

TOWN OF JAY  
LOCAL LAW NO. \_\_\_\_ OF THE YEAR 2020

**BE IT ENACTED** by the Town Board of the Town of Jay, Essex County, New York as follows:

***Section 1. Title.***

This local law shall be known and cited as "Town of Jay Noise Control Local Law."

***Section 2. Enactment.***

This local law is adopted pursuant to the authority granted the Town of Jay pursuant to Section 10 of the Municipal Home Rule Law of the State of New York.

***Section 3. Interpretation.***

This local law shall be liberally construed so as to effectuate the purposes described in this local law. Nothing herein shall abridge the powers and responsibilities of any Police Department or law enforcement agency to enforce the provisions of this local 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.

***Section 4. Purpose.***

Noise produced by human activities has been increasingly recognized as a serious and growing environmental and health problem. Noise pollution has been implicated in a variety of health disorders, ranging from stress and hypertension to permanent hearing loss. Additionally, noise has been demonstrated to cause psychological problems. Even moderate levels of noise can heighten anxiety, decrease the incidence of cooperative behavior and increase the risk of hostile behavior.

It is hereby declared to be the public policy of the Town of Jay (the "Town") to reduce the ambient noise level in the Town, so as to preserve, protect and promote the public health, safety and general welfare, and to promote peace and quiet for, the inhabitants of the Town. It is the public policy of the Town that inhabitants are entitled to ambient noise levels that are

not detrimental to life, health or the quiet enjoyment of persons or property. It is hereby declared that the making, creation or maintenance of excessive and plainly audible unreasonable noises within the Town deleteriously affects the public health, comfort, convenience, safety, welfare and the prosperity of inhabitants of the Town. Therefore, the Town Board intends to prohibit such noises from all sources subject to its police and regulatory power.

This local law has two (2) components to wit: (1) Section 6 Plainly Audible Unreasonable Noise which can be proven and substantiated without a decibel reading and (2) Section 7 Prima Facie Evidence of Unreasonable Noise in the event a decibel meter is used. A violation of this local law can be proven by either instance.

The Town of Jay enacts this local law for these purposes to delineate permitted noise levels within the Town, but is also cognizant that industry, commercial use, construction, mining and other commerce related activities may cause annoyance to residents as a result of normal course of business, and, in this regard, the Town through this local law is attempting to find a middle ground in such cases.

***Section 5. Definitions.***

- A. All terminology defined herein which relates to the nature of sound and the mechanical detection and recording of sound is in conformance with the terminology of the American National Standards Institute (ANSI) or its successor body.
- B. As used in this local law, the following terms shall have the meanings indicated:
  - 1. Ambient Sound. The composite of all sounds associated with a given environment.
  - 2. Animal Noises. Barking, howling, yelping, braying, squaking or any other animal noises which constitute Unreasonable Noise as defined in this law and which last continually for ten (10) minutes or intermittently for thirty (30) minutes on any given day.
  - 3. A-Weighted Sound Level. The sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated "dBA."
  - 4. Audible Pure Tones. Sounds with a sinusoidal waveform consisting of a single

frequency. Pure tones are often present in sounds emitted by industrial equipment such as blowers, generators, saws, compressors, power transformers and other high speed machinery. The high frequencies of pure tones make them much more annoying than broadband noise of the same level.

5. Commercial Property or Facility. Any premises, property or facility involving construction as herein defined, traffic in goods or furnishing of services for sale or profit, including but not limited to dining and/or drinking establishments, financial institutions, retail establishments, wholesale establishments, recreational establishments, office buildings, saw mills, warehouses, quarries, hotels/motels, sports facilities, race tracks and horse tracks. This shall also include a residential property being used for construction as herein defined, all commercial purposes, and for the creation, production, packaging or dissemination of goods for sale.
6. Community Service Facility. Any nonresidential facility used to provide services to the public, including but not limited to organization offices and facilities, meeting halls, religious facilities and private and parochial schools.
7. Construction. Any activity necessary or incidental to the erection, demolition, assembly, alteration, installation or equipping of buildings and other structures, public or private, highways, roads, premises, parks, utility lanes or other property, including but not limited to, related activities such as land clearing, grading, earthmoving, excavating, blasting, filling and landscaping, but not including agriculture.
8. Continuous Sound. Any sound that is not impulse sound.
9. dBA. The abbreviation designating the unit of sound level as measured by a sound level meter using the A-weighting, also known as "dBA." All references to "decibel" or "db" shall be presumed to mean "dBA" unless otherwise specified.
10. Decibel. The practical unit of measure for sound pressure level. The number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ration of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals). Decibels is abbreviated "dBA."

