

THE FOLLOWING LOCAL LAW NO. 3 OF THE YEAR 2014 FORMERLY REFERRED TO AS LOCAL LAW NO. 2 OF THE YEAR 2014 WAS OFFERED BY COUNCILWOMAN WHITING, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN MAYROSE, TO WIT:

A Local Law known as Local Law No. 3 of the Year 2014 entitled "Amendment to the Noise Law of the Town of Newstead" which was formerly referred to as Local Law No. 2 of the Year 2014.

Be in enacted by the Town Board of the Town of Newstead as follows:

SECTION 1. TITLE

This Law shall be known as Local Law No. 3 of the Year 2014 entitled "Amendment to the Noise Law of the Town of Newstead".

SECTION 2. PURPOSE

The purpose of this to amend the Noise Law of the Town of Newstead to repeal the existing provisions of the Code of the Town of Newstead regulating noise and replace it with a new provision specifically intended to regulate unreasonably loud and disturbing noise and sounds that are electronically generated and/or amplified and determined to be of a character, intensity and duration as to be detrimental to the peace, health, welfare and good order of the people of the Town of Newstead.

SECTION 3. AMENDMENT OF CODE

The existing Noise provisions of the Code of the Town of Newstead currently codified as Section 450-89 of the Code of the Town of Newstead are repealed in their entirety and replaced by this Local Law No. 3 of the Year 2014 which shall also be codified as Section 450-89 of the Code of the Town of Newstead and shall read as follows:

SECTION 4. Declaration of policy:

The Town Board of the Town of Newstead hereby declares its intent to prevent unreasonably loud and disturbing noise and sounds that are **electronically generated and/or amplified** and determined by the Board to be of a character, intensity or duration as to be detrimental to the peace, health, welfare or good order of the people of the Town of Newstead. The Town Board intends to improve and promote the quality of life in our community, and in the exercise of its lawful enforcement in this regard, the Town Board does hereby enact the following local law. It is the intent of the Town Board that this law will be constructed so as to effectuate the purpose described.

SECTION 5. Definitions:

The following words, terms and phrases, when used in this article, shall have the

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambient noise level means the sound pressure level of the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources. Man made sounds shall be included in the ambient noise level if they originate from permanent continuously operating equipment necessary for the facility or residential operation. An example of one such sound is air conditioning or fan units.

C-weighted sound pressure level means the sound pressure level in decibels as measured on a sound level meter, using the C-weighting network, by a trained operator. The level so read is designated "dB(C)" or "dBC."

Decibel (dB) is the practical unit of measurement 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 ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals).

Emergency -- A public disaster or an exposure of any person or property to imminent danger.

Emergency Signal Device -- Any gong, siren, whistle, air horn or similar device, the use of which on emergency vehicles is permitted by Subdivision 26 of § 375 of the New York State Vehicle and Traffic Law.

Equivalent Continuous Sound Pressure Level, (Leq)—A calculated sound pressure (noise) level of an imaginary continuous constant amplitude signal, within a given time interval, that would produce the same energy as the fluctuating sound level that is being measured.

Noise and noise disturbance for the purpose of this local law shall mean any increase in the ambient noise level or any sound which exceeds the sound pressure levels, set forth in this article and has been generated by electronic or amplified means.

Noise-sensitive zone means any area designated pursuant to this article for the purpose of ensuring exceptional quiet.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network.

Sound level meter means an instrument, which includes a microphone, amplifier, RMS detector, integrator, output meter and frequency weighting networks, for the measurement of noise and sound pressure levels which conforms to the American National Standards Institute (ANSI) type I or type II standards.

Sound pressure level means, in decibels, 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to the reference pressure, which reference pressure of 20 micropascals.

Stationary noise source means any device, fixed or movable, which is located or used on geographically defined real property other than a public right-of-way.

Unreasonable noise means any excessive or unusually loud electronically generated and/or amplified sound which either disturbs, injures or endangers the peace or safety of a reasonable person of normal sensitivities or which causes injury to animal life or damage to property or business. Standards to be considered in determining whether unreasonable noise exists in a given situation include but are not limited to the following:

- (1)The volume of the noise.
- (2)Whether the nature and origin of the noise is usual or unusual.
- (3)The volume and intensity of the background noise, if any.
- (4)The nature and zoning district of the areas within which the noise emanates.
- (5)The time of the day or night the noise occurs.

SECTION 6. Methods of measurement.

A. Noise measurements shall be made with a sound-level meter manufactured according to the specifications of the American National Standards Institute, Type 2, class 2 accuracy, S1.4, IEC 61672, 60651 and S1.43, IEC 60804 or any subsequent nationally adopted standard superseding the above standards.

B. Sound measurements shall be made from the specific position of the complainant on the premises from which noise complaints are received and shall be made at a height of at least three (3) feet above the ground and three (3) feet away from walls, barriers, obstructions or other sound-reflective surfaces. Measurements shall be taken per the sound level meter conditions specified in Section 8.

