

INTRODUCTORY LOCAL LAW NO. 2 OF 2019

**A LOCAL LAW ADDING CHAPTER 66 ENTITLED
“NOISE POLLUTION CONTROL” TO THE TOWN CODE
OF THE TOWN OF CHESTER**

Be it enacted by the Town of Chester in the County of Orange, as follows:

Section 1. Title

This Local Law shall be referred to as "A Local Law Adding Chapter 66, Entitled "Noise Pollution Control", to the Town Code of the Town of Chester.

Section 2. Legislative Intent

The Town Board of the Town of Chester has determined that it is in the best interest of the Town to establish and impose restrictions upon the creation of excessive, unnecessary or unusually loud noise within the limits of the Town of Chester. It is the intention of the Town Board of the Town of Chester that these restrictions shall further secure and promote the public health, comfort, convenience, safety, welfare, prosperity and peace and quiet of the Town of Chester and its residents.

Section 3. Noise Pollution Control

Chapter 66, entitled “Noise Pollution Control” is hereby added to the Town Code of the Town of Chester, to read as follows:

§66-1. Title.

This Chapter shall be cited and may be referred to hereinafter as the, “Noise Pollution Control Law of the Town of Chester.”

§66-2. Legislative Intent.

It is the intention of the Town Board of the Town of Chester by the adoption of this Chapter to establish and impose restrictions upon the creation of excessive, unnecessary or unusually loud noise within the Town of Chester. These restrictions shall further secure and promote the public health, comfort, safety, welfare, and peace and quiet of the Town of Chester and its residents.

§66-3. Authority.

In accordance with Section 10 of the New York State Municipal Home Rule Law, the Town Board of the Town of Chester has the authority to enact and amend such local laws as necessary for the promotion of health, safety and general welfare of the Town of Chester and its residents.

§66-4. Definitions.

All of the terminology and definitions contained in this Chapter which relate to the nature of sound and the mechanical detection and recordation of sound are in conformance with the terminology of the American National Standards Institute or its successor body.

As used in this Chapter, the following terms shall have the meanings indicated:

A-WEIGHTED SOUND LEVEL

The sound pressure level in decibels as measured on a sound meter using the A-weighting network slow response. The level so read is designated as dB(A).

COMMERCIAL DISTRICT

An area where offices, clinics and the facilities needed to serve them are located; an area with local shopping and service establishments; a tourist-oriented area where hotels, motels and gasoline stations are located; a business stop along a main street containing offices, retail businesses and commercial enterprises; and other commercial enterprises and activities which do not involve the manufacturing, processing or fabrication of any commodity. "Commercial District" shall include, but not be limited to, any parcel of land zoned commercial under Chapter 98 of the Town Code of the Town of Chester.

COMMERCIAL PURPOSE

Commercial Purpose shall include the use, operation or maintenance of any sound-amplifying equipment for the purpose of advertising for any business, any goods or any services or for the purpose of attracting attention of the public to or advertising for or soliciting the patronage of customers to or for any performance, show, entertainment, exhibition, or event, or for the purpose of demonstrating any such sound equipment.

CONSTRUCTION ACTIVITIES

Any and all activity incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling.

CONTINUOUS NOISE

A steady, fluctuating or impulsive noise which exists, essentially without interruption, for a period of 10 minutes or longer, with an accumulation of an hour or more over a period of 8 hours.

DECIBEL (DB)

A unit of measurement for sound pressure level. The number of Decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals). Decibels shall be abbreviated to “dB”.

DEVICE

Any mechanism which is intended to produce or which actually produces sound when operated or handled.

EMERGENCY

Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate attention.

EMERGENCY WORK

Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

FLUCTUATING NOISE

The sound pressure level of a fluctuating noise which varies more than 6 dB(A) during the period of observation when measured with the slow meter characteristic of a sound-level meter.

IMPULSIVE SOUND

A sound of short duration, usually less than 1 second, with an abrupt onset and rapid decline. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

INDUSTRIAL DISTRICT

An area in which enterprises and activities which involve the manufacturing, processing or fabrication of any commodity are located. “Industrial District” shall include, but be limited to, any parcel of land zoned as an industrial district under Chapter 98 of the Town Code of the Town of Chester.

MOTOR VEHICLE

Any vehicle such as, but not limited to, a passenger vehicle, truck, truck-trailer, trailer or semi-trailer, propelled or drawn by mechanical power, and shall include motorcycles, snowmobiles, minibikes, go-carts and any other vehicle which is self-propelled.