11. Demolition. Any dismantling, intentional destruction or removal of buildings or structures.
12. Emergency. Any occurrence or circumstance involving actual or imminent physical or property damage, which demands immediate action.
13. Extraneous Sound. Any sound which is neither part of the neighborhood ambient sound nor comes from the source under investigation.
14. Frequency. The number of sound pressure oscillations per second, expressed in hertz, which is abbreviated Hz.
15. Impulse Sound. Any sound characterized by either a single pressure level or a single burst of sound with multiple pressure peaks, having a duration of less than one second.
16. Motor Vehicle. Any vehicle that is propelled or drawn on land by an engine or motor.
17. Muffler. A device or system for abating the sound of escaping gasses of an internal combustion engine or for abating unreasonable and excess noise emanating from any type of machinery whatsoever.
18. Unreasonable Noise/Noise Disturbance. Any sound by reason of its duration, intensity, tone or by hour of the day or night which interferes with the quiet enjoyment and repose of nearby properties at such a level, duration and/or characteristics as to be or tend to be injurious to human health or welfare, or which would cause annoyance to a reasonable person of normal sensitivities.
19. Outdoor Amplified Noise. Any sounds that are projected mechanically or electronically emanating from a property, including but not limited to announcements, music or entertainment.
20. Person. Includes the singular and the plural and also any person, firm, corporation, political subdivision, governmental agency, association, club, partnership, society or any other form of association or organization, or any legal entity whatsoever together with any officers, employees, departments or agencies of the above.

21. Plainly Audible. Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words or the artist performing the song. The detection of rhythmic base component of the music is sufficient to constitute a plainly audible sound.
22. Public Right of Way. Any street, avenue, boulevard, road, highway, sidewalk, alley or boardwalk that is leased, owned or controlled by a governmental entity, no matter how designated.
23. Real Property Line.
  - (1) The imaginary line, including its vertical extension, that separates one parcel of real property from another; or
  - (2) The vertical and horizontal boundaries of a dwelling unit that is one in a multi dwelling unit building.
24. Residential Area. A group of residential properties and the abutting public rights-of-way and public spaces.
25. Sound. An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
26. Sound Attenuating Barrier or Noise Reduction Barrier. An insulated wall barrier either man made or natural, erected on a residential or commercial property, the purpose of which is to shield adjoining properties from unreasonable or excessive noise as defined herein.
27. Sound Level. The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in the American National Standards Institute ("ANSI") specifications for sound level meters.

28. Sound Level Meter. Any instrument, including a microphone, amplifier, output meter and frequency weighting network, for the measurement of noise and sound levels in a specific manner and which complies with the standards established by ANSI specifications for sound level meters.
29. Sound Pressure Level. The level of a sound measured in dB units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.
30. Sound Reproduction Device. Any device that is designed to be used or is actually used for the production or reproduction of sound, including but not limited to any amplified musical instrument, radio, television, tape recorder, digital record, phonograph, loudspeaker, public address system or any other sound amplifying device.
31. Sound Source. Any person, animal, device, operation, process, activity or phenomenon which emits or causes sound.
32. Transient Noise. A sound, the level of which does not remain constant during measurement.
33. Transient Sound. Any noise intrusion longer than an impulse sound but not continuous in nature. Transient noises can be especially annoying because they interrupt personal activities such as sleep, study, entertainment, relaxation and conversation. Examples of transient noise include but are not limited to passage of vehicles, boats and aircraft, operation of power saws and episodes of animals barking or howling.

