

LOCAL LAW P-3 OF 2019

Introduced by Councilor Moore on February 28, 2019 at a Regular Meeting of the Common Council.

Public Hearing to be held on Thursday, March 14, 2019 at 5:01pm in the Council Chambers, 41 City Hall Place, Plattsburgh, NY 12901.

Amending, Re-Naming and Re-Stating Chapter 206 “Noise” of the City Code of the City of Plattsburgh.

A local law amending, re-naming and re-stating in its entirety Chapter 206 “Noise” of the City Code of the City of Plattsburgh.

Be it enacted by the Common Council of the City of Plattsburgh as follows:

1. Chapter 206 “Noise” of the City Code of the City of Plattsburgh, including sections 206-1, 206-2, 206-3, 206-4, 206-5, 206-6 and 206-7 will be amended, re-named and restated in its entirety, to read as follows:

Chapter 206 “Noise Control Law”

§ 206-1 Purpose/Definitions

A. Purpose.

The proliferation of unreasonably loud, disturbing and unnecessary noises in the City of Plattsburgh of such character, intensity, duration or repetition as to be detrimental to the life, health or safety of any individual or of the public has reached such proportions that the City of Plattsburgh, to preserve, protect and promote the public health, safety and welfare, has enacted a Noise Control Local Law which, pursuant to the standards hereinafter set forth, shall delineate permitted noise levels within the City of Plattsburgh.

B. Definitions.

For the purposes of this local law, the terms used herein shall be defined as follows:

COMMERCIAL DISTRICT

Those areas designated B-1, B-2, C, and RC under Chapter 270 of the City Code of the City of Plattsburgh.

COMMERCIAL BUILDING

Any structure located within a Commercial District.

DECIBEL

A unit for measuring the volume of sound.

EMERGENCY WORK

Work or activity that is necessary to prevent or recover from an emergency, including but not limited to work to repair electric, gas, water, sewerage and telephone services.

INDUSTRIAL DISTRICT

Those areas designated I under Chapter 270 of the City Code of the City of Plattsburgh.

LESSEE

The person who has a right to occupy the real property of another owner for a period of at least 30 consecutive days.

MULTIPLE RESIDENCE

A building containing two or more dwelling units, including a duplex, townhouse, condominium, apartment, or triplex.

OWNER

The person or entity who has record title to a parcel of real estate.

PERSON

Any individual, association, corporation, or partnership.

PUBLIC PLACE

Any highway, street, sidewalk, park, parking lot, or other City-owned public property or building.

RECREATIONAL VEHICLE

Any vehicle which is propelled by any power other than muscular power that is designated for or capable of cross-country travel, such as a motorcycle, trail bike or minibike.

RESIDENTIAL DISTRICT

Those areas designated R-1, R-2, and RH under Chapter 270 of the City Code of the City of Plattsburgh.

SOUND-LEVEL METER

An instrument, including a microphone, an amplifier, an output meter and frequency-weighting network for the measurement of sound levels.

UNREASONABLE NOISE

Any excessive, unreasonable or unusually loud sound or any sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a person or which causes injury to animal life or damages 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:

- A. The intensity of noise.
- B. Whether the nature of the noise is usual or unusual.

- C. Whether the origin of the noise is natural or unnatural.
- D. The volume and intensity of the background noise, if any.
- E. The proximity of the noise to sleeping facilities.
- F. The nature and the character of the neighborhood in which the noise is heard.
- G. The time of day or night in which the noise occurs.
- H. The duration of the noise.
- I. Whether the noise is continual or of a periodic or impulsive character.
- J. Any sound in excess of the "Maximum Permitted Sound Levels" set forth in this Chapter as observed from the property line of the source thereof, or the source of the noise where there are more than one occupant or use on a particular property, will be deemed presumptive evidence of unreasonable noise.

§ 206-2 Persons Liable

The following persons shall be held liable for a violation of this local law:

- A. The person making the noise or operating the equipment or device making the noise; or
- B. The owner or lessee of the premises which is the source of the noise.
- C. It shall be an affirmative defense to liability hereunder, if a person who has not caused the unreasonable noise reports the suspected violation to the enforcement officer prior to the enforcement officer arriving in response to a complaint in investigate a suspected noise violation.

§ 206-3 Prohibited Acts Enumerated

The following acts, and the causing thereof, are declared to be in violation of this chapter, but any enumeration herein shall not be deemed to be exclusive:

- A. The operation of or the permitting of the operation of a radio, television set, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound which is plainly audible at the boundary of a nearby residential property, or which otherwise creates unreasonable noise at the adjoining property line or, in the case of a multiple residence, within the adjoining or adjacent apartment.
- B. The projection of sound by an electronic device, musical instrument or otherwise, directly onto the public way, for any purpose whatsoever so as to create unreasonable noise. Nothing contained herein shall be construed as prohibiting the normal emanation of sound from a vehicle playing a car radio or similar device or the normal emanation of sound from the demonstration or use of a musical instrument within a private residence; provided, however, that there is no unreasonable noise therefrom at a distance of 50 feet or more from said vehicle or property.
- C. Operating or permitting the operation of any tool or equipment used in construction, drilling or demolition work, including excavation and the alteration or repair of any building between the hours of

9:00 p.m. and 7:00 a.m. so as to create unreasonable noise except in the case of an emergency or the interests of public safety.

