

Chapter 107

NOISE

[HISTORY: Adopted by the Town Board of the Town of Liberty 8-10-1998 by L.L. No. 2-1998.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 50.
Peddling and soliciting — See Ch. 111.
Vehicles and traffic — See Ch. 139.

§ 107-1. Title.

This chapter shall be known as the "Town of Liberty Noise Abatement Local Law."

§ 107-2. Statement of policy.

It is hereby declared to be the policy of the Town of Liberty to safeguard the right of its residents within the privacy of their homes to be free from intrusive unwanted sounds. Problems concerning the disturbance of peace and quiet by noise from various activities are best solved by thoughtful discussions and cooperative agreements between affected parties. However, to resolve remaining problems of noise which is disturbing to others, it is the policy of the Town of Liberty to establish standards, variance procedures, enforcement procedures and penalties.

§ 107-3. Definitions.

As used in this chapter, the following terms and phrases shall have the following meanings:

DECIBEL (dB) — A unit for measuring the volume of sound, equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to a standard pressure of 20 micronewtons per square meter.

SOUND LEVEL — The pound-pressure level measured in decibels with a sound-level meter set to A-weighting, expressed in dB(A).

SOUND-LEVEL, METER — An instrument for the measurement of sound levels which conforms to Type 1 or Type 2 standards under ANSI Specifications S1.4-1971 or the latest approved revision thereof.

SOUND REPRODUCTION DEVICE — Any electronic or electrical device that is used for the production of sound, including but not limited to any loudspeaker, radio, television, tape recorder, phonograph or any other sound-amplifying equipment.

UNREASONABLY INTRUSIVE — Any sound which either annoys, disturbs, injures or

1. Editor's Note: This local law also repealed former Ch. 107, Noise, adopted 7-14-1988 by L.L. No. 1-1988.

endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities under the circumstances.

§ 107-4. Method of sound-level measurement; unregulated activities; maximum levels.

No person shall or no owner or occupant of any premises shall operate or permit to be operated or use or cause to be operated in the Town of Liberty any sound source that produces a sound level exceeding the limitations in this section. The measurement of any sound or noise shall be made with a sound-level meter using the A-weighted scale and slow response except for sounds or noises which occur in single or multiple bursts with a duration of less than one second for which fast response shall be used. The sound-level determination or measurement shall be conducted not nearer to the sound source than the closest property line of the parcel on which such noise is generated, except where otherwise specified, and in no case on public or private streets. When the determination or measurement is made for a dwelling unit of a multi-dwelling-unit building as the receiving property, all exterior doors and windows of the dwelling unit shall be closed, and the determination or measurement shall be taken not nearer than three feet from a common wall.

- A. Customary residential activities. Customary residential activities on properties within the AC, RD and RS and Zoning Districts, including social gatherings, deliveries of residential heating oil and pickup of residential garbage, as well as permitted agricultural activities, shall not be regulated by this chapter, except for specific activities or noise sources that are subject to and governed by other provisions of this chapter, such as sound reproduction devices; burglar alarms, animals, construction activities, domestic tools and equipment or vehicle repair.
- B. Other activities. Noise produced by other activities on properties within the AC, RD and RS Zoning Districts shall not exceed 60 dB(A) during the hours of 8:00 a.m. to 9:00 p.m. or 45 dB(A) during the hours of 9:00 p.m. to 8:00 a.m. on any other property used for residential purposes within any such district unless otherwise permitted in § 107-7, Exceptions. However, the restrictions contained in this Subsection B shall not be applicable to specific activities or noise sources that are subject to and governed by § 107-5, Prohibited acts, or § 107-6, Permitted and regulated noises.

§ 107-5. Prohibited acts.