***Section 6. Plainly Audible Unreasonable Noise Prohibited.***

- A. No person shall make, cause, allow or permit to be made any plainly audible unreasonable noise within the geographical boundaries of the Town and within those areas over which the Town has jurisdiction except as otherwise provided herein. The standards to be considered in determining whether a plainly audible unreasonable noise exists include the following:
  1. The volume of the noise;
  2. The frequency of the noise;

3. The periodicity of the noise;
4. Whether the noise is unusual and incongruous with the surrounding environment;
5. The volume and frequency of the ambient noise, if any;
6. The proximity of the noise source to any residential, educational, medical, religious or judicial facility;
7. The use, nature and character of the zoning district of the immediate area where the noise source exists;
8. The time of day or night the noise occurs;
9. The duration of the noise;
10. The presence of discrete tones;
11. Whether the noise is continuous or impulsive;
12. Whether the sound source is temporary;
13. The noise occurs at night between 8:00 p.m. and 7:00 a.m. rather than during the day;
14. The source of the noise is permanent rather than temporary; and
15. The noise is unnatural, rather than sound normally occurring in nature.

B. In addition to the general prohibitions set forth in Section 6A hereof, any of the following acts and causes thereof which either annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities are declared to be in violation of this local law and to constitute unreasonable noise:

1. Sound Reproduction Systems. No person shall use, operate or permit to be used or operated any device for producing, reproducing or amplifying sound, including but not limited to musical instruments, radios, tape players, compact

disc players, digital sound devices such as iPods and MP3 players or their equivalents, or televisions in such a manner that so create unreasonable noise.

2. Loudspeakers and Public-Address Systems. Using or operating any loudspeaker, public-address system or similar device between the hours of 8:00 p.m. and 9:00 a.m. of the following day such that the sound therefrom creates a noise disturbance across a residential real property line.
  3. Animals and Birds. Owning, possessing or harboring any animal or bird that frequently or for continued duration makes or creates a noise disturbance across a residential real property line. An unreasonable noise disturbance is created by a dog barking continually for ten (10) minutes or intermittently for thirty (30) minutes.
  4. Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, bales, cans, drums, refuse or similar objects or the pumped loading and unloading of materials in liquid, gaseous, powder or pellet form between the hours of 8:00 p.m. and 7:00 a.m. the following day when the sound therefrom creates a noise disturbance across a residential property line.
  5. Motor Vehicles.
    - a. Operating or permitting the operation of any motor vehicle so out of repair or in such a condition as to create a noise disturbance or that is otherwise not in compliance with the provisions of any state or federal law, including but not limited to Sections 375 and 386 of the New York State Vehicle and Traffic Law;
    - b. Spinning and squealing the tires of any motor vehicle; or
    - c. Allowing noise from a motor vehicle alarm to continue in excess of ten (10) minutes' duration after it has been activated.
- C. Construction, Repair and Demolition. Unreasonable noise caused by operating or permitting the operation of any tool or equipment used in construction, repair, demolition, excavation or production such as pile drivers, bulldozers, pneumatic hammers, grinders, compressors, generators, saws, pumps, fans, permanently mounted machinery, heavy equipment or other construction equipment and machinery between the hours of 8:00 p.m. and 6:00 a.m. the following day or at any time on legal



holidays. Such operation does not constitute a violation if the tool or equipment is used in an emergency situation or if the tool or equipment is equipped with a functioning muffler or if the operator is issued a variance pursuant to this local law.

- D. Miscellaneous Sound Producers. Creating or emitting a noise which constitutes a noise disturbance by any manner, including but not limited to a horn, siren, whistle, yell, shout, bell, musical instrument, tool, engine, etc.
- E. No person shall operate or permit the operation of a Sound Reproduction Device in a motor vehicle which produces a sound reproductive level emanating from such motor vehicle which is plainly audible more than twenty-five (25) feet in any direction from the motor vehicle or which exceeds 50 dBA as measured from the nearest curb or edge of roadway.
- F. No person shall permit Animal Noises within the geographical boundaries of the Town of Jay and within those areas over which the Town has jurisdiction.

