

Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one:)

of Orchard Park

Local Law No. 11 of the year 20²⁴

A local law Amending the Village of Orchard Park Municipal Code , Chapter 154 entitled Noise
(Insert Title)

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of Orchard Park as follows:

SECTION 1

Amending Chapter 154 Noise to read:

154-1 Intent

The Village of Orchard Park Board of Trustees determine that the creation of unreasonable noise within the Village limits is or may be detrimental to the comfort, convenience, safety, health and welfare of Village residents and to the quality of life of those residents. The Village, therefore, intends to prohibit unreasonable noise from all sources subject to its police power in order to preserve, protect and promote the health, safety and welfare, together with the peace, quiet and enjoyment of all persons within the Village.

154-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated, unless the context or subject matter otherwise requires:

A-WEIGHTED SOUND-PRESSURE LEVEL

The sound-pressure level in decibels as measured on a sound-level meter using the A-weighting network by a trained operator. The level so read is designated dB(a) or dBA.

AMBIENT NOISE

The all-encompassing noise associated with a given environment, usually being a composite of sounds with many sources near and far.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

COMMERCIAL PURPOSE

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

EMERGENCY WORK

Work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.

DAY

Any day of the week, that is, Monday through Sunday.

DECIBEL

The practical unit of measurement for sound-pressure level; the number of decibels of measured sound is equal to 20 times the logarithm to the base of 10 of the ratio of the sound pressure of the measured sound to the sound pressure of standard sound (20 micropascals); abbreviated dB.

NONCOMMERCIAL PURPOSE

The use, operation, or maintenance of any sound equipment for other than a commercial purpose. Noncommercial purpose shall mean and includes, but shall not be limited to, philanthropic, political, patriotic, and charitable purposes.

PERSON

An individual, entity, firm or corporation.

PROPERTY BEING USED FOR NONRESIDENTIAL PURPOSES

Any property, including vacant land, which is not used for residential purposes, as defined herein.

PROPERTY BEING USED FOR RESIDENTIAL PURPOSES

Property which contains one or more dwelling units, including but not limited to single-family attached or detached dwelling units, multiple dwellings, hotels, motels, senior citizen housing, adult residential care facilities, nursing homes, dormitories, sororities and fraternities.

REAL PROPERTY BOUNDARY LINE

The imaginary line, including its vertical extension, that separates one parcel of real property from another, or the vertical and horizontal boundaries of a dwelling unit located within a multiple-dwelling-unit building.

SOUND-EMITTING DEVICE

Any device, instrument, mechanism, equipment or apparatus that emits any sounds discernible to the human ear.

SOUND-LEVEL METER

An instrument for the measurement of sound levels conforming to American National Standards Institute Type I or II standards.

SOUND-REPRODUCTION DEVICES

Any device, instrument, mechanism, equipment or apparatus for the amplification of any sounds from any radio, phonograph, tape player, compact disc player, musical instrument, television, loudspeaker or other sound-making or sound-producing device, or any device or apparatus for the reproduction or amplification of the human voice or other sound.

STATIONARY NOISE SOURCE

Any device, fixed or movable, which is located or used on geographically defined real property other than a public right-of-way.

UNREASONABLE NOISE

Any noise defined in 154-3 of this chapter.

154-3 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 geographic boundaries of the Village of Orchard Park, or within those areas over which the Village has jurisdiction. The determination as to the existence of unreasonable noise may be established by the specific acts considered to be unreasonable noise enumerated within the subsections hereinafter.

154-4 Prohibited acts.

The following acts are declared to be loud, disturbing or excessive noise in violation of this chapter, but said enumeration shall not be deemed to be exclusive.

A.

Amplified sound. The operation, playing or permitting of the operation or playing of any radio, receiver, television, phonograph, tape player, compact disc or digital sound systems, sound amplifier, boom box, musical instrument, loudspeaker, or similar device, whether from a moving vehicle or stationary location, which reproduces or amplifies sound in such a manner as to create a sound level across a real property line or through partitions common to two or more persons within a building or from a stationary or moving vehicle and which exceeds the limits set forth in Table I,^[1] herein. (This subsection does not apply to commercial enterprises or industrial manufacturing plants in the regular conduct of their business on their own properties.)

[1]

Editor's Note: Table I is included in § 154-5, Noise levels by land use.

B.

Horns and signaling devices. The sounding of any horn, signaling device or alarm (except as a danger warning, pursuant to § 375 of the Vehicle and Traffic Law of the State of New York) which results in harsh or loud sound or repetitive sounds for any unreasonable or unnecessary period of time so as to create a noise disturbance.

C.

Shouting and yelling. Shouting, yelling, singing, calling, hooting or whistling so as to create a noise disturbance.

D.

Hawkers and peddlers. It shall be unlawful for any person within the Village to sell anything by outcry within any area of the Village zoned for residential uses. The provisions of this subsection shall not be construed to prohibit the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.^[2]

[2]

Editor's Note: See also Ch. 166, Peddlers and Solicitors.

