

LOCAL LAW # 2 , 2004
NOISE LAW

Be it enacted by the Village Board of the Village of Tannersville as follows:

§1. Findings; intent.

The Village Board determines that the creation of excessive and unreasonable noise within the Village of Tannersville, and outside the Village of Tannersville but having an impact upon the Village, is a detriment to the comfort, convenience, safety, health and welfare of the citizens of the Village and that persons within the Village are entitled to have maintained noise levels which are not a detriment to life, health, welfare and enjoyment of property or affects their property's value. Therefore, it intends hereby to prohibit all excessive and unreasonable noise from all sources subject to its police power in order to preserve, protect and promote health, safety and welfare and the peace, quiet, comfort and repose of persons within the Village .

§2. Definitions.

As used in this law, the following terms shall have the meanings indicated.

OWNER – *Any person who has regular control of a device or site, including but not limited to the owner of a freehold of the premises or lesser estate therein or mortgages thereof or an agent or lessee of such person.*

SOUND - *An oscillation in pressure, partial velocity or other physical parameter in a medium with internal forces that cause compression and rarefaction of the medium.*

UNREASONABLE NOISES - *Any noise which is defined in § 4 hereinafter.*

§3. Unreasonable noise prohibited.

It shall be unlawful for any person to make, continue, cause to be made or permit to be made any unreasonable noise within the geographical boundaries of the Village of Tannersville or within those areas over which the Village has jurisdiction. The determination as to the existence of unreasonable noise may be established either by the specific acts considered to be unreasonable noise enumerated within § 4.

§4. Specific acts constituting unreasonable noise.

The following acts and the causes thereof are declared to be in violation of this chapter and to constitute unreasonable noise:

A. Noise from any sound reproduction system, operating or playing any radio, portable radio, tape player, television, tape deck, CD player, DVD player or similar device that reproduces or amplifies recorded or live sound in such a manner as to be clearly audible 60 feet from its source or over any property line after the hour of 12:00 midnight and before the hour of 8:00 am on Sundays through Thursdays and after 2:00 am and before 8:00 pm on Fridays and Saturdays.

B. The performance or engagement in construction work, building, excavating, logging, hoisting, grading, demolishing, dredging or pneumatic hammering within the limits of the Village between the hours of 9:00 p.m. and 7 00 a m. Sunday through Friday (night) and 9:00 p.m. and 9:00 a.m. Saturday (night), except for emergency work of a public nature or as otherwise provided herein.

C. The sounding of any horn, security alarm, siren or other auditory signaling device in any vehicle, vessel, engine, machine or stationary boiler for period of time longer than five (5) minutes, except as required by law or to provide a warning signal during use thereof. This provision shall not be construed to prohibit the use and operation of an audible signal device in an authorized emergency vehicle.

D. The keeping in any building or upon any premises of any animal, bird or fowl which produces noise of a degree and kind to disturb the comfort, repose, and quiet, of neighbors or persons residing in the vicinity. Persistent barking of dogs confined or chained on the premises, or dogs roaming free on or off the owner's remises, shall be a violation of this chapter. "Persistent barking" is defined herein as the continuous or intermittent barking of a dog, which can be heard on other premises and which continues for a period of more than one (1) hour. The owners or occupants of the premises shall be responsible to prevent the dog from barking or place it in an area where its barking cannot be heard.

E. The discharge into the air of the exhaust of any steam engine, stationary, internal combustion engine or motor vehicle engine, except through a muffler or other device, which will effectively prevent loud or explosive noises therefrom.

§5. Exempt sounds

- A. Sounds generated by church bells or chimes;
- B. Sounds generated by any government agency or emergency service by the use of public warning devices;
- C. Sounds connected with sporting events of any public or private school or an authorized carnival, fair, exhibition, parade, etc. or any event so authorized specifically by permit of the Village, County, State or Federal government;
- D. Sounds created by agricultural activities or operations as defined in the New York State Agriculture and Markets Law, including, but not limited to crop cultivation, production, harvesting and livestock production, provided equipment generating the noise is in proper working order;
- E. Sounds created by generators used in emergency situations and snow removal equipment in good working order.
- F. Sounds created by lawn and garden equipment or other home power tools between the hours of 7:00 a.m. and 9:00 p.m. Monday through Saturday 9:00 a.m. and 9:00 p.m. Sundays.