***Section 7. Prima Facie Evidence of Unreasonable Noise and a Violation of this Local Law***

A decibel reading is not required to prove a violation of this local law, however the following provisions are made for sound level readings which shall constitute prima facie evidence of unreasonable noise in the event a decibel meter or reading is taken.

The following shall be considered prima facie evidence of unreasonable noise and a violation of this local law:

- A. A sound-level reading taken at a dwelling within a multi-dwelling unit building, arising from any location within a multi-dwelling unit building, above fifty-five (55) dBA during the time period commencing at 8:00 p.m. and ending at 7:00 a.m. the following day.
- B. A sound-level reading taken at a residential property, arising from another residential property, above fifty-five (55) dBA during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.
- C. A sound-level reading at a residential property, arising from another residential property, above fifty (50) dBA during the time period commencing at 10:00 p.m. and ending at 7:00 a.m. the following day.

- D. A sound-level reading taken at a residential property, arising from a commercial property, an industrial property, a public space or a public right of way, above seventy-five (75) dBA during the time period commencing at 6:00 a.m. and ending at 8:00 p.m.
- E. A sound-level reading taken at a residential property, arising from a commercial property, an industrial property, a public space or a public right of way, above sixty (60) dBA during the time period commencing at 8:00 p.m. and ending at 6:00 a.m. the following day.
- F. A sound reproductive device level in and from a motor vehicle exceeding fifty (50) dBA as measured from the nearest curb or edge of the roadway or be plainly audible more than twenty-five (25) feet in any direction from the motor vehicle from which the sound emanates.
- G. Notwithstanding the above, it shall be prima facie evidence that an act is in violation of this local law when a sound level meter indicates that the decibel level of permanently mounted machinery, including but not limited to, compressors, generators, saws, pumps, fans, blowers, power transformers, highspeed machinery, in, under, above or below any residential or commercial property, either enclosed or not enclosed within a building or shielded by a noise reduction barrier or sound attenuating barrier, in excess of 60 dBA as measured using the A-Weighted sound level meter set on slow response at a distance of fifty (50) feet from the noise. For such machinery that is enclosed or shielded, a similar measurement shall be taken from a distance of fifty (50) feet from the exterior of the building or the shielding.

### ***Section 8. Exempt Sounds***

- A. The following sounds are exempt from the sound control requirements of this local law:
  - 1. Unreasonable noise created by church bells or chimes;
  - 2. Unreasonable noise created by government agencies or its agents, including but not limited to the use of emergency warning devices or emergency vehicles;
  - 3. Unreasonable noise created by properly lawn mowers, snow blowers, power tools and other lawn care equipment in good working order in use between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and 7:00 a.m. and 9:00 p.m. on Saturdays, Sundays and holidays;

4. Unreasonable noise created by sporting events of any public or private entity, fairs, outdoor/indoor entertainment events, tournaments, exhibitions, parades, softball tournaments or other event authorized by permit of the Town Board. A Town Board permit will be required which will set time limits and other conditions incident to the event;
5. Unreasonable noise created by crop cultivation, production, harvesting and livestock production;
6. Unreasonable noise created by snow removal equipment in good working condition;
7. Unreasonable noise from agricultural equipment when operated on a farm or in an agricultural zone;
8. Unreasonable noise from domestic power tools or lawn and garden equipment when operated with a muffler;
9. Unreasonable noise from snow blowers, snow throwers and snow plows when operated with a muffler for the purpose of snow removal;
10. Unreasonable noise generated by Town sponsored concerts and events designed to promote the health, safety and welfare of the citizens of the Town;
11. Unreasonable noise and vibrations emitted in the performance of correcting an emergency or during a State of Emergency.

***Section 9. Persons Responsible.***

The following persons will be in violation of this local law for causing or permitting unreasonable noise:

1. The person causing the noise or operating the noise producing device or equipment.
2. The owner or lessor of premises which is the source of the noise, regardless of whether the owner or lessor is present on that part of the premises where the noise is produced and provided that they are not the source or cause of the unreasonable noise, when a violation occurs if:

(a) the non-present owner or lessor has received notice that the person charged has been convicted of violating this local law on the same premises on two (2) separate occasions within twelve (12) months of the date of the violation charged, and

(b) Prior to the date of the violation charged, the non-present owner or lessor has not commenced a proceeding to evict the person charged.