D.

Drum use restricted. It shall be unlawful for any person to use any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise within the Village. This subsection shall not apply to any person who is a participant in a school band or duly licensed parade or who has been otherwise duly authorized to engage in such conduct.

E.

Vehicle repairs. It shall be unlawful for any person within any residential district of the Village to repair, rebuild, or test any motor vehicle (between the hours of 10:00 p.m. of one day and 7:00 a.m. of the next day) in such a manner that a reasonable person of normal sensitiveness residing in that area is caused discomfort or annoyance.

F.

Engines. The operation, including the stationary idling, of any engine, including, but not limited to, an automobile, truck, motorcycle, motorbike, motorboat or minibike engine, so as to create a noise disturbance, or the use of any automobile, motorcycle or motor vehicle so out of repair, so loaded or in any manner so as to create excessive or unusual grating, grinding, rattling or other noise, or the discharge into the open air of the exhaust from any stationary steam engine, stationary internal combustion engine or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom which exceed maximum permissible sound levels in Table I^[2] herein. (This subsection does not apply to commercial enterprises or industrial manufacturing plants in the regular conduct of their business on their own properties.)

[2]

Editor's Note: Table I is included in § 154-5, Noise levels by land use.

G.

Heavy equipment. The operation of any pile driver, bulldozer, pneumatic hammer, grinder, or other construction equipment which creates a noise disturbance, except between 7:00 a.m. and 10:00 p.m. and except in cases of urgent necessity in the interest of public safety.

H.

Construction. Any construction, excavation, demolition, alteration or repair which creates a noise disturbance, except between 7:00 a.m. and 10:00 p.m. and except in cases of urgent necessity in the interest of public safety.

I.

Domestic equipment. The operation of or permitting to be operated any power saw, drill, sander, router, lawn or garden device, leaf or snow blower, insect control device or domestic equipment so as to create a noise disturbance, except between 7:00 a.m. and 10:00 p.m. However, the use of snowblowers, chain saws and other domestic tools and equipment are exempted from these limits when they are being used to clear driveways, streets, or walkways during and within 24 hours after snowfalls, rainstorms, ice storms, windstorms, or similar emergencies.

J.

Machinery. The operation of any machinery, equipment, pump, fan, air-conditioning apparatus or other mechanical device in such a manner as to create a noise disturbance which exceeds maximum permissible sound levels in Table I^[3] herein. (This subsection does not apply to commercial enterprises or industrial manufacturing plants in the regular conduct of their business on their own properties.)

[3]

Editor's Note: Table I is included in § 154-5, Noise levels by land use.

K.

Jake Brakes. Use of the truck-braking system commonly known as a "Jake Brake" is prohibited at all times and in all places in the Village of Orchard Park.

L.

Loading and unloading. The loading or unloading of any materials, equipment or garbage cans or the handling of bales, boxes, crates, containers or similar objects so as to create a noise disturbance which exceeds maximum permissible sound levels in Table I,^[4] herein.

[4]

Editor's Note: Table I is included in § 154-5, Noise levels by land use.

M.

Domestic animals. The howling, barking, whining, squawking, neighing or other sound of a domestic animal which occurs continuously or intermittently or so frequently so as to create a noise disturbance. (For purposes of this subsection, "continuous" shall be a period of 10 minutes and "intermittent" shall be a period of 30 minutes.)

N.

The making of any noise for advertising purposes in any street or public place, or by means of aircraft, or the advertisement or calling attention to any advertisement, article, business, calling or profession upon any street, sidewalk or entrance to a place of business by means of any horn, megaphone, siren, bell, radio or any other sound-producing or sound-amplifying mechanism, instrument or device.

O.

Alarms. The sounding or permitting of the sounding of any exterior alarm on any building or motor vehicle, unless such alarm shall terminate its operation within 15 minutes of its being activated.

P.

Stationary emergency signaling devices. Testing of only the electromechanical functioning of a stationary emergency signaling device shall occur at the same time each day when a test is performed, but not before 7:00 a.m. or after 10:00 p.m. Any such testing shall not exceed one minute.

154-5 Noise levels by land use.

A.

It shall be unlawful for any person to operate or permit to be operated any noise source in such a manner as to create a sound pressure level in dB(A)s which exceeds the limits set forth in Table I when measured at the real property boundary of the complainant.

Table I			
Maximum Permissible Sound Levels by Receiving Land Use Category			
Sound Source Land Use	Receiving Land Use (dBA)		
	Residential	Commercial	Manufacturing
Residential			
7:00 a.m. to 10:00 p.m.	95	95	95
10:01 p.m. to 6:59 a.m.	65	65	65
Commercial and Manufacturing			

Table I
Maximum Permissible Sound Levels by Receiving Land Use Category
Receiving Land Use (dBA)

Sound Source Land Use	Residential	Commercial	Manufacturing
7:00 a.m. to 10:00 p.m.	95	100	100
10:01 p.m. to 6:59 a.m.	65	75	75

B.

