

TOWN OF CASTILE, NY

A LOCAL LAW TO AMEND THE ZONING LAW OF THE TOWN OF CASTILE TO PROVIDE FOR COMPREHENSIVE REGULATION OF NOISE POLLUTION FOR COMMERCIAL/INDUSTRIAL USES IN THE AGRICULTURAL DISTRICT OF THE TOWN OF CASTILE.

BE IT ENACTED by the Town Board of the Town of Castile as follows:

SECTION 1. TITLE

This Amendment to the Zoning Law of the Town of Castile shall be referred to as "COMPREHENSIVE REGULATION OF NOISE POLLUTION FOR COMMERCIAL/INDUSTRIAL USES IN THE AGRICULTURAL DISTRICT OF THE TOWN OF CASTILE".

SECTION 2. PURPOSE AND INTENT

The purpose of this law is to promote and protect the public health, safety, aesthetics, welfare and property values of the occupants/taxpayers of the Town of Castile, and to minimize the negative impacts of noise pollution. Further, the ordinance provides a statutory standard for determination and defining such noise pollution, investigating and testing for same in response to complaints filed pursuant to this ordinance.

SECTION 3. FINDINGS

The Town finds that excessive sound is a serious hazard to the public health, welfare and quality of life, and a substantial body of science and technology exists by which excessive sound maybe substantially abated. The people of the Town of Castile have a right to, and should be insured of an environment free noise pollution. It is the public policy of the Town of Castile to prevent the emission of sound that may jeopardize the health, welfare or safety of its citizens or degrade the quality of life of residents in the Town. This ordinance is enacted to control sound originating from sources within the Town of Castile and prohibits any sounds or vibrations which cause noise pollution.

SECTION 4. AUTHORITY

The Town Board of Castile enacts this local law under the authority granted by

1. Article IX of the New York state Constitution Section 2(6) and (10).
2. New York Statute of Local Government Section 10 (1) and (7).
3. New York Municipal Home Rule Law Section 10 (1)(i) and (ii) and Section 10 (1) (a)(6), (11) (12) and (14). New York State Town Law Section 130(1) (Building Code), (3), (11) (Peace, Good Order and Safety), (15)(Promotion of Public Welfare).
4. New York Town Law Section 64 (17-1)(Protection of Aesthetic Interest), (23) General Powers).

SECTION 5. DEFINITIONS

For the purpose of this local law, certain terms or words used herein shall be interpreted as follows:

Background Sound (L90): The sound level present at 90% of the time. Background sounds are those heard during lulls in the sound environment, when transient sounds from nearby human activity, flora, fauna and wind are not present

Decibel: (dB) A dimensionless unit which denotes the ratio between two quantities that are proportional to power energy or intensity. One of these quantities is a designated reference by which all other quantities of identical units are divided. The sound pressure level (Lp) in decibels equal to 10 times the logarithm (to the base 10) of the ration between the pressure squatted divided by the reference pressure squared. The reference pressure used in acoustics is 10 MicroPascals.

Low Frequency Noise (LFN): Sounds with energy in the lower frequency range of 20 to 200 Hz. LFN is deemed to be excessive when the difference between a C-weighted sound level and an A-weighted sound level is greater than 20 decibels at any measurement point outside a residence or other occupied structure. When a noise source includes sounds in the frequency range of 0-20 Hz that are equal to or higher than the LFN, those sounds should be included in the LFN.

Measurement Point (MP) 1: Location where sound measurements are taken such that no significant obstruction blocks sound from the site, and located so as not be near large objects such as buildings and in the line-of-sight to the noise source.

Noise: Any unwanted sound, regardless of volume or intensity.

Noise Pollution: The emission of any sound that unreasonably interferes with the enjoyment of life and/or the conduct of lawful business or activity. It includes sounds or vibrations which (1) may disturb or annoy reasonable persons of normal sensitivities, or (2) causes, or tends to cause, an adverse effect on the public health and welfare, or (3) endangers or injures people or personal or real property.

Noise Sensitive Area: Locations including private residences, hotels, hostels or residential accommodations of any type; or educational/care facilities of any type (i.e. schools, preschools or day care centers.).

Project Boundary: The external property boundaries of parcels owned by or leased by the Noise Emitter. It is represented on a plot plan view by a continuous line encompassing all related equipment associated with the noise emitter.

Property Line: The recognized and mapped property parcel boundary line.

Qualified Acoustician: A person who has established professional credentials required for Full Membership in the Institute of Noise Control Engineers (INCE). In addition, the persons shall have experience in conducting measurements of background sound levels in quiet communities and familiar with protocol for conducting such tests that meet the requirements of the American National Standards Institute (ANSI) for observation and measurement of outdoor sounds.

Sensitive Receptor: Places or structures intended for human habitation, whether inhabited or not, public parks, state and federal wildlife areas, the manicured areas of recreational establishments deigned for public use including but not limited to golf courses, camp grounds and other nonagricultural state or federal licensed businesses.

