

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

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.

**FILED
STATE RECORDS**

JAN 10 2011

DEPARTMENT OF STATE

County
City
Town of WARREN
Village

Local Law No. 1 of the year 2011

A local law NOISE LAW
(Insert Title)

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

County
City
Town of WARREN as follows:
Village

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

**Local Law # 1 2011
NOISE LAW**

Be it resolved that the following local law be enacted for the purpose of excessive noise control in the Town of Warren.

SECTION 1. TITLE

Town of Warren Noise Law

SECTION 2. PURPOSE

The making and creating of disturbing or offensive noises within the jurisdiction of the Town of Warren is a condition which is a detriment to the public health, comfort, safety and welfare of the citizens. Every person is entitled to an environment in which disturbing, excessive, or offensive noise is not detrimental to his or her life, health or enjoyment of property. This law is to be construed liberally, but is not intended to be construed so as to discourage the enjoyment by residents, business owners, consumers, tourists, or any other designation of person with the Town of normal, reasonable and usual activities.

SECTION 3. NOISE LEVEL STANDARDS

Any noise exceeding the normal noise level at the property line of any property in such a manner plainly audible to involuntary listeners as to disturb the peace, quiet and comfort of any reasonable person of normal sensitivities residing in the area shall be unlawful under the provisions of this Law.

SECTION 4. DEFINITIONS

As used in this Law, unless the context otherwise clearly indicates, the words and phrases used in this Law are defined as follows:

Normal Noise: Normal noise is the all-encompassing noise associated with a given environment, being a composite of sounds from many sources near and far.

Barking Dogs: A dog that barks, bays, cries, howls, or makes any other noise continuously and/or incessantly for a period of ten minutes or barks intermittently for one-half hour or more to the disturbance of any person at any time of the day or night, regardless of whether the dog is physically situated in or upon private or commercial property, provided, however, that a dog shall not be deemed a "barking dog" for purpose of this Law, if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any other legitimate cause which teased or provoked the dog.

Commercial Facility: Any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit.

Demolition: Any dismantling, intentional destruction, or removal of building or structures.

Domestic Power Equipment: Power equipment including but not limited to: power saws, drills, grinders, lawn and garden tools, and other domestic power equipment intended for use in residential areas by a homeowner.

Emergency: Any occurrence or set of circumstance involving actual or imminent physical trauma which demands immediate attention.

Emergency Vehicle: Any government authorized motor vehicle with sound warning devices such as sirens and bells, which can lawfully be used when responding to an emergency.

Emergency Work: Work made necessary to restore property to a safe condition following an emergency, or work required to protect persons or property from exposure to imminent danger.

Improper Vehicle Noise: Noise caused by skidding tires, improper motor speed, or illegal muffling.

Lot: Any parcel of land under one ownership or under common control of any group of persons acting in concert as part of a common endeavor.

Loud and Unreasonable Noise: Noise so plainly audible to involuntary listeners as to disturb the peace, quiet, and comfort of any reasonable person of normal sensitivities.

Motor Vehicle: any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles, including motorcycles, trail bikes, go-carts, dirt bikes or mini-bikes, and motorized all-terrain vehicles.

Muffler: A device for abating sounds such as escaping gases from an internal combustion engine.

Nighttime Hours: Hours between 11:01 p.m. in the evening Sunday through Thursday and through 6:59 a.m. Saturday and Sunday mornings. It is intended hereby that nighttime hours as defined herein shall commence just after midnight (12:01 a.m.) on Friday and Saturday nights and end at 6:59 a.m. Saturday and Sunday mornings.

Person: Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency, or political, administrative subdivision of the State or other legal entity of any kind.

Premises: Any building, structure, land or portion thereof, including all appurtenance, and shall include yards, lots, courts, inner years, and real properties without building or improvements, owned or controlled by a person.

Property Line: That real or imaginary line along the ground surface and its vertical extension which (a) separates real property owned or controlled by any person from contiguous real property owned or controlled by another person, and (b) separates real property from the public right-of-way.

