

**TOWN OF OTISCO
LOCAL LAW NO. #4 OF 2024
AMENDED NOISE CONTROL LAW**

**A LOCAL LAW TO AMEND TOWN OF OTISCO LOCAL LAW NO. #1 OF 2023
TITLED NOISE CONTROL LAW.**

Be it enacted by the Town Board of the Town of Otisco, County of Onondaga, State of New York as follows:

1. TITLE. This Local Law shall be known and may be cited as the "Amended Noise Control Law of the Town of Otisco" (hereinafter referred to as the "Local Law").

2. LEGISLATIVE INTENT. It is hereby declared to be the policy of the Town Board of the Town of Otisco (the "Town Board") to prevent unreasonably loud, disturbing and unnecessary noise and to reduce noise levels within the Town of Otisco (the "Town") so as to preserve, protect and promote the public health, safety and welfare and to foster convenience, peace and quiet within the Town for the inhabitants of the Town. The Town Board finds that every person is entitled not to be exposed to noise levels which are detrimental to life, health and the enjoyment of property and that excessive and unnecessary noise within the Town affects, and is a menace to public health, safety, welfare and the comfort of the people of the Town.

In furtherance of these objectives, the Town Board deems it necessary and desirable to amend certain provisions of Town of Otisco Local Law No. #1 of 2023 Titled Noise Control Law as herein provided.

3. DEFINITIONS. For purposes of this Local Law, the following terms shall have the meanings ascribed to them below:

- a. "Daytime Hours" shall mean 7:00 A.M. to 9:30 P.M.
- b. "Nighttime Hours" shall mean 9:30 P.M. to 7:00 A.M of the following day.
- c. "Constant Noise" shall mean Excessive Noise (defined below) which occurs constantly or frequently (occurs five (5) times or more during a period of time of one (1) minute in duration).
- d. "Intermittent Noise" shall mean Excessive Noise that occurs five (5) or more times in any thirty (30) minute period.
- e. "Excessive Noise" shall mean Constant Noise or Intermittent Noise, as such terms are defined in this Local Law, emanating from any source, other than a sound or sounds emanating from any natural source, which is excessive or unusually loud and which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities, or which causes injury to animal life or damage to property or businesses, or which exceeds the permitted Decibel levels set forth in this Local Law, unless specifically exempt under this Local Law.

f. "Decibel" (dB) –

– Shall mean the unit used to measure the strength of a sound or the power level of an electrical signal by comparing it with a given level on a logarithmic scale. dBA and dBC are filter types that are used to measure dB. The letters A and C are filters with a different sensitivity to frequencies. The dBA sound level meter measures mid-range frequencies while a dBC sound level meter measures low and high frequencies.

g. "Person(s)" shall mean any individual(s), corporation, limited liability company, partnership, association, firm, organization or other type of entity.

h. "Real Property Line" shall mean either the line, including its vertical and horizontal extensions, that separates one parcel of real property from another.

i. "Residential Property" shall mean any real property utilized for human habitation.

j. "Right-of-Way" shall mean:

(i) With regard to Town roads, the Town's right-of-way which is 49 ½ feet in total width measured from the centerline of each Town road. The Town's highway Right-of-Way extends 24.75 feet in each direction toward the sides of a Town road measured from the center line of the road and terminates at a fictional line referred to in this Local Law as the "Right-of-Way Line".

(ii) With regard to any County or State highway Right-of-Way, such Right-of-Way shall be in such widths and shall be measured as prescribed by County and State laws, rules and regulations.

k. "Sound Amplification Device or Apparatus" shall mean any equipment, apparatus or device used for the making, reproduction or amplification of the human voice or of any other sounds.

m. "Sound Level Meter" shall mean an instrument for the measurement of noise and sound in Decibels.

n. "Town" shall mean the Town of Otisco, State of New York and "Town Board" shall **mean** the Town Board of the Town of Otisco.