These areas are more likely to be sensitive to the exposure of the noise from a new noise source. The areas include but are not limited to: schools, daycare centers, elder care facilities, hospitals, places of seated assemblage, nonagricultural businesses and residences.

Short Duration Repetitive Sounds: A sequence of repetitive sounds which occur more than once within an hour, each clearly discernible as an event and causing an increase in the sound level of more than 3dBA on the fast meter response above the sound level immediately before and after the event, each typically of less than 10 seconds in duration, and which are inherent to the process or operation of the development and are foreseeable based on noise source design or observation when in operation.

Tonal Sounds/ Tonality (Tonal Audibility): Sound with reference to quality, pitch, or volume.

SECTION 6. GENERAL PROHIBITION

No emission of sound beyond the boundaries of any property, as property boundary and property line are defined in this Regulation, which constitutes noise pollution shall be permitted in the Town of Castile.

SECTION 7. NOISE LEVEL LIMITS (INDUSTRIAL/COMMERCIAL)

No industrial or commercial (excluding agricultural) noise emitter may create a property line sound level that exceeds:

- a. 35 dBA (LAeq 10 minutes) or 50 DBC (LCeq 10 minute) nighttime or
- b. 45 dBA (LAeq 10 minutes) or 55 dBC(LCeq 10 minute) daytime.

If the noise emitter creates short duration repetitive sounds that vary in time by more than 3 dB then a 5dB penalty is applied to each of the criteria in a. and b.

If the noise emitter creates audible tones a 5 dB penalty is applied to each of the criteria in a. and b.

If the noise emitter creates short-term repetitive and audible tones that exceed these limits then the penalties are combined to be 10dB.

SECTION 8. MEASUREMENT STANDARDS

1. All measurements must meet applicable ANSI or IEC Class 1 integrating sound level meter performance specifications as such exist as of the date of any investigation of a complaint filed under this regulation. Sound meters must be capable of reading both A- weighted and C- weighted sounds as maybe specified above.
2. Procedures must meet ANSI S 12.9 Parts 1, 3, and 4, International Electrotechnical Commission (IEC) standards 1996-2 and International Organization for Standards (ISO) as same are applicable to the measurement of outdoor sound or its characteristics with an observer present, as such reference standards exist as of the date of any complaint to be investigated under this Regulation.
3. IEC 61400-11 procedures are not suitable for enforcement of these requirements except for the presence of tones near the source.

SECTION 9. EXCEPTIONS

Sounds associated with the following shall be exempt from regulation:

- a. Railroad equipment which is subject to federal noise regulations.
- b. Aircraft operations which are subject to federal noise regulations.
- c. Registered and inspected vehicles; (i) while operating on public ways or (ii) which enter the development to make a delivery or pickup and which are moving, starting stopping, but not when they are parked for over 60 minutes in the development.
- d. Watercraft while underway.
- e. Residential developments, except during construction of such developments.
- f. Bells, chimes and carillons.
- g. Occasional sporting, cultural, religious or public events allowing by the local municipality where the only affected protected locations are contained within with that municipality.
- h. The unamplified human voice and other sounds of natural origin.
- i. Farming, fishing and aquaculture activity.
- j. Forest management, harvesting and transportation activities.
- k. Snow removal, landscaping and street sweeping activities.
- l. Emergency maintenance and repairs.
- m. Warning signals and alarms.
- n. Safety and protective devices installed in accordance with code requirements.
- o. Test operations of emergency equipment occurring in the daytime and no more frequently than once per week.
- p. Boiler start-up, testing and maintenance operations occurring no more frequently than once per month.
- q. Occurrences which constitute emergency measures, or occurrences which are part of efforts to preclude an emergency situation.

SECTION 10: ADMINISTRATION AND ENFORCEMENT

1. Enforcement: The primary responsibility for enforcement and administration of this Chapter is vested with the Town Code Enforcement Officer (CEO). Such CEO and/or designee of same shall have complete authority to investigate complaints received hereunder and enforcement of this regulation in the Town of Castile, and such investigation and enforcement shall be in accordance with the standards and procedures stated aforesaid.

2. Filing of Complaints: Any person may file a complaint of a violation of this Chapter. All such complaints must be in writing and shall be filed with the Code Enforcement Officer (CEO) who shall duly record such complaint; and investigate the allegations of same forthwith.
3. Penalties: A violation of this Chapter is an offense punishable by a fine not exceeding \$500.00 or an imprisonment for a period not to exceed 15 days, or a fine and imprisonment. Each week's continued violation shall constitute a separate additional violation and the fines shall double to \$1000.00 for the second, \$2000.00 for the third and so forth.

SECTION 11. EFFECTIVE DATE

This Amendment shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

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For more information please contact:

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