

# VILLAGE OF ENDICOTT

## LOCAL LAW NO. 1 OF THE YEAR 2022

### A LOCAL LAW TO ENACT A NOISE CONTROL LAW AND AMEND THE ZONING CODE REGARDING NOISE LIMITS

Be it enacted by the Board of Trustees of the Village of Endicott as follows:

Section 1.     Purpose.

The purpose of this local law is to repeal Chapter 300 Article 50 of the Zoning Code, entitled “Noise Limits”, in its entirety and to enact a new non-zoning law entitled “Noise Control”.

Section 2.     Amendment to Chapter 300 Article 50 of the Zoning Code

Chapter 300 Article 50 of the Village of Endicott Zoning Code shall hereby be deleted in its entirety.

Section 3.     Enactment of a New Chapter of the Endicott Village Code Entitled “Noise Control Law”.

There shall be a new Chapter added to the Village of Endicott Code, entitled “Noise Control Law”, which shall read as follows:

**Section 1     Short Title**

This Chapter shall be known and may be cited as the Village of Endicott “Noise Control Law”.

**Section 2     Declaration of Policy**

It is hereby declared to be the policy of the Village of Endicott 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 and the peace and quiet of the Village of Endicott and its inhabitants.

This chapter shall be liberally construed so as to effectuate the purposes described in this chapter. Nothing herein shall be construed to abridge the powers and responsibilities of the Village of Endicott Police Department to engage in any proper or necessary activities.

**Section 3     Definitions**

**Administrator** means the Chief of Police of the Village of Endicott, and his/her designee, and the Code Enforcement Officer of the Village of Endicott, and his/her designee.

**Authorized emergency vehicle** means every ambulance, police vehicle, fire vehicle and civil defense vehicle.

**Burglar alarm** means any device designed and intended to produce an audible sound signal upon unauthorized entrance into a building, premises or motor vehicle.

**Commercial** means any business or commercial activity that involves the purchase or utilization of goods or services.

**Construction** means any activity necessary or incidental to the erection, reconstruction, demolition, assembling, altering, installing or equipping of buildings, highways, roads, premises, parks, utility lines or other property, including but not limited to related activities such as line clearing, grading, earthmoving, excavating, blasting, filling and landscaping.

**Construction material** means any material, regardless of its composition, designed and customarily used in construction.

**Container** means any receptacle, regardless of contents, which is manufactured from wood, metal, plastic, paper or any other material including but not limited to any barrel, basket, box, crate, tub, can, bottle or refuse container.

**Device** means any mechanism which is intended to or which actually produces and/or amplifies sound when operated or handled.

**Emergency** means a public calamity or an exposure of any person or property to actual or imminent danger.

**Emergency warning device** means any device that is designed to be used and is actually used to warn of an emergency.

**Motor Vehicle** means any vehicle operated or driven upon the public highway which is propelled by any power other than muscular power, except electrically driven wheelchairs being operated or driven by a handicapped person, vehicles which run only upon rails or tracks and snowmobiles.

**Person** means any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any person or employee thereof.

**Real property boundary** shall mean an imaginary line exterior to any structure, along the ground surface, which separates the real property owned by one person from that owned by another person, and the vertical extension of such line.

**Sound reproduction device** means a device intended primarily for the production or reproduction of sound including, but not limited to any musical instrument, radio receiver, tape recorder, phonograph, or sound amplification system.

**Unnecessary noise** means any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities, or which causes injury to animal life or damage to property or business. Standards to be considered in determining whether unnecessary noise exists in a given situation, include but are not limited to the following:

1. The volume of the noise.
2. The intensity of the noise.
3. Whether the nature of the noise is usual or unusual.
4. Whether the origin of the noise is natural or unnatural.
5. The volume and intensity of the background noise, if any.

