

Town of Allegany
Local Law 1 of 2005
Noise Law

August 8, 2005

A local law to prevent excessive, disturbing, unnecessary or unreasonable noise in the Town of Allegany

Be it enacted by the Town Board of the Town of Allegany as follows:

Section 1. Title

This law shall be known as the "Excessive Noise Control Law of the Town of Allegany."

Section 2. Purpose

This local law is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the Town of Allegany through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.

Section 3. Excessive Noise Prohibited

It shall be unlawful for any person or persons to make, continue to make, aid, countenance, cause to be made or continued, or assist in making any excessive, disturbing, unnecessary or unreasonable noise, which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity within the limits of the Town of Allegany, except as hereinafter provided in Section 7.

Section 4. Standards

Standards to be considered in determining whether any sound existing in a given situation constitutes excessive, disturbing, unnecessary or unreasonable noise include:

- (a) The volume of the noise
- (b) The intensity of the noise
- (c) Whether the noise is usual or unusual
- (d) Whether the origin of the noise is natural or unnatural
- (e) The volume and intensity of background noise, if any
- (f) The proximity of the noise to residential sleeping facilities
- (g) The time of the day or night the noise occurs
- (h) The duration of the noise
- (i) Whether the noise is continuous, impulsive or intermittent
- (j) The nature of the neighborhood in which the noise occurs

Section 5. Enumeration of Unnecessary and Unreasonable Noises

Disturbing, excessive, unnecessary or unreasonable noises that are in violation of this local law include, but are not limited to, the following:

- (a) **Horns, signaling devices, etc.** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle (other than an emergency vehicle) on any street or public place, except as a necessary or reasonable warning.
 - (b) **Radios, phonographs, CD players, boom boxes, musical instruments and similar devices.** The production or reproduction of sound by any radio, phonograph, CD player, boom box, musical instrument or other similar device for the production or reproduction of sound in such a manner as to disturb the peace, quiet, and comfort of neighboring inhabitants or at any time with louder volume than necessary for convenient hearing for the person or persons who are voluntary listeners thereto, except on a special occasion for which permission of the Town Board is obtained, pursuant to Section 7, below. The playing or operating of any such device or instrument between the hours of 10:00 p.m. and 7:00 a.m., without such permission and in such a manner as to be plainly audible on adjacent properties, shall be *prima facie* evidence of a violation of this Local Law.
 - (c) **Loudspeakers, amplifiers, public address systems and similar devices.** The unreasonably loud and raucous use or operation of, or the permitting to be used or operated of, any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other device for the production or reproduction of sound which is audible on public streets and on adjacent properties. The use or operation of any such device between the hours of 10:00 p.m. and 7:00 a.m., without permission from the Town Board, which is obtained pursuant to Section 7, below, in such a manner as to be plainly audible on adjacent properties or public streets, shall be *prima facie* evidence of a violation of this Local Law.
 - (d) **Yelling, shouting, etc.**
 - (1) Yelling, shouting, hooting, whistling, or singing between the hours of 10:00 p.m. and 7:00 a.m.
 - (2) The shouting and crying of peddlers, hawkers and vendors.
 - (e) **Animals.** The keeping or harboring of any animal which, by causing frequent, loud or continued noise shall disturb the comfort, peace or repose of any resident in the Town of Allegany. (With respect to dogs; the existing Allegany "Ordinance For The Control of Dogs", adopted 6/22/86, and updated 4/21/01, shall control).
 - (f) **Exhaust of engines.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, air compressor, or motor vehicle engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
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- (g) **Defect in vehicle or load.** The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in other such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (h) **Loading, unloading, opening boxes.** The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

Section 6. Permitted Noises

The following are specifically determined to be permitted noises within the limits of the Town of Allegany:

- (a) **Construction.** Sound created by persons engaged in construction work or the repair of buildings and structures, during the hours of 7:00 a.m. to 10:00 p.m. weekdays, including, but not limited to building, repairing, grading, leveling, and excavating. However, construction equipment shall not violate the provisions of Sections 5(f), 5(g) or 5(h).
 - (b) **Government agency.** Sound created by any government agent or agency.
 - (c) **Lawn mowers, power tools, etc.** Sound created by lawn mowers, leaf blowers, weed wackers, power tools and similar equipment in use between the hours of 7:00 a.m. and 10:00 p.m. However, lawn mowers, leaf blowers, weed wackers, power tools, and similar equipment shall not violate the provisions of Sections 5(f), or 5(g).
 - (d) **Snow Blowers and privately owned plowing equipment.** Sound created by snow blowers, or privately owned snow plowing equipment. However snow removal equipment shall not violate the provisions of Sections 5(f), or 5(g).
 - (e) **Public utilities.** Sound created by public utilities or cable television franchisees in carrying out the operation of their franchise.
 - (f) **School events.** Sounds connected with sporting events, school bands, or other authorized events of any public or private school.
 - (g) **Places of worship.** Sound created by the use of any organ, bell, chimes or other similar instrument by any church, synagogue, mosque or other place of worship.
 - (h) **Farming.** Sound created by normal agricultural activities.
 - (i) **Snow Removal, and Parking Lot Maintenance.** Private Contractors engaged in contract snow removal or parking lot maintenance shall not be restricted by time-of-day restrictions as long as those activities are carried out in a timely manner. However, Contractor equipment shall not violate the provisions of 5(f), 5(g), or 5(h).
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Section 7: Permits

- (a) Organizers of special events, for which the noise levels are anticipated to exceed the standards of this local law, may apply to the Town Board for a noise permit. The application shall state the place, date, time, and duration of the event. The application shall describe the event and the reason sought for the noise permit. The Town Board may require the applicant to submit additional information, which the Board determines it requires in order to make a decision on the application.
- (b) The application shall be made to the Town Clerk, who shall place the application on the agenda of the next Town Board meeting. The application shall be made at least six weeks in advance of the event. Applicants who intend to hold several events within one year may combine those events into one application.
- (c) In determining whether to grant or deny the application for a noise permit, the Town Board shall balance the hardship to the applicant, the community and other persons of not granting the permit against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected and any other adverse impacts of granting the permit. The Town Board may attach any necessary and reasonable conditions to the noise permit. Conditions of approval may include a limit on the time and duration of the permitted activity.
- (d) Notice of the Town Board's decision shall be provided, in writing, to the applicant within five days of the Board's decision. The notice shall include the Board's reasons for denying or granting the permit. The notice shall include all conditions of approval.
- (e) The notice of the Board's decision shall be a public record.
- (f) Noncompliance with any condition of the permit shall void the permit. Revocation of the permit may be made at any time by the Town Board for noncompliance with the conditions of approval.
- (g) The Town Board may establish a fee for applications for noise permits. This fee shall be established by motion of the Town Board; the Town Board may review and change the fee from time to time.

Section 8. Enforcement

- (a) This local law shall be enforced by law enforcement officials who have jurisdiction within the Town of Allegany.
 - (b) If a person's conduct would otherwise violate this Local Law and consists of speech or communication; of a gathering with others to hear or observe speech or communication; or of a gathering with others to picket or otherwise express in a non-violent manner a position on social, economic, political or religious questions; the person must be
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ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

Section 9. Penalties

Any person who violates any of the provisions of this Local Law shall be deemed guilty of a violation, and, upon conviction therefore, shall be subject to a fine not to exceed the sum of Two Hundred Fifty Dollars (\$250.00) or to imprisonment for a period not to exceed fifteen (15) days or to both such fine and imprisonment. The continuation of a violation of this Local Law shall constitute a separate and distinct offense for each separate day or part thereof that the violation is continued or renewed.

Section 10. Severability

If any clause, sentence, paragraph, or part of this Local Law shall be adjudged by any Court of competent jurisdiction to be invalid, such determination shall not effect, impair or invalidate the remainder of this Local Law.

Section 11. Effective Date

This Local Law shall take effect immediately.