The restrictions set forth in this chapter shall not apply to alarms as defined in **154 -4B** of this chapter.

C.

In the event that qualified Village personnel approved by the Chief of Police or Code Enforcement Officer are not available to operate a sound-level meter, this chapter shall liberally be construed by Village personnel with proper police power to prevent excessive, unreasonable, disturbing and unnecessary noise, due consideration being given to the circumstances, time of day and particular location of each violation and the demands of the public health, safety and welfare.

154-6 Presumptive evidence of violation.

A.

The use of any sound-producing, sound-reproducing or sound-amplifying device, machinery, domestic equipment, heavy equipment or engine so as to cause the sound produced thereby to be audible outside the building or beyond the boundary of the property where it originates, between the hours of 10:00 p.m. and 7:00 a.m. the following day, shall be presumptive, prima facie evidence of a violation of this chapter.

B.

Barking, squawking, whining, neighing or any other domestic animal sound which is audible at a point beyond the real property boundary from which such sound emanates and which continues continuously for 10 minutes, or intermittently for over 30 minutes, between the hours of 10:00 p.m. and 7:00 a.m. shall be presumptive, prima facie evidence of a violation of this chapter.

154-5 Exceptions; construal of provisions.

A.

The following sounds are exempt from the operation of this chapter:

(1)

The sounds created by emergency vehicles, such as fire, police or ambulance, while on emergency calls using radios, sirens, horns, bells or whistles.

(2)

The sounds created by any governmental agency or by the use of a public warning device.

(3)

The sounds created by sporting events, public organization, private schools, carnivals, fairs, exhibitions, picnics or parades, provided that such events shall take place between the hours of 7:00 a.m. and 10:00 p.m. local time.

(4)

The sounds created by emergency construction work or repair which is necessary for the protection of life, property or restoration of utility service.

(5)

The sounds created by trains, buses, aircraft or other items of transportation governed by either the state or federal noise regulations.

(6)

The sounds created by emergency alarms, such as fire alarms, or burglar alarms, prior to a reasonable opportunity for the owner or tenant in possession of the premises served by such alarm to turn off the alarm.

(7)

The sounds created by bells or chimes associated with a church, synagogue or other place of public worship.

(8)

The sounds created by municipal refuse collection.

(9)

The sounds created by activities that are otherwise governed, authorized or permitted under state or federal regulations.

(10)

The sounds created by any legitimate commercial or industrial use or activity as long as the noise emanating therefrom does not begin prior to the hour of 7:00 a.m. and does not regularly run beyond the hour of 10:00 p.m. local time or is not otherwise scheduled to run beyond 10:00 p.m. local time.

B.

It is the intention of the Village Board that this chapter, while in addition to and supplementing the federal and state regulations, be construed to secure for the people freedom from unlawful noise as described herein, without violating any of the rights

secured by the Constitution of the United States or the Constitution of the State of New York.

154-8 On-duty police officers and firemen excepted.

The provisions of this chapter shall not apply to police officers and firemen while in the discharge of duty.

154-9 Enforcement.

A.

When the enforcement officer or official seeks to apply the decibel provisions set forth in the aforementioned Table [1] relative to any violation of this chapter, such officer shall use a sound-level meter conforming to ANSI (American National Standards Institute). Type I or II standards shall be used and shall be calibrated at least annually. Only qualified Village personnel approved by the Chief of Police or Code Enforcement Officer shall operate, witness and read the sound-level meter(s) and related equipment. Qualified Village personnel approved by the Chief of Police or Code Enforcement Officer shall be able to enforce this chapter in the event that a sound-level meter is not available.

[1]

Editor's Note: Table I is included in § 154-5, Noise levels by land use.

B.

This chapter shall be enforced by the Police Department of Orchard Park and qualified Village personnel as designated by the Chief of Police or Code Enforcement Officer.

154-10 Penalties for offenses.

Any person who shall violate any of the provisions of this chapter shall be punished as provided in Chapter 1, Article III, of this Code.

154-11 Severability.

If any section, subdivision, paragraph, sentence or other portion of this chapter shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, it is the intention of the Village Board that such section, subdivision, paragraph, sentence or other portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this chapter shall be and remain in full force and effect.

154-12 Repealer.

The Noise Ordinance of the Village of Orchard Park, adopted by the Village Board on December 3, 1979, and all amendments thereto, are hereby repealed.

154-13 When effective.

This chapter shall be effective upon its filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 11 of 2024 of the (County)(City)(Town)(Village) of Orchard Park was duly passed by the Board of Trustees (Name of Legislative Body) on September 9 2024, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20____.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1____ above.

MaryBeth Jensen
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 9/9/24

(Seal)