4. MAXIMUM PERMITTED SOUND LEVELS. No Person shall cause, suffer, allow or permit the emanation of any source of sound from any real property, or on any public property, municipal highway, road or Right-of-Way, in such a manner as to create a sound level that exceeds the particular sound level limits set forth as follows (hereinafter the "Maximum Permitted Sound Levels" unless specifically exempted from the restrictions and prohibitions contained in this Local Law under paragraph 6, below

Daytime Hours (between 7:00 A.M. and 9:30 P.M): 70 dBA and 80 dBC when measured at a Real Property Line or Right-of-Way Line adjoining the property from which a sound originates.

Nighttime Hours (between 9:30 P.M. and 7:00 A.M of the following day): 50 dBA and 60 dBC when measured at a Real Property Line or Right-of-Way Line adjoining the property from which a sound originates.

5. UNLAWFUL EXCESSIVE NOISE.

A. Noise Exceeding Maximum Permitted Sound Levels. It shall be unlawful and a violation of this Local Law for any Person to generate, or allow the generation of Constant Noise or Intermittent Noise which constitute Excessive Noise within the Town of Otisco exceeding the Maximum Permitted Sound Levels set forth in paragraph 4, above.

B. Other Prohibited Noises. In addition to the prohibitions set forth in sub-section A, above, unless specifically exempted from the restrictions and prohibitions contained in this Local Law under paragraph 6, below, the following Excessive Noise shall also be prohibited:

(1) Radio, Phonograph, Loudspeaker, Public Address System, Amplifier, Similar Devices or Musical Instruments: The operation of any radio, phonograph, loudspeaker, public address system, amplifier or similar device, or the use of any musical instrument(s) in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of Persons on any Residential Property or in any dwelling, including any multi-dwelling unit or other type of residence, or interfering with the use and enjoyment of any Residential Property or Commercial Property.

(2) Projecting Noises Outside Buildings: The use of any radio apparatus, talking machine, loudspeaker or amplifier in such manner that the same shall cause the sound from such device to be projected across any Real Property Line or Right-of-Way Line or through the walls of any building so as to constitute Excessive Noise as defined in this Local Law.

(3) School, Court, Town Hall, Public Meeting Place, Fire Department or Church: To cause or permit the creation of any unnecessary noise through the use of any Sound Amplification Device or Apparatus on any street, sidewalk or public place adjacent to any school, court, Town hall, public meeting place, fire department or church while such structure is in use .

(4) Adjoining Lawful Places of Public Assembly: To cause or permit the creation of any Excessive Noise on any street or parking lot adjacent to any places of public assembly, including the Town Hall and administrative offices, Town Court facilities, Town Parks, churches, cemeteries, fire houses and granges, which unreasonably interferes with the workings or uses of such facilities.

(5) Animals and Birds: To own, possess or harbor any pet animal or pet bird that makes Intermittent Noise or Constant Noise that creates Excessive Noise across a residential Real

Property Line. [For the purpose of this sub-section, a noise disturbance from a barking dog shall be determined in accordance with Town of Otisco Local Law #1 of 2002 entitled “Animal Control”. This subsection shall be enforced by the Town’s Animal Control Officer].

(6) Automobiles and other Vehicles: To use any automobile, truck, bus, motorcycle, all-terrain vehicle (ATV), utility task vehicle (UTV), snowmobile, recreational vehicle or trailer so out of repair, or so loaded or in such manner as to create Excessive Noise.

(7) Motor Vehicle Sound Level Limits. To allow sound levels from a motor vehicle whether operated on a public road or highway or on private property in excess of those permitted under New York Vehicle and Traffic Law §386 and any regulations promulgated thereunder, as the same may be amended from-time-to-time, or any subsequent or similar provision of law.

(8) Horns or signals: To allow the sounding of any horn or signal device on any vehicle, motorcycle, bus or other motor vehicle, except as a warning signal pursuant to the provisions of §375 of the New York Vehicle and Traffic Law and any regulations promulgated, as may be amended.

