

# Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE  
41 STATE STREET, 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.

County \_\_\_\_\_

City \_\_\_\_\_

Town \_\_\_\_\_

Village \_\_\_\_\_

of JEWETT \_\_\_\_\_

Local Law No. 3 of the year 2005.

A local law NOISE CONTROL \_\_\_\_\_  
(Insert Title)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

County \_\_\_\_\_

City \_\_\_\_\_

Town \_\_\_\_\_

Village \_\_\_\_\_

of Jewett \_\_\_\_\_ as follows:

## 1. Title

This local law shall be known as the Noise Control Local Law of the Town of Jewett.

## 2. Declaration Of Policy

It is recognized that people have the right to and should be ensured an environment free from excessive noise and vibration that may jeopardize their health or welfare or degrade the quality of life or value of their real property. This local law is enacted to protect, preserve, and promote the health, well being and quality of life for the citizens of Jewett through reduction, control, and prevention of unwanted and unnecessary noise.

The provisions and prohibitions hereinafter contained and enacted are for the above-mentioned purposes.

## 3. Definitions

a. "Enforcement Officer" shall mean any law enforcement agency, including the New York State Police and the Greene County Sheriff's Department, that has jurisdiction in the Town of Jewett, the Town Attorney or his/her designees and any other such employees and/or officials authorized by the Town Board such as the Zoning Enforcement Officer

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

b. "Excessive Noise" shall mean any of the following:

i. Any sound produced by a sound source that is plainly audible to a person of normal hearing during the hours of 7 am until 10 pm at a distance of 200 feet (Daytime); or during the hours of 10 pm until 7 am (Nighttime) at a distance of 100 feet from the property boundary of the property from which the sound is generated

ii. Excepting that sound from motor vehicles as defined by State Law shall be governed by the other specific provisions within this local law, and excepting that any general distance standards herein shall be superceded by any specific distance provisions for specific activities provided herein, or any specific exemptions.

iii. Any specific additional definition of excessive noise as provided herein.

c. "Plainly audible" shall mean any sound that can be detected by a person of normal hearing abilities, using his or her unaided hearing faculties. An enforcement officer need not determine exact words of speech, or amplified music or speech, the title of a specific song, or specific words of a song. The detection of audible bass or other components of music or noise is sufficient to constitute plainly audible sound.

d. "Sound Source" shall mean any person, animal, device, operation, process, activity, or phenomenon which emits or causes sound.

#### **4. General Noise Prohibition**

It shall be unlawful for any person or persons to create, assist in creating, or continue to create excessive noise as defined herein.

#### **5. Specific Noise Prohibitions And Related Exemptions**

The following acts are deemed to be in violation of this local law when the sound there from is excessive noise as defined in Section 3 above:

a. Noise producing devices such as radios, electronic devices, televisions, CD players, loudspeakers, public address systems, musical instruments, and other amplification devices including those in motor vehicles.

Prohibited acts include: The using, operating or permitting to be played, used or operated of any radio, television, phonograph, cd, dvd, or equivalents, loudspeaker, public address systems, musical instruments or other machine or device, electronic or otherwise, stationary or portable, for the producing or reproducing of sound in such manner as to create excessive noise including the use of any motor vehicle or any device or system contained within or made part of any motor vehicle to create excessive noise is prohibited.

b. Disturbing the Peace, Creating a Public Nuisance

Prohibited acts include: Any conduct generating excessive noise that violates the standards of Penal Law Section 240.20 for disorderly conduct or Penal Law Section 240.45 for criminal nuisance in the second degree, unless otherwise exempted herein, shall be a violation of this local law and is subject to the penalties hereunder. An enforcement officer may issue a violation pursuant to this local law at the discretion of the enforcement officer, in lieu of seeking criminal complaint for disorderly conduct or criminal nuisance in the second degree under Penal Law Sections 240.20 or 240.45, respectively. Any conduct generating noise which creates a public nuisance shall be a violation of this local law.

c. Animal Control

Prohibited acts include: The keeping in any building or upon any premises of any animal, bird or fowl which produces excessive noise. Persistent barking of dogs confined or chained on the premises or dogs roaming free on or off the owner's premises shall be a violation of this local law. Persistent barking is defined herein as the continuous or intermittent barking of a dog for a period of more than thirty (30) minutes.

d. Noise-Making Automobile Anti-Theft & Safety Devices

Prohibited acts include: The use of any device whose purpose it is to protect an owner's vehicle from damage or theft through the mechanical creation of noise which does not automatically terminate any such noise within five (5) minutes shall have created or maintained excessive noise.

e. Noise-Making House Burglar & Fire Alarms.