- A. Sound reproduction devices. No person shall or no owner or occupant of any premises shall operate or permit to be operated or use or cause to be operated loudspeakers or other sound reproduction devices so as to produce sounds which are audible between the hours of 9:00 p.m. and 8:00 a.m. or are audible and unreasonably intrusive at any other times on any other property used for residential purposes within the AC, RD and RS Zoning Districts as determined within the property line of receiving property, except as permitted in Subsection B, Burglar alarms. Nothing in this subsection is intended to prohibit incidental sounds emanating from public sporting events or public entertainment events.
- B. Burglar alarms. Sound from an exterior burglar alarm of any building or motor vehicle shall terminate within 15 minutes after it has been activated.
- C. Animals. It shall be unlawful for any owner of or any other person harboring any animal to

permit or allow such animal while in the Town of Liberty to engage in habitual loud howling or barking which is unreasonably intrusive.

- D. Exhaust and mufflers. No person shall cause or permit the operation of any device, vehicle, construction equipment or lawn maintenance equipment, including but not limited to any diesel engine, internal combustion engine or turbine engine, that has been modified or become defective so as to cause the level of sound emitted to be greater than that emitted as originally manufactured.
- E. The playing of music by any band or orchestra or sound-producing device or the operation of any radio, television receiver or phonograph in such a manner and with such volume between the hours of 9:00 p.m. and 9:00 a.m. so as to annoy or disturb the quiet, comfort, rest or repose, health or safety of persons in any dwelling or other type of residence located in the Town of Liberty.
- F. The use of human voices in shouting, singing, chanting, whistling or bellowing individually or in groups so as to disturb the rest and repose, health or safety of others during the hours of 9:00 p.m. and 8:00 a.m.
- G. The creation of loud or excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers between the hours of 9:00 p.m. and 8:00 a.m. except in the SC and IC Zoning Districts.
- H. The creation of any excessive noise on any street adjacent to any public or parochial school or hospital is prohibited, provided that conspicuous signs are displayed on such street indicating that the same is a school or hospital zone and that quiet is required.
- I. The creation of any sound or noise from any device known as a "sound truck" or motor-vehicle-controlled or -operated portable or movable amplifying system whereby sounds, music or words are transmitted by means of any motor vehicle upon the public streets of the Town of Liberty is prohibited unless specific permission therefor is obtained from the Town Board, which such permit, if and when issued, shall indicate the specific dates and times that the operation of such sound truck or movable amplifying system shall be authorized.

§ 107-6. Permitted and regulated noises.

- A. Construction activities. Any building or construction activity, including the clearing and removal of trees or other site preparation work which is audible outside of a building or structure, is permitted only during the hours of 7:00 a.m. and 8:00 p.m. unless specific permission therefor is obtained from the Town Board, which such permit, if and when issued, shall indicate the specific dates and times that the building or construction activity shall be authorized.
- B. Domestic tools and equipment; vehicle repair.
 - (1) No person shall or no owner or occupant of any premises shall operate or permit to be operated or use or cause to be operated any hand tool or power tool or equipment, including but not limited to saws, hammers, sanders, drills, grinders, lawn or garden tools, mowers, tractors, chain saws, leaf blowers or gatherers or similar devices or

wood chippers of any kind, or cause or permit vehicle repair or engine tune-up activities so as to create noise in excess of the following limits. This prohibition includes equipment used by lawn care or landscape services.

- (2) Noise levels from domestic tools and equipment and from vehicle repair during the hours of 7:00 a.m. to 8:00 p.m. shall not be restricted by this subsection. At all other times, such noise levels shall not exceed 45 dB(A) on any other property used for residential purposes within the AC, RD and RS Zoning Districts.
- (3) Uses 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.

§ 107-7. Exceptions.

