

TOWN OF HORICON NOISE CONTROL LAW

Local Law #2 of 2010 to amend the Code of the Town of Horicon relating to the control of Noise.

Be it enacted by the Town Board of the Town of Horicon, as follows:

ARTICLE 1 – TITLE, POLICY and DEFINITIONS

Section 1.01 – Title

This Law shall be known as the Town of Horicon Noise Control Law.

Section 1.02 – Statement of Policy and Purpose

It is hereby declared to be the policy of the Town of Horicon to prevent excessive, unnecessary or unusually loud noise. It is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of preserving, protecting and promoting the public health, comfort, convenience, safety, welfare, prosperity and the peace and tranquility of the Town of Horicon and its inhabitants. This Law is enacted pursuant to New York State Town Law Section 130 and Municipal Home Rule Law Section 10.

Section 1.03 – Definitions

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

A-weighted sound level - the sound pressure level measured with a meter using an "A-weighted" frequency response as prescribed by the American National Standards Institute (ANSI) or its successor agency.

Calibration - conformation of the calibration of the microphone and electronics of a sound level measuring device using an appropriate calibrator traceable to National Bureau of Standards (NBS) criteria.

Continuous Sound - any sound that is not an impulsive sound.

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

Fast Response - the characteristic of a sound level meter which allows for accurate measurement of impulsive sounds such as horn blasts, firearms discharge or a passing vehicle.

Maximum Sound Level - the recorded maximum root-mean-square (RMS) sound pressure level registered using a sound level meter meeting the requirements of this Law.

Property Line - either 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 in a multi-family dwelling.

Slow Response - the characteristic of a sound level meter which allows for accurate measurement of continuous sounds such as equipment or machinery.

Sound Level - the sound-pressure level measured in decibels with a sound-level meter set to A-weighting and obtained with either fast response or slow response, as appropriate, expressed in decibels.

Sound-Level Meter - an instrument for the measurement of sound levels which is properly calibrated and 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 musical instrument, loudspeaker, radio, television, tape recorder or player, phonograph, compact disc or DVD or MP3 player, or any other sound-playback and/or amplifying device.

Temporary Residence – a tract or tracts of land and any hotel, motel, cabin colony, building, camping unit or other structures including worker housing that may be pertinent to its use, maintained primarily for overnight occupancy by persons who are provided at least some part or portion of the use of the facilities.

Unreasonably Intrusive Noise - any sound which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities under the circumstances.

ARTICLE 2 – PROHIBITIONS

Section 2.01 – Prohibited Acts

No person shall create or cause to be emitted: (1) any sound or noise of a type prohibited by this Law and/or (2) any sound or noise which produces a sound level exceeding the limitations set forth in this Law, which shall likewise constitute a prohibited act under this Law.

Section 2.02 - Prohibited Noises and Maximum Sound Levels; Regulations.

The following shall be considered unreasonably intrusive noise and shall be prohibited.

A. Motor Vehicles.

- (i) The sounding of any horn, loudspeaker or signaling device on any automobile, motorcycle or other vehicle (except an emergency vehicle) except as a necessary or reasonable warning pursuant to §15 of the Vehicle and Traffic Law;
- (ii) The use of any loudspeaker or other instrument or device for the purpose of making any announcement;

- (iii) The operation of a motor vehicle in such a manner as to cause noise by spinning or squealing tires;
- (iv) The operation of any motor vehicle on any public street, road or highway within the Town without a sound-attenuating muffler which has the effect of reducing sound generated by the motor vehicle to the lesser of: (1) the level not exceeding that which is produced when the vehicle is equipped with a properly-installed muffler in new condition as specified or recommended by the vehicle manufacturer, or (2) the maximum noise level as allowed under the New York State Vehicle and Traffic Law.

Noise emanating from the operation of motor vehicles on public highways is regulated by the New York State Vehicle and Traffic Law. The maximum noise levels set forth in the Vehicle and Traffic Law for the operation of motor vehicles on public highways, as they may be amended from time to time, are hereby designated to be the maximum permissible noise levels for the operation of motor vehicles on all private roads in the Town of Horicon.

B. Animals. Permitting an animal to make any barks, calls, sounds or noises for ten (10) continuous minutes or more, or intermittently for thirty (30) minutes or more within a 2-hour period, at a sound level that exceeds 65 decibels.

C. Individuals in Public Places.

- (i) Yelling, shouting, calling, whistling, hooting, singing or otherwise using one's voice and/or playing a musical instrument and/or using any device or thing, whether or not intended for use in producing sound, resulting in sounds at a level in excess of 60 decibels between the hours of 10:00 p.m. and 7:00 a.m.;
- (ii) The shouting and crying out of peddlers, hawkers or vendors, except for purposes of soliciting sales of merchandise, food and/or beverages at public entertainment events such as parades, fairs and sporting events;

D. Sound Reproduction Devices. Operating or permitting to be used or operated any sound reproduction device producing sound at a level in excess of 70 decibels between 7:01 a.m. and 9:59 p.m., or 60 decibels between 10:00 p.m. and 7:00 a.m.

