th day of November, 1996;

WHEREAS, said Noise Ordinance was first amended on August 14, 1997;

WHEREAS, said Noise Ordinance was amended again on April 17, 1998;

WHEREAS, Swain County Board of Commissioners has found it necessary to further amend this Noise Ordinance as set forth hereinbelow; and

WHEREAS, at a duly called, properly noticed meeting of the Swain County Board of Commissioners, the Amendment to said Noise Ordinance was introduced and voted on, and passed unanimously by the three members of the Board of Commissioners present at said meeting.

NOW, THEREFORE, the Swain County Noise Ordinance is hereby amended as follows:

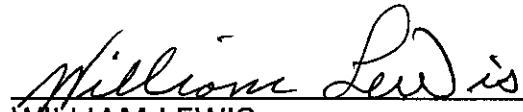
1. By amending Section 6 (Cooperation of Complainant) to state the following:

Before Swain County, it's officers, employees and staff members (including the Swain County Sheriff and employees of the Swain County Sheriff) initiates a civil or criminal proceeding pursuant to this Ordinance, said officers, employees, and Sheriff shall have the option of requesting the complaining party to sign a sworn statement of the alleged offense and to require the cooperation of the complaining party in court appearances arising from said complaint. Nothing contained in this Ordinance shall obligate Swain County, its officers, employees and staff members, Sheriff or employees of the Sheriff, to pursue civil or criminal proceedings hereunder where the complaining party is unwilling to sign such sworn statement and cooperate in court appearances arising therefrom. Nothing contained herein shall prevent a citizen from seeking appropriate criminal process from a magistrate for the violation of this ordinance.

2. Except as herein amended, the Swain County Noise Ordinance remains in full force and effect.

3. This Amendment to the Noise Ordinance shall become effective upon adoption.

Adopted this the 17th day of April, 1998.



WILLIAM LEWIS
Chairman of the Board of Commissioners
of Swain County

ATTEST:



LINDA CABLE
Clerk to the Board