NOISE

Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE DISTURBANCE

Any sound which endangers or injures the safety or health of humans or animals or annoys or disturbs a reasonable person of normal sensitivities or endangers or injures personal or real property.

NON-COMMERCIAL PURPOSE

The use, operation or maintenance of any sound equipment for other than a commercial purpose. "Non-Commercial Purpose" shall mean and include, but not be limited to, philanthropic, political, patriotic and charitable purposes.

PERSON

Any individual, association, partnership or corporation, including any officer, employee, department, agency or instrumentality of the state or any political subdivision of a state.

REAL PROPERTY BOUNDARY

A line along the ground surface, and its vertical extension, which separates the real property owned by one person from that real property owned by another person, but not including intrabuilding real property divisions.

RESIDENTIAL DISTRICT

An area of single-family or multi-family dwellings and shall include areas where multiple-unit dwellings, high-rise apartments and high-density residential districts are located. "Residential District" shall include, but not be limited to, hospitals, nursing homes, residences for the aged, schools, courts and similar institutional facilities.

SOUND

An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium. The description of "Sound" may include any characteristics of such sound, including duration, intensity and frequency.

SOUND-LEVEL METER

An instrument, including a microphone, an amplifier, an output meter and frequency weighting networks for the measure of sound levels.

SOUND REPRODUCTION DEVICE

Any device that is designed to be used or is actually used for the production or reproduction of sound including, but not limited to, any musical instrument, radio, television, tape recorder, phonograph, loudspeaker, public address system or any other sound-amplifying device.

SOUND SOURCE

Any person, animal, device, operation, process, activity or phenomenon which emits or causes sound.

UNREASONABLE NOISE

Any excessive or unusually loud sound or any sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities or which causes injury to animal life or damage to property or business. Standards to be considered in determining whether an "Unreasonable Noise" exists in a given situation include, but are not limited to, the following:

- i) The volume of the noise.
- ii) The intensity of the noise.
- iii) Whether the nature of the noise is usual or unusual.
- iv) Whether the origin of the noise is usual or unusual.
- v) The volume and intensity of the background noise, if any.
- vi) The proximity of the noise to residential sleeping facilities.
- vii) The nature and the zoning district of the areas within which the noise emanates.
- viii) The time of the day or night in which the noise occurs.
- ix) The time duration of the noise.
- x) Whether the sound source is temporary.
- xi) Whether the noise is continuous or impulsive.

§66-5. Prohibited Acts.

No person shall make, continue or cause or suffer to be made or continued any unreasonable noise as defined in this Chapter. In particular, without limitation to the foregoing provision of this section, the following enumerated acts are declared to be in violation of this Chapter:

- A. **Animals.** No person shall keep, maintain or permit any animal under his or her control which frequently, or for continued durations of ten minutes or longer, makes sounds which create an unreasonable noise across a residential real property boundary. This provision shall not apply to veterinarian facilities.

- B. Commercial, Business and Industrial Operation. No person shall operate or permit to be operated on a sound source site a commercial business or industrial operation that produces an unreasonable sound level.
- C. Construction. No person shall operate or permit to be operated any tools, machinery or equipment used in construction, drilling or demolition work between the hours of 8:00 P.M. and 8:00 A.M. on weekdays, between the hours of 8:00 P.M and 9:00 A.M. on weekends, or any time on legal holidays such that the sound therefrom creates an unreasonable noise across from a residential real property boundary, or at any other time such that the sound level at or across a real property boundary exceeds 80 dB. The provisions of this section shall not apply to emergency work.
- D. Domestic Power Tools. No person shall operate or permit the operation of any mechanically powered saw, sander, drill, grinder, law or garden tool, snowblower or similar device used outdoors in residential areas between the hours of 8:00 P.M. and 8:00 A.M. on weekdays, between the hours of 8:00 P.M and 9:00 A.M. on weekends, or any time on legal holidays such that the sound therefrom creates an unreasonable noise across from a residential real property boundary.
- E. Explosives, Firearms or Similar Devices. No person shall use or fire explosives, firearms or similar devices which create impulsive sounds so as to cause an unreasonable noise across a real property boundary.
- F. Horns and Signaling Devices. No person shall cause or permit to be caused the sounding of any horn or other auditory signaling device on or in any motor vehicle except to serve as a danger warning.
- G. Motor Vehicle Repairs and Testing. No person shall repair, rebuild, modify or test any motor vehicle in such a manner as to cause an unreasonable noise across a residential real property boundary or within a noise sensitive zone.
- H. Mufflers. No person shall discharge into the open air the exhaust of any steam engine, stationary internal-combustion engine, air compressor equipment, motor vehicle or other power device which is not equipped with an adequate muffler in constant operation and properly maintained to prevent any unreasonable noise or noise disturbance, and no such muffler or exhaust system shall be modified or used with a cutoff, bypass or similar device which causes said engines, vehicles or other power devices to create an unreasonable noise.
- I. Noise Sensitive Zones. No person shall cause or permit the creation of any sound by means of any device or otherwise on any sidewalk, street or public place adjacent to any hospital, nursing home, school, court, house of worship or public library while such facility is in use at any time, so that such sound disrupts the normal activities conducted at such facilities or disturbs or annoys persons making use of such facilities.

