

Local Law Filing

(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 of Plattsburgh
 Town
Village

Local Law No. 1 of the year 2008

A local law providing for the control of excessive, unnecessary
(Insert Title)
and unreasonable noise.

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

County
City of Plattsburgh as follows:
 Town
Village

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

6/2/08

DECLARATION OF POLICY: It is hereby declared to be the policy of the Town to control unnecessary noise in order to preserve, protect and promote public health, safety and welfare and to foster the peace, quiet, convenience and comfort of its inhabitants. It is hereby declared that the making, creation or maintenance of excessive or unreasonable noises within the Town is a menace to public health, comfort, convenience, safety, welfare, quality of life and prosperity of the people of the Town.

1. **DEFINITIONS:** As used in this Local Law, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Residential Zones– Those areas designated R-1, R-2, R-3, R-4, MH, L and POD, under the Town of Plattsburgh Zoning Ordinance as of the date of the alleged violation.

Non-Residential Zones – Those areas designated as NC, C, SC, AP, AB-1, AB-2, I and IP, under the Town of Plattsburgh Zoning Ordinance as of the date of the alleged violation.

Commercial Structure – Any structure located within a commercial district.

Lessee – The person who has the right to occupy property owned by another for a period of at least thirty (30) consecutive days in consideration for the payment of rent, whether or not such right of occupancy is granted by written lease or instrument.

Multiple Family Dwelling – A building containing two (2) or more dwellings, including duplexes, triplexes and town houses.

Owner – The person who has record title to the property.

Person – Any individual, association, partnership or corporation.

Public Place – Any highway, street, sidewalk, park, playground or Town-owned building.

2. **PERSONS LIABLE FOR VIOLATIONS:** The following persons shall be responsible for a violation of this Local Law:

A. The owner, or person making the noise or operating the equipment or device that makes the noise.

B. The owner, or lessee of premises which is the source of noise, provided that the lessee or an employee or agent of an owner or lessee is present on that part of the premises where the noise is produced when the noise violation occurs.

3. **UNREASONABLE NOISE:** It shall be a violation of this Local Law to make unreasonable noise. The following factors may be considered in determining whether noise is unreasonable at the time and under the circumstance it is made:

A. The volume, intensity and duration of the noise.

B. Whether the noise is normally associated with the permitted use of property in the zoning district where the noise is created.

C. The ambient or background noise in the area where noise is created.

D. The time of day the noise occurs.

E. Whether the noise occurs at a time when residents in the vicinity are likely to be sleeping, which shall be presumed to be between the hours of 11:00 p.m. and 7:00 a.m.

F. Whether the noise occurs in the vicinity of a school, court, house of worship, public library, hospital or nursing home and disturbs persons using or residing in such facilities.

G. Whether the person making the noise, or the owner or occupant of the property or dwelling where the noise occurs, has received prior complaints or notice about noise from the property or dwelling and how he/she has responded.

H. Whether there are reasonable measures the person making the noise could have taken to make the noise not unreasonable.

I. Sound levels that exceed 61dB(A) in residential districts.

4. **CERTAIN ACTS DECLARED TO BE VIOLATIONS:** It shall be a violation of this Local Law to:

A. Operate, play or permit the operation or playing of any radio, television, phonograph, tape recorder, sound amplifier, musical instrument or similar device, which produces, reproduces or amplifies sound.

i. In a residential district, if the sound is plainly audible at the boundary of the property on which the sound is produced.

ii. In a dwelling unit in a multiple family dwelling, at a volume where the sound is plainly audible in other dwellings in the building.

iii. In a motor vehicle on a public right-of-way or public space, in such a manner that sound is plainly audible at a distance of fifty (50) feet from the source of sound.

B. Yell, shout, hoot, whistle or sing on any public place within residential districts of the Town of Plattsburgh so as to annoy or disturb the peace, quiet, comfort or repose of a reasonable person of normal sensitivity.

C. Operate machinery or equipment in a residential dwelling or garage that makes noise that is plainly audible at the boundary of the property or, in an adjoining dwelling unit in a multi family dwelling, except that noise made in connection with repairs or improvements to the dwelling unit, which are made between the hours of 7:00 a.m. and 8:00 p.m. shall not constitute a violation of this Local Law.

D. Operate any tools or equipment used in construction, drilling, excavation or demolition work between the hours of 8:00 p.m. and 7:00 a.m. in a residential district.

E. Operate a motor vehicle on public streets, which is not equipped with a muffler or other device, which effectively prevents the discharge of loud or explosive noises.

F. Operate a motor vehicle on public streets in such a manner that the tires of the vehicle emit unnecessary noise.

G. Noise caused by a domestic animal's barking, howling, whining or screeching that continues for more than fifteen (15) minutes and which is plainly audible at the boundary of the property, or dwelling unit in a multi family dwelling.

5. **EXEMPTIONS:** This Local Law shall not apply to noise or sounds caused by the following:

A. Church bells, horns, sirens of trains and authorized emergency vehicles.

B. Parades, concerts or other public gatherings for which a permit has been issued under this Local Law or any other Local Law of the Town of Plattsburgh, or which has been authorized to be held by resolution of the Town Board of the Town of Plattsburgh.

C. Non-commercial public speaking and public assembly activities conducted in any public place.

D. The use of domestic power tools for property repair or improvements, lawnmowers and other lawn maintenance tools between the hours of 6:00 a.m. and 9:00 p.m.

- E. The use of snow removal equipment at any time.
- F. Persons in non-residential zones operating their businesses in a normal fashion.

6. **PENALTIES FOR OFFENSES:** Any person violating this Local Law shall have committed an offense and shall be subject to a fine of not more than two hundred and fifty (\$250.00) dollars. Persons committing a subsequent offense within twelve (12) months of the date of a prior conviction shall be subject to a fine of five hundred (\$500.00) dollars. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

7. **ENFORCEMENT:** This Local Law may be enforced by any officer of the Clinton County Sheriff's Department, the New York State Police, or the Code Enforcement Office of the Town of Plattsburgh.

This Local Law shall take effect upon approval by the Town Board and filing with the Secretary of State.

(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 2008 of the (County)(City)(Town)(Village) of Plattsburgh was duly passed by the Town Board on July 21st 2008, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. 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 _____ 20____, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, 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 20____ 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 _____ 20____, 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 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, 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.

Angela Dugnette
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 7-21-08

(Seal)

(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 Clinton

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.

[Signature]
Signature
Town Attorney
Title

County
City of Plattsburgh
 Town
Village

Date: 7-21-08