(9) Exhaust from Engines: To allow the discharge into the open air of the exhaust of any stationary or moving internal-combustion engine, except through a muffler or other device which effectively prevents loud or noises therefrom that do not exceed the Maximum Permitted Sound Levels set forth in paragraph 4, above.

(10) Screeching Tires: To operate a motor vehicle in such a manner as to cause unnecessary noise by spinning or squealing the tires of such motor vehicle.

(11) Loading and Unloading Vehicles or Trailers: To allow the creation of a loud and Excessive Noise in connection with loading or unloading any vehicle or trailer.

(12) Operating Mechanical Devices: To operate any mechanism, device, or equipment that generates noise that exceeds the Maximum Permitted Sound Levels set forth in paragraph 4, above.

(13) Construction Work: To conduct the erection, excavation, demolition, alteration or repair of any real property or building other than during Daylight Hours (between 7:00 A.M. and 9:30 P.M.), except in the case of urgent necessity in the interest of public safety as determined by officials of the Town of Otisco or any government or governmental agency having jurisdiction.

(14) Conduct of Business: To allow the creation of any Intermittent Noise or Constant Noise as defined in paragraph 3, above, in the operation or conduct of any business, which constitutes Excessive Noise.

(15) Loudspeaker or Noise-Making Devices in the Conduct of Business: To use any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any sale or display of merchandise or services, by the creation of noise, and the shouting and crying of peddlers, hawkers and vendors.

(16) Sound Device Promoting Business Prohibitions: To use or operate any Sound Device Amplification or Apparatus in, on, near or adjacent to any public highway, street, road, park or municipal property, for commercial or business advertising purposes or to operate or drive any automobile, truck or other vehicle for commercial or business advertising purposes utilizing any Sound Device Amplification or Apparatus. The use of any trade, business or corporate name or business advertising shall be presumptive evidence that such advertising was conducted by that Person.

(17) Restaurant, Bar, Cafe, Discotheque, Dance Hall, Recording Studio or Similar Activity: To operate, or permit to be operated, a place of public entertainment in any building, including, by way of example only, but expressly not limited to a restaurant, bar, cafe, discotheque, recording studio or dance hall, in which the sound is of sufficient volume as to be distinctly heard for a distance of fifty (50) feet outside the building where produced.

6. **EXCEPTIONS**. Sounds emanating from the following sources shall be specifically exempt from the restrictions and prohibitions contained in this Local Law:

A. Motor vehicles, tractors, trailers, wagons, equipment or machinery used in a “farm operation” for the production of “crops, livestock and livestock products”, as such terms are defined in NY Agriculture and Markets Law Article 25-AA;

B. Animals or birds which are harbored or maintained for farming and agricultural purposes;

C. Motor vehicles, tractors, trailers, equipment and machinery utilized for construction activities or for industrial, commercial or retail purposes during Daylight Hours; provided, however, the use of an engine brake for truck diesel engines that cuts off fuel flow and interrupts the transfer of mechanical energy to the drive mechanism (commonly known as “Jake Brakes”) in connection with the uses described in this sub-paragraph that produce sounds in excess of the restrictions and prohibitions contained in this Local Law, shall be prohibited except in the case of emergency stopping;

D. Lawnmowers, hedge trimmers, leaf blowers and other landscaping machinery or equipment, snow blowers and snow plows, chain saws and other wood cutting related machinery, equipment such as chipper shredders, branch trimmers and stump grinders and manual and power tools used during Daytime Hours;

E. The discharge of lawfully possessed firearms during Daytime Hours, unless otherwise prohibited by other applicable law, rules or regulations;

F. Sounds created by burglar alarm devices designed and intended to produce an audible sound signal upon unauthorized entrance into a building or motor vehicle;