6. The proximity of the noise to sleeping facilities.
7. The nature and the neighborhood within which the noise emanates.
8. The time of the day or night the noise occurs.
9. The duration of the noise.
10. Whether the sound source is temporary.
11. Whether the noise is continuous or intermittent.
12. Whether alternate methods are available to achieve the objectives of the sound producing activity.

#### **Section 4      General Prohibition**

No person shall make, continue, cause or permit to be made any unnecessary noise. It shall not be a defense hereto that the person does not reside at the property where the violation occurred.

#### **Section 5      Enumerated Prohibitions**

The following acts are declared to be prima facie evidence of a violation of this chapter and are prohibited. However, such enumerations shall not be deemed to be exclusive.

##### **A. Vocal Noise**

No person shall create unnecessary noise by shouting, yelling, whistling, singing or other vocal exclamations between the hours of 11:00 p.m. and 7:00 a.m. in, on, near or adjacent to any public street, park or place in the Village of Endicott.

##### **B. Burglar Alarms**

No person shall operate or cause to be operated an audible burglar alarm unless such alarm is capable of and shall automatically terminate operation within fifteen (15) minutes after such alarm is first activated. Notwithstanding this provision, any member of the Village of Endicott Police Department shall have the authority to take such steps as may be necessary to disconnect said alarm at any time when in operation.

##### **C. Construction**

(1) Except as otherwise provided herein, no person shall conduct or permit to be conducted construction, alone or in combination with other construction conducted or permitted by such person in a manner as to cause unnecessary noise between 9:00 p.m. and 7:00 a.m. Monday to Saturday, or at any time on Sundays or holidays, unless otherwise exempted under this chapter or the Village Code.

(2) The provisions of this section shall not apply to the following:

- (a) Emergency work, and safety and protective devices.

(b) Domestic power equipment and tools subject to section K herein.

#### **D. Containers and Construction Material**

No person shall handle or transport or cause to be handled or transported in any public place, any container or construction material in such a way as to create unnecessary noise.

#### **E. Commercial Purposes**

No person shall operate or permit to be operated a place of public entertainment, including but not limited to a restaurant, bar, cafe, discotheque, or dance hall, in such a manner as to create unnecessary noise distinctly audible from a distance of fifty (50) feet outside the building, premises or structure where produced, or sufficiently audible upon any public street or place to attract and congregate a crowd thereon.

#### **F. Defect in Vehicle or Load**

No person shall operate or permit the operation of any motor vehicle in such a manner or so out of repair or so loaded as to create unnecessary noise such as grating, grinding, or rattling.

#### **G. Emergency Warning Devices**

No person shall operate or cause to be operated any emergency warning device, except:

- (1) To give notice as a warning of any emergency;
- (2) On an authorized emergency vehicle when such vehicle is engaged in emergency operations provided that such device is not operated for a period of time longer than is necessary to respond to such emergency;
- (3) When such device is under test.

#### **H. Exhausts**

Except as otherwise provided in the Village Code, no person shall cause or permit the discharge into the open air of the exhaust of any device, including but not limited to any steam engine, motor vehicle engine, diesel engine, internal combustion engine or turbine engine, so as to create unnecessary noise.

#### **I. Institutions**

No person shall cause or permit the creation of any unnecessary noise through the use of any device on any street, sidewalk or public place adjacent to any school, court or church while such structure is in use, or adjacent to any hospital at any time, provided that conspicuous signs are displayed so as to identify such school, court, church or hospital.

#### **J. Loudspeakers and Public Address Systems**

- (1) No person shall use, operate or permit the use or operation of any loudspeaker, public address system or similar device for any noncommercial purpose between the hours of 9:00 p.m. and 9:00 a.m. of the following day, such that the sound therefrom creates unnecessary noise across a residential real property boundary.

(2) No person shall use, operate or permit the use or operation of any loudspeaker, public address system, or similar device for any commercial purpose:

(a) Such that the sound therefrom creates unnecessary noise across a real property boundary, or

(b) Between the hours of 9:00 p.m. and 9:00 a.m. of the following day on a public highway.

