

TOWN OF LIVONIA
A LOCAL LAW ___ -2017

**A LOCAL LAW AMENDING CHAPTER 150 (ZONING) OF THE CODE OF THE
TOWN OF LIVONIA CREATING A NEW ARTICLE XVIII TO ADD REGULATIONS
PERTAINING TO NOISE**

Be it enacted by the Town Board of the Town of Livonia (hereafter “Town”) the Local Law ___ -2017 entitled, “A Local Law to amend the Zoning Code of the Town of Livonia to create a new Article XVIII in Chapter 150 which adds regulations pertaining to noise is as follows:

Section 1. Declaration of Intent and Policy:

The Town Board of the Town of Livonia hereby declares its intent to prevent unreasonably loud and disturbing noise and sounds that are determined by the Board to be of a character, intensity or duration as to be detrimental to the peace, welfare or good order of the Town of Livonia and its inhabitants. The Town Board intends to improve and promote the quality of life in the Town of Livonia, and in the exercise of its lawful enforcement in this regard, the Town Board does hereby enact the following local law. It is the intent of the Town Board that this law will be liberally constructed so as to effectuate the purpose described immediately above. The Town Board acknowledges Article 25-AA of the New York State Agriculture and Markets Law which exempts farms in Agricultural District #2 of Livingston County from the provisions of this Local Law.

Section 2. Definitions:

As used in this law, the following terms shall have the meanings indicated below, others shall have the meanings normally ascribed to them by the standard accepted dictionary definitions.

DECIBEL (dB)- A unit for measuring the volume of a sound, as determined by a sound testing instrument. The NYS Vehicle and Traffic Law sets unacceptable noise levels at between 72 dB and 90 dB. For purposes of this law a decibel level exceeding 90 dB shall be a nuisance noise.

EMERGENCY -- A public disaster or an exposure of any person or property to imminent danger.

EMERGENCY SIGNAL DEVICE -- Any gong, siren, whistle, air horn or similar device, the use of which on emergency vehicles is permitted by Subdivision 26 of §375 of the New York State Vehicle and Traffic Law.

EXCESSIVE NOISE -- Incessant or repeated sounds that have the effect of disturbing, annoying or offending member(s) of the community, or any sound in excess of 90 dB (as described in DECIBEL definition) that is annoying, a nuisance or causes alarm to any person(s). Such sound includes but is not limited to mechanically-increased volume of sounds of the human voice,

musical instruments, recorded music, or any other mechanically enhanced sound-producing or sound-reproducing device that is able to increase normal noise volume levels.

MOTOR VEHICLE-

- A. Every device in, upon or by which any person or property is or may be transported or drawn, which is propelled by any power other than muscular power, except vehicles which run only upon rails or tracks.
- B. This definition shall include but not be limited to trucks, buses, automobiles, vans, motorcycles, motor scooters, dune buggies, snowmobiles, all-terrain vehicles, go-carts, minibikes, trail bikes and all other types of sound producing motorized objects used for recreation or transport.

Section 3. Prohibited Acts:

- A. Excessive noise - No person shall make, continue, cause to be made, suffer, allow or permit the creation of Excessive Noise after the time limitations listed in this section.
- B. Under no circumstances shall a resident of the Town of Livonia be exposed to Excessive Noise between the hours of 11:00 p.m. of one day and 7:00 a.m. of the next day.
- C. Use of signaling devices. No person shall cause the sounding of any horn or signaling device on any automobile, motorcycle, bicycle or other vehicle to be a nuisance or disturb another; Such devices are to be used as a danger warning, as stated in §375, Subdivision 1, of the New York State Vehicle and Traffic Law.
- D. Excessive Noise from Motor vehicles - No person shall operate, or cause to be operated, any motor vehicle in a manner that the sound emitted therefrom constitutes Excessive Noise (as defined in these regulations) which is audible at a distance of twenty-five (25) feet or more from the vehicle when operated on a public street or in a park or other public place.
- E. The above subsection shall not apply to those motor vehicles being operated upon a public street or roadway to which §386 of the New York State Vehicle and Traffic Law applies (motor vehicle sound level limits).
- F. This section shall apply to all motor vehicles as defined in this law, whether or not duly licensed and/or registered.

Section 4. Construction activities:

- A. No person shall engage in, or permit any person to be engaged in, construction activities which create excessive noise at the property limits of the construction site between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day on any day of the week, except as may be permitted in Subsections B and C hereof.

- B. Following the receipt of a written request stating the reason(s) for relief from the requirements of Subsection A, the Code Enforcement Officer (CEO) of the Town of Livonia, or his designee, may, for a reasonable limited time, grant such relief authorizing exact, though different, time restraints. Such construction activities may be allowed upon the applicant's demonstration of hardship and/or practical difficulty in meeting the constraints of Subsection A, and upon a determination by the CEO that the public interest will be served by the granting of the relief. The CEO shall set any stipulations deemed necessary in the interest of the public health, safety and/or welfare at the time of granting any such relief. The written authorization acquired from the CEO must be maintained on the site and be made available for viewing by any requesting municipal authority.
- C. In the case of an emergency, so declared by the CEO, Fire Department or a Police Department, construction activities directly connected to the abatement of such emergency may be undertaken without obtaining any relief from subsection A, for a period not to exceed seventy-two (72) hours from the commencement of such activities. Anticipation of a longer duration must result in the application for relief by the appropriate person, agency, or designee, to the CEO as previously described in subsection B.

5. Sound-reproduction devices used for miscellaneous purposes:

- A. No person shall use or operate or permit to be used or operated any radio, television, phonograph, musical instrument or other machine or device for the producing, reproduction or amplification of excessive noise with louder volume in excess of 90 dB (as described in DECIBEL definition) as measured by a properly calibrated sound measuring device operated by a trained person.
- B. The provisions of this section shall not apply to the following:
1. Agricultural activities as recognized by the NYS Agriculture and Markets Law Article 25-AA located in Agricultural District #2.
 2. Discharging of firearms for the purposes of hunting, or any legal firearm activity. These shall be during the hours and distances permitted and posted by NYS DEC (New York State Department of Environmental Conservation) annually, or as they change.
- C. This subsection does not apply during the hours of 11:00 p.m. of one day through 7:00 a.m. of the following day. During these hours Section 3. of these regulations shall apply.

6. Administration and enforcement:

The Town of Livonia shall administer this law and enforcement shall be, in some instances, by the Town of Livonia CEO (Code Enforcement Officer), but the primary enforcement shall be by the Police Agency/Officer responding to a citizen(s) complaint.

7. Penalties for offenses:

- A. Any person who violates any portion of these regulations, or harbors any device which creates a violation of these regulations shall be guilty of a violation. A violation of this Article is punishable by a fine not exceeding One Thousand and NO/100ths Dollars (\$1,000.00) or imprisonment for a period not to exceed fifteen (15) days, or both a fine and imprisonment. Each day of continued violation shall constitute a separate and distinct additional violation.
- B. The owner of any property and any person, firm, association or corporation in control of the real property where the violation(s) of this Article occur(s) shall be guilty of a separate violation and, upon conviction thereof, shall be fined or imprisoned as herein provided above in subsection A.

Section 8. Acceptance:

This local law and any regulations adopted hereunder shall take effect as provided by law and upon filing with the Secretary of State.

Section 9. Severability:

If any section, subsection, paragraph, sentence, clause or provision of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the section, subsection, paragraph, sentence, clause or provision thereof directly involved in the controversy in which such judgments shall have been.