Prohibited acts include: The use of any device whose purpose it is to protect an owner's home, buildings, or real property from damage or theft through the mechanical creation of noise which does not automatically terminate any such noise within five (5) minutes shall have created or maintained excessive noise.

f. Horns

Prohibited acts include: The persistent or repeated sounding of any horn or warning device on any automobile, motorcycle, bus or other vehicle shall be the creation and maintenance of excessive noise, except when required by law or when necessary to give timely warning of the approach of the vehicle, or as a warning of impending danger to persons driving other vehicles or to persons upon the street is prohibited.

g. Engine Exhausts

Prohibited acts include: Except as provided for in subparagraph "h." below, the discharge into the open air of the exhaust of any stationary or portable internal combustion engine or motor vehicle, whether registered or not, including but not limited to cars, trucks, motorcycles, snowmobiles, and all-terrain vehicles, except through a muffler or other device which will effectively prevent excessively loud or explosive noises therefrom is prohibited.

For purposes of this section "effectively prevent" shall mean the noise emanating from the engine shall not be markedly different from noise emanating from the muffled engine of a similar new or nearly new vehicle or engine sold in the normal flow of commerce as standard original equipment or replacement equipment made to original equipment specifications for that purpose.

If the exhaust noise source is on private property, any noise plainly audible to a person of normal hearing at a distance of 200 feet day time or 100 feet night time or more feet from any property boundary of the property from which the noise is generated is prohibited. If the exhaust noise source is on public property the distance shall be measured from the noise source.

The provisions of this section shall not apply to motor vehicles commonly understood to be farm tractors in use for agricultural purposes.

#### h. Power Tool hours; Building Construction & Lawn Maintenance Exemption

Prohibited acts include: Operating or permitting the operation of any mechanically powered saw, drill, grinder, lawn mower, lawn or garden tool, chainsaw, leaf blower, or similar tool at any time between the hours of 9:00 p.m. and 7:00 a.m. on Mondays through Fridays and between the hours of 9:00 p.m. and 8:00 a.m. on Saturdays, Sundays, and legal holidays, unless such equipment is not plainly audible beyond the lot line shall be deemed the creation and maintenance of excessive noise. For all such power tools, any distance restrictions in this local law shall not apply at other times. All tools with internal combustion engines must have functioning engine exhaust muffling suitable for minimizing the exhaust noise while in operation. The hours restriction herein shall not apply to snow blowers during their normal use to remove snow.

The distance restrictions in this local law shall not apply to building construction equipment on properly permitted building construction sites, and sound from lawn mowers, chain saws, leaf blowers, string trimmers, and chippers; but the hours of use limitation shall still apply.

#### i. Construction and Demolition Hours

Prohibited acts include: Operating or causing the operation of any tools used in construction, drilling, repair, alteration or demolition work that occurs between the hours of 9:00 p.m. and 7:00 a.m. on Mondays through Fridays and between the hours of 9:00 p.m. and 8:00 a.m. on Saturdays, Sundays, and legal holidays, shall be a violation of this local law and is subject to the penalties hereunder. Unless prohibited by other laws or regulations, the work described in this section may occur during prohibited hours as long as it is not plainly audible beyond the lot line where work is taking place.

Emergency work by a public service or municipal utility shall be exempted from the provisions of this subsection. Emergency work by others not happening during permitted hours or in excess of the noise standards herein, may occur only when such work is clearly essential and of an emergency nature.

### 6. Methods of Determination

The determination that sound is excessive noise shall be made by an authorized enforcement officer using any of the standards specified in definition of excessive noise in Section 3, above.

The distance determination methods specified in this local law recognize that sound levels can diminish rapidly with distance, so that if the sound is plainly audible at or beyond the determination distances specified, then the sound is excessive noise nearer the source. The sound level at the distances specified that trigger a violation may not be, and need not be, loud or offensive. The distance thresholds specified herein are for the determination of violations, and the methods herein recognize that complaints may arise because people may be impacted by excessive noise at distances less than the threshold distance that an enforcement officer will position himself at to determine if that noise is a violation.

## 7. Exemptions

In addition to specific exemptions provided in certain subsections, the following exemptions shall apply generally:

- a. Sound from law enforcement vehicles, personnel and activities.
- b. Sound from emergency vehicles, personnel and activities, hospitals, state and municipal maintenance and repair activities, any activities of the armed forces.
- c. Sound from customary activities in the parks, playgrounds, playing fields, or public buildings. Use of any electronic sound amplification device requires specific authorization as specified below.
- d. Sound from assemblies and special events with amplified sound, and/or sound trucks on public and private property may exceed the standards herein, only in accordance with and upon the issuance of a permit by the Town Board or its designee for each occasion and each location. Permitted events may not exceed sound level limits or hours limits specified in the permit. Events which already require license may have this requirement incorporated within that license application. Events that have amplified sound that do not currently require any municipal license for the event will apply for a license. The Town Board shall establish, by resolution the license process as it from time to time deems appropriate.
- e. Sound from trains, boats, and agricultural equipment in properly zoned and properly permitted farms. Sound from aircraft landings, takeoffs, taxi, and flight noise. Sound from permitted fireworks displays.
- f. The sound level limits and noise control rules and regulations adopted do not prohibit trapshooting, skeet, sporting clays or , target shooting at permitted shooting ranges or other legal shooting at permitted hours unless otherwise permitted by New York State DEC license on any private property, range, or shooting club currently in operation at its current location. The operational times of game shooting and hunting as set by the New York State DEC and its agencies are not prohibited by this local law.
- g. Any temporary noise generated by activities deemed to be essential to the public health, safety, welfare, or interest by the supervisor, town officials, Police or Fire personnel, or building inspectors, or highway supervisor.
- h. Sound from bells, chimes, or carillons occurring between the hours of 8 a.m. and 10.05 p.m., and during special events.
- i. Sound from motor vehicles and trucks over 6,000 pounds gross vehicle weight. Said vehicles are still required to comply with applicable state law.
- j. The hours of restriction herein shall not apply to use of snow blowers, snow plows, and other snow removal equipment, and to use of power equipment necessary for emergency repairs or debris removal due to severe weather.

k. Grandfather Exemptions: Any legally operating business which has appeared before the Town of Jewett Planning Board prior to the enactment of this local law and has had the issue of sound addressed as part of the conditions of any approval issued by such Board. Additionally, the sounds, whether amplified or otherwise, associated with the use of the Boy Scout Camp located on Boy Scout Road in the Town of Jewett are hereby declared to be pre-existing, non-conforming and exempted from this local law.

#### **8. Other Remedies**

If the person or persons responsible for an activity which violates any section of this local law cannot be determined, the person in lawful custody of the property or premises shall be deemed responsible for the violation, excepting where a governmental entity has lawful custody of the property.

"Lawful custody" shall mean titled owner or lessee of any motor vehicle, and in a dwelling, office, or structure, lawful custody shall mean renter or lessee if rented or leased; and owner if owner occupied or controlled.

For purposes of this local law, if the noise violation is caused by a source that is the result of, or foreseeable consequence of the activities of a business or operation, including excessive noise-generating use of private developed or undeveloped property, or the failure to take reasonable and necessary measures to prevent excessive noise-generating uses upon private developed or undeveloped property, then the owner and/or the manager and/or the director of that business or operation shall be the responsible party and subject to the penalties hereunder.

#### **9. Penalties, Enforcement, and Additional Remedies**

It is hoped that residents will resolve their differences amicably, however in the event such attempts fail:

a. Violations of this local law shall be deemed a civil violation and violators shall be subject to the following civil penalties:

1. The first violation of this local law shall be punished by a civil penalty of fifty dollars (\$50.00). For a first offense, the enforcement officer has the option to give a warning instead of citing the offender for violation of this local law.
2. A second violation of this local law within any 12-month period shall be punished by a civil penalty of not less than one hundred dollars (\$100.00).
3. A third violation of this local law within any 12-month period shall be punished by a civil penalty of not less than two hundred dollars (\$200.00).
4. Each subsequent violation of this local law within any 12-month period shall be punished by a civil penalty of not less than twice the previous fine.
5. Each such act in violation of this local law which either continues or occurs more than one half (1/2) hour after issuance of a written notice of violation of this by-law shall be a separate offense and shall be cited as a separate offense.

6. Rental Properties. Owners of property have a responsibility to insure that their tenants comply with town laws. For each violation of this local law by persons other than the owner of a rental property, the owner shall be informed in writing by the Town. After two violations at the same property, irrespective of the violator, the property owner shall be penalized at the same level and rate as their renter. Thus any violation of this local law by a tenant shall be imputed as a violation by the landlord. If a renter violates this local law two or more times, the owner of said property may use this local law as instrument to nullify the existing lease agreement for purposes of eviction. If a property owner moves to evict an offending tenant after the second violation, the property owner shall not be subject to the penalties stated above.

b. Enforcement

The noise control requirements established by this local law shall be administered and enforced by an law enforcement agency that has jurisdiction in the Town of Jewett, the Town Attorney or his/her designees and any other such employees and/or officials authorized by the Town Board.

c. Additional Remedies

1. No provision of this chapter shall be construed to impair any common law, or equitable or statutory cause of action, or other legal remedy of any person for injury or damage arising from any violation of this chapter, and private citizens shall have the right to file a criminal complaint and to seek issuance of process for any violation of this local law.

2. As an additional remedy, any actions by a person or persons, or the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof, shall be deemed and is declared to be a public nuisance and either the Town or any private citizen who suffers injury from the violation of any provision hereof may seek equitable relief against those deemed responsible for the violation.

10. Severability

If any provision or subsection of this section shall be held to be invalid by a court of competent jurisdiction, then such provision or subsection shall be considered separately and apart from the remaining provisions or subsections of this section, which shall remain in full force and effect.

11. Effective Date

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