G. Sounds created by fire alarms, smoke detectors, carbon monoxide detectors or other emergency alert devices designed and intended to produce an audible sound signal upon being activated to alert a property owner, occupant or other Person to a potentially or actual dangerous condition;

- H. Sounds created by church bells or chimes;
- I. Sounds created by any government agency, fire department, or ambulance service including the use of public warning or emergency devices;
- J. Intermittent sounds created by carbide cannons or poppers used for agricultural or commercial purposes so long as such sounds do not constitute Intermittent Noise;
- K. Sounds created by public utilities;
- L. Sounds created by municipal equipment.
- M. Sounds created by a mechanism, device, equipment or vehicles operating in response to an emergency situation or a power outage caused by weather or the failure of a public utility's equipment or system.

7. **ENFORCEMENT.** This Local Law shall be enforced by the Town's Code Enforcement Officer, the Town's Animal Control Officer as applicable, other public officials designated by the Town Board, the Onondaga County Sheriff's Department, the New York State Police Department, the New York State Department of Environmental Conservation, any other police agency having jurisdiction or any other person or official authorized by the Town Board to enforce this Local Law (hereinafter referred to as an "Investigating Officer").

Complaints shall be initiated by the complainant contacting 911 and filing a complaint with the police.

The Investigating Officer shall be responsible for responding to oral or written complaints concerning Excessive Noise. The Investigating Officer shall have complete discretion as to the initial determination as to whether the complained of noise constitutes Excessive Noise, as such term is defined in this Local Law.

Factors to be considered by the Investigating Officer in making such initial determination as to whether Excessive Noise exists in a given situation, shall include, but shall not be limited to the following:

- a. The intensity of the noise.
- b. Whether the nature of the noise is usual or unusual;
- c. Whether the origin of the noise is natural or is generated by a Person;
- d. The intensity of the background noise;
- e. The proximity of the noise to surrounding Residential Property and Commercial Property;
- f. The time of the day or night that the noise occurs;

- g. Whether the noise exceeds the applicable Maximum Permitted Sound Levels set forth in paragraph 4, above.
- h. The overall duration of the noise;
- i. Whether the sound source is temporary;
- j. Whether the noise is continuous or intermittent;
- k. Whether alternate methods are available to achieve the objectives of the sound producing activity.

Upon a determination by the Investigating Officer that the complained of noise constitutes Excessive Noise as defined under this Local Law, the Investigating Officer shall issue a verbal or written warning to the Person responsible for generating or allowing the generation of the Excessive Noise. If such Excessive Noise continues or re-occurs despite such verbal or written warning, the Investigating Officer shall arrange to have the Excessive Noise measured by a Sound Level Meter to determine whether the sound complained of exceeds the Maximum Permitted Sound Levels imposed by this Local Law. Upon determining that the complained of sound(s) exceeds the Maximum Permitted Sound Levels imposed by this Local Law, the Investigating Officer shall file a Complaint with a Court having jurisdiction or issue an Appearance Ticket to the Person(s) responsible for creating or allowing such Excessive Noise, requiring such Person(s) to appear before a Court having jurisdiction over the enforcement of this Local Law.

Upon the filing of a Complaint, or the issuance of an Appearance Ticket, the Investigating Officer shall also prepare and file with such Court a sworn, written Affidavit or Supporting Deposition stating, among other things, the original complainant's name(s) and residence address(es), the date, time(s) and locations where such Excessive Noise was observed by a complainant and by the Investigating Officer, the nature, frequency (rate of recurrence) and duration of such Excessive Noise, the source of such Excessive Noise, the name and address of the Person(s) allegedly generating, or allowing the generation of such Excessive Noise, whether any verbal or written warning was given to such Person(s) and, if so, the time, date, and manner by which such warning was given, the date, time, and location that a Sound Level Meter was used to determine whether the sound(s) complained of exceed the Maximum Permitted Sound Levels imposed by this Local Law, the Decibel readings recorded, the identity of the operator of the Sound Level Meter, a statement that the Sound Level Meter utilized to measure the Excessive Noise has been maintained and calibrated by the operator of the Sound Level Meter or such Person's agents in accordance with the manufacturer's requirement and specifications, and any other pertinent information as may be required in the prosecution of a Complaint or Appearance Ticket.