D. The operation of an appliance, including but not limited to a pump, fan, exhaust fan, air-conditioning device or similar mechanical device between the hours of 9:00 p.m. and 7:00 a.m. so as to create unreasonable noise at the adjoining property line or, in the case of a multiple residence, within the adjoining or adjacent apartment.

E. The loading or unloading of any vehicle or in the opening and destruction of bales, boxes, crates and containers in such a manner as to create unreasonable noise at the adjoining property line or, in the case of multiple residence, within the adjoining or adjacent apartment.

F. The use of any drum, loud speaker or other instrument or device for the purposes of attracting attention to any performance, show or sale or display of merchandise by the creation of unreasonable noise.

G. The use of any automobile, motorcycle, truck, recreational vehicle or other vehicle so out of repair or loaded in such a manner as to create unreasonable noise by operating, accelerating, grating, grinding, rattling or other noise.

H. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, recreation vehicle, or any other motor vehicle unless equipped with a muffler or other device in good order and in constant operation which will prevent unreasonable noise from being emitted therefrom.

M. The sounding of a horn or signal device on any automobile, motorcycle, bus or other vehicle so as to create unreasonable noise, except as a warning signal pursuant to the provisions of the motor vehicle laws of the State of New York.

N. The use or operation of any sound-producing device in any public place in such a manner as to create unreasonable noise to any person other than the operator of the device.

O. The harboring of any animal, including a bird, which animal, whether by its barking, growling, howling, squawking, scratching or otherwise, creates unreasonable noise at the adjoining property line or, in the case of a multiple residence, within the adjoining or adjacent apartment.

P. To intentionally make, or cause to make, any other unreasonable noise or sound, as heard from the source of the noise, or the property line thereof, that annoys, disturbs, injures or endangers the comfort, repose, health, safety or welfare of another person. For purposes of this local law, any sound in excess of the "Maximum Permitted Sound Levels" set forth in this will be deemed presumptive evidence of unreasonable noise.

§ 206-4 Exemptions

The following sounds shall not be deemed to be in violation of this chapter:

A. Sounds created by church bells or chimes.

B. Sounds created by any government agency by the use of public warning devices.

C. Sounds created by public utilities in carrying out the operations of their franchise.

D. Sounds connected with sporting events of any public or private school or authorized carnival, fair, exhibition or parade authorized by permit of the Common Council.

E. The sounds created by crop cultivation, production, and harvesting.

F. Sounds created by safety and protective devices.

G. The use of snow removal equipment at any time.

H. Non-commercial public speaking and public assembly activities conducted in a public place.

§ 206-5 Method of Measurement/Maximum Permitted Sound Levels

(a) Method of measurement.

(1) Scale. All noise measurements shall be measured in decibel units of the frequency weighted sound level (dB(A)), in accordance with American National Standards Institute specifications for sound level meters based on standard IEC651 type 2 or ANSI S1.4 type 2.

(2) Point of measurement. Sound level measurements for industrial uses shall be taken at the property line of each use. Sound level measurements for commercial and residential uses shall be taken at the property line of each use but in the case of multiple residence or businesses, sound level measurements within the adjoining or adjacent apartment or business.

(b) Maximum permitted sound levels.

(1) Sound levels. The table below displays the maximum permitted sound levels arising by human activity in specific zoning districts, taken at the point of measurement set forth in (2) above:

Daytime: 7:00 a.m.-- 9:00 p.m.

Industrial	Commercial	Residential	City Street (distance of 50')
80 dB(A)	70 dB(A)	60 dB(A)	90 dB(A) truck>10,000 lbs GVWR 85 dB(A) motorcycle 80 db(A) car

Nighttime: 9:00 p.m.-- 7:00 a.m.

75 dB(A)	65 dB(A)	55 dB(A)	85 dB(A) truck>10,000 lbs GVWR 80 dB(A) motorcycle 75 db(A) car
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(c) Maximum permitted sound levels may be adjusted subject to the following conditions:

(1) The permitted sound level may be exceeded by five dB(A) for a cumulative period of not more than 30 minutes of a given hour during daytime hours.

(2) The permitted sound level may be exceeded by ten dB(A) for more than 15 minutes of a given hour during daytime hours.

§ 206-6 Penalties for Offense

Any person violating any provision of this Chapter law shall have committed an offense and shall be subject to a fine of not less than \$250. Persons committing a second offense within twelve (12) months of the date of the prior conviction shall be subject to a fine of \$500. A separate offense shall be deemed committed on each day during which the violation occurs.

§ 206-7 Enforcement.

This chapter may be enforced by any code enforcement officer or building inspector employed by the City of Plattsburgh and the procedures will mirror that of a code violation. This local law may also be enforced by any police officer. The building inspector's office may compel an applicant for a building permit or certificate of occupancy to document, stipulate, or substantiate that the proposed use will and is capable of complying with the applicable performance standards.

2. This Local Law shall take effect upon approval by the Mayor and filing with the New York State Secretary of State.