The following sounds are exempted from the limitations of this chapter:

- A. The production of music in connection with any military or civic parade, funeral procession or regularly scheduled religious service.
- B. The use of any organ, bell, chimes or any other similar instrument or device by any church, synagogue or school on or within its own premises in connection with religious rites or ceremonies of such church or synagogue or in connection with a school education program.
- C. Sounds created by any governmental agency by the use of public warning devices.
- D. Sounds created by public utilities in carrying out the operations of their franchise.
- E. Sounds connected with sporting or music events of any public or private school.
- F. Sounds connected with activities and equipment of the Town of Liberty, County of Sullivan or State of New York relating to any public works project or government function.
- G. Sounds created by aircraft or by motor vehicles on public streets.

§ 107-8. Variances.

- A. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the Town Board shall have the power to issue a variance from the strict application of this chapter relating to sound, noises or uses which would otherwise be in violation of this chapter and to vary or modify the application of any of the regulations or provisions of this chapter so that the spirit of this chapter shall be observed, public health, state and welfare secured and substantial justice done.
- B. No variation or adjustment in the strict application of any regulations or provisions of this chapter shall be granted by the Town Board unless it finds that:
 - (1) The applicant has demonstrated good and sufficient cause for the granting of a variance. Such demonstration shall be founded upon a fair consideration of the circumstances present pertinent to the petition, including but not limited to:

- (a) The social utility of the use or activity for which a variance is sought.
 - (b) The nature and degree of observed variance from prescribed standards that results from such use or activity.
 - (c) The impact of such use or activity on other residents and. properties.
 - (d) The nature and cost of available measures that may be taken to mitigate the impact of such use or activity.
- (2) There are unique or special circumstances or conditions, fully described in the findings of the Town Board, applying to the activity or to the use of land, property or facilities for which the variance is sought which warrant the granting of a variance on the ground of practical difficulty or unnecessary hardship.
 - (3) The granting of a variance is necessary to enable the applicant to conduct the activity or use for which a variance is sought without unreasonable burden or restriction, and the variance as granted by the Town Board is the minimum adjustment that will accomplish such purpose.
 - (4) The granting of the variance will be in harmony with general purposes and intent of this chapter, will not be injurious to the community or any neighborhood or otherwise detrimental to the public health, safety or welfare and will not be in conflict with other laws or ordinances of the Town.
- C. The Town Board, in passing upon a petition for a variance under this chapter, may limit the effective period of any variance granted and may impose upon the grant or operation of any variance such conditions in furtherance of the public interest as the Town Board finds necessary.
 - D. The Town Board shall retain continuing jurisdiction over and with respect to any variance granted under this chapter and it shall have the fullest powers and authority allowed by law to review, rehear, modify, reverse or annul, for good cause shown, any order, resolution, decision or determination made with respect to a petition for or the granting of a variance under this chapter.
 - E. All such appeals shall be in writing on forms prescribed by the Town Board, and each appeal or application shall refer to the specific provisions of this chapter and shall exactly set forth the details of the variance that is applied for and the grounds on which it is claimed that the same should be granted. Any petition for a variance shall also identify all practical steps which have been taken or which are proposed to be taken by the applicant to reduce noise.
 - F. For a period of 60 days after this chapter becomes effective, a properly filed application for a variance shall exempt the application from the specific provisions of this Chapter from which a variance is being sought, from the date of filing of the application until the Town Board has ruled on the application.

§ 107-9. Effect on other provisions.

The provisions of this chapter shall in no case remove or render less restrictive limitations on

noise generations or other conditions imposed for specific properties by actions of the Liberty Zoning Board of Appeals or by actions of the Liberty Planning Board or required under other applicable laws or regulations.

§ 107-10. Enforcement.

The provisions of chapter may be enforced by any police agency, public agency, the Code Enforcement Officer or other officials designated by the Town Board.

§ 107-11. Penalties for offenses.

Any person who violates any provision of this chapter shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not exceeding \$250. Each day that a violation shall continue shall constitute a separate offense.

§ 107-12. Severability.

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair and invalidate the remainder of this chapter but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the litigation in which such judgment shall have been rendered.

§ 107-13. When effective.

This chapter shall become effective immediately upon filing with the Secretary of State.