E. Boats and Vessels. Operation of a boat or other vessel, on waters within the Town of Horicon, which is propelled wholly or partly by an engine operated by the explosion of gas, gasoline, naphtha or other substance, without having the exhaust from the engine run through an effective sound-attenuating muffler. Dry stacks, "cut-outs" and straight pipes are expressly prohibited. Nor shall any person operate a boat or any vessel on waters within the Town of Horicon which generates sound exceeding 86 decibels when measured at not less than 50 feet from the boat or vessel being tested or 80 decibels when measured at not less than 100 feet from the boat or vessel being tested. Measurements of sound levels shall be taken when the subject vessel is in motion at the lesser of a speed of 36 mph or the vessels full throttle speed, or by static test when the subject vessel is stationary with engine operating at

3,500 rpm. Any law enforcement officer having jurisdiction of the waters within the Town of Horicon who has reason to believe that vessel is being operated in excess of the noise levels established in this section may request the operator of the vessel to subject the vessel to a test as set forth in this section to measure noise levels, with the officer on board if the officer so requests, and the operator shall comply with such request. Failure to comply with the request shall constitute a violation of this section.

Section 2.03 - Noise and Sound Measurement.

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 (1) second for which fast response shall be used. Unless otherwise specified in this Law, the sound level determination or measurement shall be conducted at: 1) the closest structure not on the same parcel on which such noise is being generated, or 2) the closest structure on the property of the complainant.

Upon the trial of any persons charged with violating the provision of this Section, the Court may admit evidence of sound levels in decibels as shown by a standard calibrated sound meter. For the purpose of Section 2.02, evidence that noise exceeded the maximum sound-pressure levels in decibels as provided in paragraphs A, B, C, D and E of Section 2.02 may be admitted as *prima facie* evidence that the noise was in violation of Section 2.02.

Section 2.04 - Exceptions.

The provisions of this Law shall not apply to sound necessarily generated by the following:

- A.** The activities of any fire department, ambulance squad or similar emergency or rescue organization.
- B.** Municipally sponsored celebrations or events.
- C.** Sporting events, weddings, reunions, private parties, or other authorized activities of any public or private school, children's camp, commercial campsite, restaurant, hotel or other Temporary Residence (including but not limited to Point O' Pines, Brant Lake Camp, Ridin-Hy Ranch, Camp Read, and Pilgrim Camp).
- D.** Motors, engines, cars and boats operated or tested by persons who commercially repair or build such equipment in the Town of Horicon.
- E.** Sounding of church, temple, school or camp bells, chimes, or bugles.
- F.** Noncommercial public speaking and public assembly activities lawfully conducted, with any required permits.
- G.** Special events for which permission of the Town Board has been obtained

ARTICLE 3 - PENALTIES AND COMPLIANCE

Section 3.01 - Enforcement.

The provisions of this Law shall be administered and enforced by any law enforcement officer having jurisdiction within the Town of Horicon or such Town employees and officials authorized by resolution of the Town Board. The Town Board may authorize the Supervisor to designate which authorized Town departments, employees or officials have enforcement authority over particular types of violations of this Law. An alleged violation of any of the the provisions of this chapter may be established upon the verbal or written complaint of a least one person or as personally observed by any law enforcement officer having jurisdiction within the Town of Horicon or any other Town employee or official authorized by the Town Board. Upon such an alleged violation, such law enforcement officer, or such employees and/or officials authorized by the Town Board may issue a Notice of Violation containing an order requiring abatement of any source of sound alleged to be in violation of this chapter. Such abatement must be made within the time period and according to the conditions prescribed by such law enfocement officer or authorized Town employee or official. Failure to timely comply with such an order contained in a Notice of Violation shall be cause for a summons to be issued.

Section 3.02 - Penalties for Offenses.

Any person who violates any provision of this Law shall be deemed guilty of a violation and, upon conviction thereof, shall be fined not exceeding five hundred dollars (\$500) for the first violation and not exceeding nine hundred and fifty dollars (\$950) for each subsequent violation. Each calendar day that a violation occurs shall constitute a separate offense. The owners and occupants of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this Law.

Section 3.03 – Effect on Conditions Imposed by ZBA or Planning Board.

The provisions of this Law shall in no case remove or render less restrictive any limitations on noise generation or other conditions imposed for specific properties by actions of the Town Zoning Board of Appeals or by actions of the Town Planning Board or required under other applicable laws or regulations.

ARTICLE 4 - MISCELLANEOUS PROVISIONS

Section 4.01 - Unconstitutionality or Illegality.

If any clause, sentence, paragraph, word, section or part of this Law shall be adjudged by any Court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

Section 4.02 – Supersedence / Repealer

This Local Law is intended to amend and supersede the Town of Horicon Noise Control Ordinance which enacted certain regulations governing noise. All other Local Laws or Ordinances or parts of Local Laws or Ordinances in conflict with any part of this Local Law are hereby repealed.

Section 4.03 - Effective Date.

This Law shall take effect upon filing with the Office of the New York State Secretary of State. This Law was filed with the Office of the New York State Secretary of State on November 29, 2010 and is now in effect.