§6. Landlord's Liability.

Violations of this chapter shall be the act of the owner of the residential dwelling unit, or commercial property, even if the owner does not reside in the unit nor is employed at the site, as well as the persons on the premises who violate this chapter. The owner will only be liable for those violations occurring after receipt of written notice from the Code Enforcement Officer, County Sheriff's Department or New York State Police of a violation of this chapter. Proof of the commencement of an eviction proceeding against the alleged violator(s) shall be a defense to a landlord liability hereinunder.

§7. Enforcement.

A. The Code Enforcement Officer, Hunter Town Police, County Sheriff's Department or New York State Police shall enforce this chapter.

B. The Code Enforcement Officer shall have the authority to grant permit for variances, as provided in §8 of this chapter.

§8. Variances.

A. Any person who owns or operates any stationary noise source may apply to the Code Enforcement Officer for a variance from one (1) or more of the provisions of this chapter. Applications for a variance shall supply information including but not limited to the following:

- 1) The nature and location of the facility or process for which such application is made;
- 2) The reason for which the variance is requested;
- 3) The nature and intensity of the noise that will occur during the period of the variance;
- 4) A description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom;
- 5) A specific schedule of the noise control measures which shall be taken to bring the source into compliance;
- 6) The application fee for the variance hereunder shall be \$500.

B. Failure to supply the information required by the Code Enforcement Officer shall be cause for rejection of the application.

C. The Code Enforcement Officer shall charge the applicant a fee, as set by resolution of the Village Board, to cover expenses resulting from the processing of the variance application

D. The Code Enforcement Officer may, at his/her discretion, limit the duration of the variance, which shall never exceed five (5) days. Any person holding a variance and requesting an extension of time may apply for a new variance under the provisions of this section. No person shall be entitled to variances exceeding ten (10) days during any calendar year.

- E. The variance shall operate as a stay of execution.
- F. The Code Enforcement Officer may revoke the variance if the terms of the variance are violated.
- G. Appeals. The decision of the Code Enforcement Officer may be appealed to the Village Board and shall be filed with the Village Clerk in writing within 30 days of the date of the decision from which the appeal is taken, specifying the grounds thereof.
1. All appeals shall be filed with the Village Clerk in writing, shall be made in a form required by the Board, and shall be accompanied by payment of a filing fee of \$50.00, together with a detailed rationale supporting the basis of the appeal and any and all documentation tending to support same.
 2. The Village Board shall hold a Public Hearing on all appeals within 60 days of the receipt of a complete and proper appeal. Public notice of said hearing shall be printed in a newspaper of general circulation in the town at least five days prior to the date thereof. Applicants shall notify all adjacent property owners of application and of the time, date and location of the Public Hearing by Certified Mail at least ten (10) days before such hearing. The applicant shall submit a copy of such notice with receipts indicating mailing of the notice at least ten (10) days prior to the Public Hearing to the Village Board at the Public Hearing. Failure to do so shall result in the postponement of the hearing until such requirements are met.
 3. Decisions of the Village Board shall be in writing and shall specify the particular conditions for such approval or the grounds for denial and shall be filed with the Village Clerk and served upon the applicant within 62 days of the close of the Public Hearing, unless the applicant grants further time to the Village.

§9. Penalty for offenses.

For purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. A violation of this local law is shall be punishable by a fine up to \$1,000 and by imprisonment for not more than one (1) year or both.

§10. Construal.

No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from other law. Nothing herein shall be construed to abridge the emergency powers of any health department or the right of such department to engage in any necessary or proper activities. Nothing herein shall abridge the powers and responsibilities of any police department or other law enforcement agency to enforce the provisions of this chapter.

Nothing contained in this chapter shall be construed to prevent the production of music in connection with any military, civic, or authorized parade, funeral procession or religious ceremony, nor to prevent any musical performance or other event conducted by consent of the Village Board.

§11. Miscellaneous

- A. This Local Law is expressly adopted pursuant to the relevant sections of the New York State Village Law and the New York State Municipal Home Rule Law.
- B. In the event any section or provision of the laws contained herein or as amended hereafter shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the laws as a whole or any part thereof other than the part so declared to be invalid.
- C. This local law shall be effective immediately upon filing with the Secretary of State.