**Section 10. Violations and Penalties.**

A. Any owner, agent, representative or person who violates this local law shall be guilty of a violation as defined by Section 55.10 of the Penal Law of the State of New York and shall be liable for a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for not more than fifteen (15) days, or both.

B. For a second offense, the fine may be up to two thousand dollars (\$2,000.00) or imprisonment for not more than fifteen (15) days, or both.

C. For a third subsequent violation, the fine shall be up to three thousand (\$3,000.00) and/or imprisonment for not more than fifteen (15) days, or both, and costs of investigation and prosecution.

D. In lieu of or in addition to any other penalty provided for herein, any person violating this local law shall be subject to a civil penalty enforceable and collectable by the Town in an amount up to one thousand dollars (\$1,000.00) for a first offense, two thousand dollars (\$2,000.00) for a second offense, and three thousand dollars (\$3,000.00) for a third offense. Such penalty shall be collected by and in the name of the Town.

E. In addition to the above mentioned penalties and punishment, the Town of Jay may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this local law.

F. Any enforcement officer as herein described or as designated by the Town Board shall be and hereby is authorized to issue and serve appearance tickets pursuant to Criminal Procedure Law Section 150.20(3) with respect to any violation of this law to any person whom they have reason to believe has violated this law, and shall cause such person to appear before a court of competent jurisdiction. The Town reserves the authority to designate additional or substitute enforcement officers at its discretion.

G. Any person may file a complaint with an enforcement officer that a violation of this local law has taken place. The enforcement officer shall promptly record and investigate any such complaint and obtain the necessary supporting depositions. The enforcement

officer shall submit the criminal or civil complaint and supporting depositions to a court of competent jurisdiction.

H. All fines collected pursuant to this local law shall be the sole property of the Town of Jay.

I. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

***Section 11. Obstruction of Governmental Administration.***

No person shall hinder, resist, or oppose the enforcement officer or peace officer when acting pursuant to their duties under this local law or any other persons authorized to administer and enforce the provisions of this law in the performance of their duties. Any person hindering, resisting or opposing these officers shall be prosecuted pursuant to Penal Law Section 195.05, Obstructing Governmental Administration in the second degree.

***Section 12. Enforcement.***

This local law shall be enforced by the Town Board of the Town of Jay, Code Enforcement Officer of the Town of Jay and by any peace officer, police officer, New York State Trooper or any other additional person or entity designated by resolution by the Town Board of the Town of Jay. Said persons shall have the authority to enforce the provisions of this local law and to issue appearance tickets, obtain supporting depositions and prepare and submit criminal and civil complaints to a court of competent jurisdiction.

The enforcement officer shall be responsible for the administration and enforcement of this local law and shall act upon any written complaint, or his observation, of an alleged or possible violation of this local law. Any appearance ticket or criminal complaint and supporting deposition for a violation of this local law shall be administered pursuant to the New York State Criminal Procedure Law and shall be heard in a court of competent jurisdiction.

No remedy or penalty specified in this section shall be the exclusive remedy or penalty to address any violation of this local law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section.

***Section 13. Severability.***

In the event that any portion of this local law is found to be invalid, such finding will not have any effect on the remaining portions of this local law, the application thereof, and all other provisions shall remain in full force and legal effect.

***Section 14. Rules and Regulations.***

This local law shall be supplemented by rules and regulations adopted by the Town of Jay pursuant to resolution. More particularly, the use of decibel meters or other scientific instruments and dBa levels may be amended and adjusted by resolution based upon existing scientific and industry standards.

***Section 15. Repeal of Local Law No. 2 of 1991.***

This local law also serves to repeal Local Law No. 2 of 1991 entitled "A Local Law Regulating and Controlling Noise within the Town of Jay, Essex County, New York," as well as any and all previous local laws.

***Section 16. Effective Date.***

This local law shall take effect immediately upon the filing with the Office of the Secretary of State of the State of New York.