#### **K. Power Equipment and Tools**

No person shall operate or permit to be operated any domestic power tool including but not limited to mechanically powered saws, sanders, grinders, and lawn and garden tools used outdoors in residential areas between the hours of 9:00 p.m. and 7:00 a.m. of the following day so as to create unnecessary noise across a residential real property boundary.

#### **L. Sound Reproduction**

No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound:

- (1) In such a manner as to create unnecessary noise across a real property boundary, except for activities open to the public and for which a permit has been issued.
- (2) In such a manner as to create unnecessary noise audible from a distance of fifty (50) feet from such device, when operated in or on a motor vehicle on a public highway.
- (3) In such a manner as to create unnecessary noise to any person other than the operator of the device, when operated by any passenger on a common carrier.
- (4) In such a manner as to create unnecessary noise that enters an apartment or dwelling unit that is separate and distinct from the apartment or dwelling unit from which the unnecessary noise originated.

#### **M. Squealing Tires and Horns**

No person shall operate a motor vehicle in such a manner as to cause unnecessary noise by spinning or squealing the tires of such motor vehicle or by sounding the horn or other signaling device of any motor vehicle, except as a warning signal pursuant to the provisions of § 375 of the Vehicle and Traffic Law of the State of New York.

#### **N. Street Sales**

No person shall offer for sale or sell anything by shouting or outcry causing unnecessary noise within any residential or commercial area except by permit.

### **Section 6 Authority for Special Exceptions**

The Administrators shall have the authority to grant special exceptions to any of the provisions of this chapter upon such conditions and for such reasonable time to best serve the public health, safety and welfare of the Village of Endicott and its inhabitants.

## **Section 7      Enforcement**

### **A. Enforcement Powers**

The provisions of this chapter shall be enforced by the Administrators who shall have the power to:

- (1) Order the owner of any device which causes or is maintained or operated so as to cause a violation of any provision of this chapter to install any apparatus which can reasonably be expected to correct the violation, or to repair, properly maintain, replace or alter such device in a manner which can reasonably be expected to correct the violation.
- (2) Order any person to cease and desist from any activity which causes or is conducted so as to cause, a violation of any provision of this chapter.

### **B. Penalties**

Any person found violating the provisions of this chapter shall upon conviction thereof, be punished as follows:

- (1) Any person committing an offense against this chapter shall be guilty, upon conviction, of an offense punishable by a fine not to exceed two hundred fifty dollars (\$250.00) or imprisonment, not to exceed fifteen (15) days, or both such fine and imprisonment.
- (2) Violations, regardless of the number, on any one day, shall be considered as one violation for that day. Continuation of a violation for each separate day shall be deemed a distinct and separate offense.
- (3) An action or proceeding may be instituted in the name of the Village of Endicott, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this chapter. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Village Board. Abatement proceedings shall be in addition to any penalties prescribed in this section.
- (4) Nothing herein contained shall prevent the Village of Endicott from taking such other lawful action as necessary to prevent or remedy an infraction.

## **Section 8      Miscellaneous Provisions**

### **A. Non-Applicability to the Village of Endicott and Other Governmental Bodies**

Sections C, D, G, I and K herein should not be applicable to activities of the departments of the Village of Endicott while acting in the course of their governmental responsibilities. The Board of Trustees of the Village of Endicott, or their designee, in their discretion, and upon reasonable terms and conditions, may permit other governmental entities acting in the course of governmental responsibility to be exempt from all or part of the requirements of Sections C, D, G, I and K.

Section 4.     Remainder.

Except as hereinabove amended, the remainder of the Village Code of the Village of Endicott shall remain in full force and effect.

Section 5.     Separability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this local law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the local law or part thereof is held inapplicable, had been specifically exempt therefrom.

Section 6.     Effective Date

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.