8. VIOLATIONS AND PENALTIES.

A. The failure to comply with any of the provisions of this Local Law shall be a Violation, as defined under Article 10 of the NY Penal Law and, upon conviction thereof, shall be punishable by a fine of not more than Two Hundred-Fifty Dollars (\$250.00) or imprisonment

for not more than 10 days, or both, for the first offense. Any subsequent failure to comply with any of the provisions of this Local Law within a 365-day period shall be an Unclassified Misdemeanor as defined by Section 80.05 of the New York State Penal Law, punishable by a fine of not more than One-Thousand-Five Hundred Dollars (\$1,500.00) or imprisonment for a period of not more than 30 days, or both. For purposes of this subparagraph A, each occurrence that a Person fails to comply with any of the provisions of this Local Law shall constitute a separate and distinct offense.

B. Compliance with this Local Law may also be compelled, and violations of this Local Law shall be subject to being restrained by Court Order or by other injunctive relief without any required of posting a bond by a Court of competent jurisdiction in an action brought on behalf of the Town of Otisco.

C. In the event the Town is required to take legal action to enforce this Local Law, upon conviction, the violator shall be responsible for any and all necessary costs incurred by the Town in enforcing this Local Law relative thereto, including the Town's reasonable attorney's fees, costs, including Court costs and expenses, and such amounts shall be determined and assessed by the Court. If such costs and expenses are not paid in full within thirty (30) days from the date they are determined and assessed by the Court, such costs and expenses shall be charged to the property(ies) within the Town on which the violation occurred, by including such costs and expenses in the next annual Town Tax Levy against such property(ies), and such costs and expenses shall be a lien upon such property(ies) until paid.

D. If a Court determines that a violation of this Local Law results from the acts or omissions of an employee or agent of a corporation, limited liability company, partnership, association, firm, organization or other type of entity while such employee or agent is acting within the scope of such employee's or agent's employment or agency, in addition to finding such employee or agent liable for the fines, penalties and expenses of the Town in taking legal action to enforce this Local Law as provided in this paragraph 8, the Court may also find such corporation, limited liability company, partnership, association, firm, organization or other type of entity to be vicariously liable for the fines, penalties and expenses of the Town in taking legal action to enforce this Local Law as provided in this paragraph 8. Further, to the extent permitted by other applicable law, a Court may impose the imprisonment penalties set forth in sub-paragraph A, above, on such employee or agent and/or on one or more shareholder, member, partner or owner of a corporation, limited liability company, partnership, association, firm, organization or other type of entity found by the Court to be vicariously liable for the acts or omissions of any of its employees or agents.

9. AUTHORITY/CONFLICT WITH OTHER LAWS. This Local Law is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law of the State of New York. During the duration of times that this Local Law is in effect, to the extent permitted by law, it shall take precedence over and shall be considered controlling over conflicting laws, rules, regulations and ordinances.

10. CONSTRUCION/SEVERABILITY. This Local Law shall be liberally construed

so as to effectuate the purposes described in this Local Law.

If any clause, sentence, paragraph, section, article, subdivision, provision, or part of this Local Law shall be adjudged by any Court of competent jurisdiction to be void, invalid or unenforceable, such adjudication or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations and only apply to the clause, sentence, paragraph, section, article, subdivision, provision, or part thereof directly involved in the controversy in which such adjudication or judgment shall have been rendered or so adjudged, and the remainder of this Local Law shall remain valid and in full force and effect.

11. EFFECTIVE DATE. This Local Law shall become effective upon filing with the New York State Secretary of State.

Town Board of the Town of Otisco

February 12, 2024