SECTION 5. EXCEPTIONS TO NOISE LAW

This Noise Law shall not apply to noise emitted by or related to:

5. A Generally accepted agricultural practices within a recognized agriculture district, including the right to farm law.

5.B. Events: Such as but not limited to:

Any funeral procession or religious ceremony during daytime hours;

The production of music in connection with any parade authorized under provision of law;

The use of amplifiers or other sound producing instruments, during daytime hours, in connection with any athletic competition or recreational event held on athletic fields, stadiums or public parks, election campaigns;

Police or fire apparatus while used in the performance of public duty;

Traditional community volunteer activities held during daytime hours.

SECTION 6. SPECIFIC PROHIBITIONS

Loud and unreasonable noise from the following sources, among others, is in violation of this Law.

6.A Radio, television sets and similar devices, musical instruments, phonograph, or other machine or devices for the producing or reproducing of sound used as entertainment or advertisement.

6.B. Peddlers and vendors: The unreasonable and unnecessary sounding or crying out of peddlers/hawkers.

6.C. Any source near schools, hospitals, court and churches which interferes with the working of such institution.

6.D. Bells: No person shall sound or cause to be sounded any loud or raucous bells or gongs attached to any building or premises which disturb the quiet or repose in the vicinity thereof.

6.E. Other sources: It shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any noise intended to disturb involuntary listeners.

SECTION 7 COMPLIANCE

For the purpose of determining compliance with the provisions of the Law, the law enforcement officer is authorized to make inspection of all noise sources to determine the character of the noise. He may enter any building with the consent of the owner or his agent. If consent is not granted, the Officer may seek administrative warrant from an appropriate court.

No person shall hinder, obstruct, resist, prevent in any way, interfere or attempt to interfere with any authorized person while in the performance of his/her duties under this Law.

SECTION 8. PENALTY

Any person action alone or in concert with others who shall violate any provision of this Law shall be guilty of an offense and upon conviction thereof shall be subject to a fine of up to but not more than Two Hundred Fifty Dollars (250.00) for the first offense and up to but not more than One Thousand Dollars (\$1,000.00) for the second and any additional offenses, or by imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment. Each act committed in violation of any provisions of the Law shall constitute a separate additional offense.

SECTION 9. MANNER OF ENFORCEMENT

Enforcement of the provisions of this Law is the responsibility of law enforcement officers of Herkimer County or New York State.

SECTION 10. SEVERABILITY

If, for any reason, any word, clause, paragraph or section of this Law shall be held to make the same unconstitutional, this Law shall not hereby be invalidated and the remainder of this Law shall continue in effect.

SECTION 11. CONFLICT WITH STATE LAWS

Nothing in this Law shall be construed to conflict with any law of the State of New York that may govern or control any of the subject matters contained un this Law.

SECTION 12. EFFECTIVE DATE

This Law shall become effective upon filing in the office of the New York State Secretary of State.

SECTION 13. AMENDMENTS

Any amendment to this local law must be enacted in accordance with Article 3 of the Municipal Home Rule Law.

Motion to enact the above local law was made by Councilman Roger Vaughn and seconded by Supervisor Richard Jack.

| | |
|-------------------------------------|------------|
| Supervisor Richard Jack | Aye |
| Councilman Roger Vaughn | Aye |
| Councilman Dorayne Peplinski | Aye |
| Councilman Donald Oldick | Aye |
| Councilman Leslie Miller | Aye |

(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. 1 of 192010 of the (County)(City)(Town)(Village) of WARREN was duly passed by the TOWN BOARD on MAY 10 2010, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 19_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. 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 _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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 19_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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 19_____ 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 _____ 19____, 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 19_____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, 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 _____, above.

[Handwritten Signature]

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: 5/10/2010

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Herkimer

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Handwritten Signature]
Signature

Town Attorney
Title

County
City of Warren
Town
Village

Date: Jan 5, 2011