SECTION 7. Enumeration of Unnecessary and Unreasonable Noises

No person shall make, continue or cause to be made, or continued, any excessive electronically generated and/or amplified noise after the time limitations listed in this section. Under no circumstances shall a citizen of the Town of Newstead be exposed to excessive electronically generated and/or amplified noise exceeding the limits specified herein.

The following acts, among others, are declared to be excessive, disturbing, unnecessary and unreasonable noises in violation of this Local Law, but any enumeration herein shall not be deemed to be exclusive:

Bands, musical instruments, radios, etc producing electronically generated and/or amplified sound. The electronic generation and/or amplification of music by any band, orchestra, radio,

phonograph, musical instrument or other device for the production or reproduction of sound. The operating of any such electronically generated and/or amplified band, instrument or device between the hours of 11:00 p.m. and 9:00 a.m. without such permission and in a manner as to be plainly audible on adjacent properties shall be prima facie evidence of a violation of this Local Law.

SECTION 8. Maximum Permissible Sound Levels by Receiving Land Use

No person shall operate or cause to be operated on private property any source of sound electronically generated and/or amplified in such a manner as to create a sound level which exceeds the noise level (LCeq) limits set forth for the receiving land use category below when measured at or within the property boundary of the complainant receiving land use. The LCeq shall be measured with a digital integrating sound meter with the following settings: Weighting – C, Meter response—Fast, Data logging 1 second, run time (integration or averaging time interval)for continuous noise sources (active for 2 minutes or longer) no shorter than 1 minute or longer than 2 minutes.

These limits or 5 dBC above the ambient noise level which ever is greater shall apply.

Receiving Land Use	Time of Day	LCeq Noise Limit
All land use	9 AM – 11PM	80 dB
All land use	11 PM – 9 AM	65 dB

SECTION 9. Exceptions

The requirements, prohibitions and terms of this article shall not apply to:

- (1)Any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- (2)The operation of any vehicles or equipment when responding to an emergency or a declared general state of emergency (e.g., civil defense or storm).
- (3)Those activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the town, including but not limited to parades, fireworks displays and publicly co-sponsored races and events. Activities in public parks, playgrounds or public buildings (including schools) under permission or authority of the Town.
- (4)The production of music in connection with a military or civic parade, funeral procession or religious ceremony, or any musical performance conducted under consent of the appropriate

municipal authority.

(5) Sounds emanating from any publicly sponsored and/or authorized sporting, entertainment or other public event such as carnivals, fairs, exhibitions, picnics or parades, provided that such events shall take place between the hours of 9:00 a.m. and 11:00 PM local time.

(6) The sound created by bells or chimes associated with a church, synagogue or other place of public worship.

(7) The sound created by any governmental agency or by the use of public warning devices.

(8) Any activity for which the Town Board grants an exception upon application by the proponent thereof.

(9) Activities of the Town or Volunteer Fire Companies in the performance of their duties, drills or public demonstrations.

SECTION 10. Administration and enforcement:

The Town of Newstead shall administer this law and enforcement shall be by the Town of Newstead Code Enforcement Officer, the State Police, the Erie County Sheriffs or other police officer having jurisdiction and/or other properly trained official approved by the Town Board through developed measurement standards, testing methods and procedures that provide for the effective implementation and enforcement of this law.

Issuance of summons. Violation of any provision of this chapter shall be cause for a summons to be issued by the Code Enforcement Officer according to procedures set forth in Section 11, Penalties.

Abatement orders: In lieu of issuing a summons, the Code Enforcement Officer may issue an order requiring abatement of any source of sound alleged to be in violation of this chapter within a reasonable time period and according to guidelines which the Building Inspector may prescribe.

An abatement order shall not be issued when the Code Enforcement Officer has reason to believe that there will not be compliance with the abatement order.

Tampering: The moving or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by the Town or its designated employee or agent is prohibited, provided such device or the immediate area is clearly labeled to warn of the potential illegality of such tampering.

SECTION 11. Penalties for offenses:

A. Any person who violates any portion of this law, or uses any device which creates a violation of this law, shall be guilty of a violation and, upon conviction, shall be punished by a fine of not less than two hundred fifty dollars (\$250.) nor more than five hundred dollars (\$500.) or by imprisonment for up to fifteen (15) days, or both.

B. The owner of any property and any person, firm, association or corporation in control of the real property where the violation(s) of this chapter occur(s) shall be guilty of a separate violation and, upon conviction thereof, shall be fined or imprisoned as herein provided above in subsection A. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct offense.

Other remedies. No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this chapter or from any other law.

SECTION 12. SEPARABILITY

If any section, subsection phrase, sentence or other portion of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 13. EFFECTIVE DATE

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

The question of the adoption of the foregoing local law was duly put to a vote on roll call by the Newstead Town Board at a regular meeting held on July 28, 2014, which resulted as follows:

Councilman	Mayrose	Voted	AYE
Councilman	Rooney	Voted	NO
Councilwoman	Whiting	Voted	AYE
Councilman	York	Voted	AYE
Supervisor	Cummings	Voted	AYE