J. Sound Reproduction Devices.

- i. No person shall operate or cause to be operated a sound reproduction device that produces an unreasonable noise or noise disturbance across a real property boundary between the hours of 11:00 P.M. and 8:00 A.M. or within a noise sensitive zone.
- ii. No person shall operate or use or cause to be operated or used any sound reproduction device in any public place in such a manner that the sound emanating therefrom creates an unreasonable noise across a real property boundary.
- iii. This section shall not apply to any person participating in a school band or in a parade or sounds emanating from sporting, entertainment or other public events where such devices are used.

§66-6. Exceptions.

The provisions of this Chapter shall not apply to the following:

- A. The emission of sound for the purpose of alerting persons to the existence of an emergency.
- B. The emission of sound in the performance of emergency work.
- C. Sounds created by bells or chimes of houses of worship and religious institutions.
- D. Sounds created by any governmental entity, their agents, employees or contractors in the course of its duties (fire districts, towns, villages, counties, schools, police agencies, etc.).
- E. Noises from alarm systems of any building or motor vehicle.
- F. Noise generated by Town-sponsored concerts and special events.

§66-7. Variances.

- A. The Town Board of the Town of Chester shall have the authority, consistent with this section, to grant variances to this Chapter.
- B. A person seeking a variance of this Chapter shall file an application with the Town Board which consists of a letter signed by the applicant and containing a legal form of verification. Such letter shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other person.

- C. The following information must also be provided:
 - i. The plan, specifications or other information pertinent to such sources.
 - ii. The characteristics of the sound emitted by the source, including but not limited to the sound levels, the presence of impulsive sounds and the hours during which such sounds are generated.
 - iii. The noise abatement and control methods used to restrict the emission of sound.

- D. The Town Board, upon receipt of such application and payment of any fee which shall be required by resolution of the Town Board, shall set the matter down for a public hearing to be held within 30 days from the date that such application is submitted. The Town Board shall cause publication of such public hearing to be given in the official newspaper of the Town. The applicant shall give notice of the application by certified mail to all property owners surrounding the sound source site within a radius of 200 feet from the borders of said site.

- E. In determining whether to grant or deny the application, the Town Board shall balance the hardship to the applicant, the community and other persons of not granting the variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on the property affected and the other adverse impacts of granting the special variance.

- F. The Town Board shall cause the taking of sound level readings by an agency to be designated by the Town Board in the event that there shall be any dispute as to the sound levels prevailing or to prevail at the sound source site.

- G. The Town Board shall have the power to impose restrictions, conditions and the recording of covenants upon any sound source site, including time limits on permitted activity, in the event that it shall grant any variance hereunder.

§66-8. Enforcement and Administration.

The noise control requirements shall be enforced and administered by Town enforcement officers, properly identified Town Police Department personnel and other duly authorized personnel as the Town of Chester may from time to time require.

§66-9. Penalties for Offenses.

- A. Violations of this Chapter may be established by verbal or written complaint by at least one person, including the Town enforcement officer.
- B. Compliance Orders. The Town enforcement officer is authorized to order in writing the remedying of any condition or activity found to exist with respect to this Chapter. Upon finding that any such condition or activity exists, the enforcement officer shall issue a compliance order. If the condition or activity is not remedied after the issuance of the compliance order, then an appearance ticket may be issued as provided hereinafter.
- C. Appearance Tickets. The enforcement officer and each inspector are authorized to issue appearance tickets for any violation of this Chapter.
- D. Penalties. Any person who violates any provision of this Chapter shall be deemed guilty of a violation and, upon conviction thereof, shall be subject to penalties of a fine not less than \$50.00, but no more than \$250.00. A separate offense shall be deemed to be committed on each day during or on which a violation occurs or continues.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date.

This local law shall take effect immediately upon filing with the Secretary of State.