

LOCAL LAW NO. 1 OF 2021

**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

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 strip 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 micro pascals). 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 DISTURBANCE

Incessant or repeated sounds that have the effect of endangering or injuring the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensitivities, or tends to cause an adverse psychological or physiological effect on humans, or endangers or injures personal or real property, or is in excess of 85 dB.

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 in excess of 85 dB, 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, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof shall cause, suffer, allow or permit to be made unreasonable noise. For purposes of this law, unreasonable noise is any disturbing, excessive, or offensive sound that disturbs a reasonable person of normal sensitivities.

The following acts are declared to be prima facie evidence of a violation of this law. This enumeration shall not be deemed exclusive.

a) Any Noise Disturbance or Unreasonable Noise from any source between the hours of 9:00 p.m. and 7:00 a.m. on weekdays, and between the hours of 11:00 p.m. and 8:00 a.m. on weekends.

b) Noise Disturbance or Unreasonable Noise from a dog or other pet animal that is continuous and exceeds 15 minutes in duration, in further compliance with Town of Chester Code §42-4(B).

c) Noise Disturbance or Unreasonable Noise from a burglar alarm or other alarm system of any building, motor vehicle, or boat which is continuous and exceeds 15 minutes in duration.

d) Noise Disturbance or Unreasonable Noise from any sound reproduction system, operating or playing any radio, portable radio or tape player, television, tape deck, C.D. player or similar device that reproduces or amplifies sound in such a manner as to cause unreasonable noise to be heard over any property line.

e) The erection, including demolition, alteration or repair or construction of any building causing Noise Disturbance or Unreasonable Noise, other than between 7:00 a.m. and 8:00 p.m. weekdays and 8:00 a.m. and 8:00 p.m. on weekends, except in case of a public safety and emergency.

f) Opening and Excavations refer to Chester Town Code §81-6 prohibited hours of operation. In any residence district, no operation authorized under this article shall be permitted on Sundays or legal holidays nor before 8:00 a.m. or after 5:00 p.m. on other days. In any business or industrial district, no operation authorized under this article shall be conducted on Sunday, except where otherwise permitted by law. The Superintendent of Highways, in his discretion, may vary modify the application of this provision as occasion and/or necessity may demand.

g) The operation of power equipment in residential zones outdoors between the hours of 7:00 p.m. and 7:00 a.m. the following day, and on weekends between 7:00 p.m. and 8:00 a.m. the following day which causes a Noise Disturbance or Unreasonable Noise.

h) The sounding of any horn or signaling device of an automobile, motorcycle or other vehicle for any unnecessary or unreasonable period of time which causes a Noise Disturbance or Unreasonable Noise.

i) The making of a Noise Disturbance or Unreasonable Noise or operating an automobile or motorcycle in such a manner as to cause high-pitched shrieking or other Noise Disturbance or Unreasonable Noise.

j) Vendors offering for sale anything by shouting or out crying upon the public streets and sidewalks.

k) Noise generated from the use of any fireworks, or any other form of pyrotechnic or explosive devices, not being employed as part of a lawfully permitted fireworks display.

l) No person shall operate, or permit to be operated, any device that has been modified so as to cause the sound emitted from such device to be greater than that emitted by such device as originally manufactured.

§66-6. Exemptions.

The provisions of this law shall not apply to the following acts:

- 1) The emission of sound for the purpose of alerting persons to the existence of any emergency;
- 2) Noise from municipally sponsored celebrations or events;
- 3) Noise from individually sponsored events where a permit for public assembly or other relevant permission has been obtained from the Town of Chester;
- 4) Noise connected with an authorized sporting event of any organized league, public or private school, carnival, fair, exhibition or parade authorized or sponsored by the Town of Chester or other superior municipal entity.
- 5) The operation or use of any organ, radio, bell chimes, loudspeaker or other instrument, apparatus or device by any church, synagogue or school licensed or chartered by the state provided such operation or use does not occur between the hours of 9:00 p.m. and 8:00 a.m.;
- 6) Noise generated by the installation and normal maintenance and operation of municipal utilities;
- 7) Noise generated by municipal, county, state and federal construction repairs;
- 8) Noise generated from snow removal equipment during snow events and backup generators during power outages;
- 9) Farm and Farm Equipment - any sound generated by any accepted practice of an active agricultural operation, including livestock and farm animals, provided that said agricultural operation is legally operated in agricultural zoning districts.
- 10) Noise generated from lawfully permitted fireworks displays; and
- 11) Noise generated from the lawful discharge of firearms during the hours of 10:00 a.m. to 8:00 p.m. This exemption shall apply to other organization or individual that has the lawful right to discharge a firearm. Notwithstanding the foregoing, any lawful discharge of a firearm during hunting season shall be from sunrise

to sunset.

12) The Monroe Chester Sportsman's Club, established 1935, shall be exempt from this law.

13) Established commercial and industrial uses located in commercial or industrial zoning districts that have already been through comprehensive environmental reviews.

§66-7. 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.

In an effort to determine compliance with this Chapter, the Town Enforcement Officer is authorized, to the extent permitted by law, to enter, inspect and examine any building, structure, place, premise or use within the Town of Chester which is believed to be in violation of this Chapter.

§66-8. 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. The Town Enforcement Officer is authorized to issue a stop-work or cease and desist order, and/or institute appropriate legal action or proceeding to prevent, restrain, correct or abate any violation of this Chapter.

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. If a person served with an initial notice of violation fails to cease the violation within 30 minutes after receiving said notice, then such failure shall be deemed a separate and distinct violation and the individual may be issued additional notices of violation.

e) The Town Board of the Town of Chester may amend the penalties for violations of this chapter by duly authorized Resolution of the Town Board.

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.