

LOCAL LAW NUMBER 1 of 2019
Town of Carrollton

Pursuant to Section 65-A of the Town Law and Section 10 of the Municipal Home Rule Law

A LOCAL LAW ESTABLISHING A NOISE ORDINANCE IN THE TOWN OF
CARROLLTON

BE IT ENACTED by the Town Board of the Town of Carrollton, in the County of Cattaraugus, as follows:

Section 1 – Intent

The Carrollton Town Board determines that the creation of unreasonable noise within the Town limits is or may be detrimental to the comfort, convenience, safety, health and welfare of Town residents and to the quality of life of those residents. The Town, therefore, intends to prohibit unreasonable noise from all sources subject to its police power in order to preserve, protect and promote the health, safety and welfare, together with the peace, quiet and enjoyment of all persons within the Town.

SECTION 2 - Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

A-WEIGHTED SOUND-PRESSURE LEVEL

The sound-pressure level in decibels as measured on a sound-level meter using the A-weighting network by a trained operator. The level so read is designated dB(a) or dBA.

DAY

Any day of the week, that is, Monday through Sunday.

DECIBEL

The practical unit of measurement for sound-pressure level; the number of decibels of measured sound is equal to 20 times the logarithm to the base of 10 of the ratio of the sound pressure of the measured sound to the sound pressure of standard sound (20 micropascals); abbreviated dB.

PERSON

An individual, entity, firm or corporation.

PROPERTY BEING USED FOR NONRESIDENTIAL PURPOSES

Any property, including vacant land, which is not used for residential purposes, as defined herein.

PROPERTY BEING USED FOR RESIDENTIAL PURPOSES

Property which contains one or more dwelling units, including but not limited to single-family attached or detached dwelling units, multiple dwellings, hotels, motels, senior citizen housing, adult residential care facilities, nursing homes, dormitories, sororities and fraternities.

REAL PROPERTY BOUNDARY LINE

The imaginary line, including its vertical extension, that separates one parcel of real property from another, or the vertical and horizontal boundaries of a dwelling unit located within a multiple-dwelling-unit building.

SOUND-EMITTING DEVICE

Any device, instrument, mechanism, equipment or apparatus that emits any sounds discernible to the human ear.

SOUND-LEVEL METER

An instrument for the measurement of sound levels conforming to American National Standards Institute Type I or II standards.

SOUND-REPRODUCTION DEVICES

Any device, instrument, mechanism, equipment or apparatus for the amplification of any sounds from any radio, phonograph, tape player, compact disc player, musical instrument, television, loudspeaker or other sound-making or sound-producing device, or any device or apparatus for the reproduction or amplification of the human voice or other sound.

STATIONARY NOISE SOURCE

Any device, fixed or movable, which is located or used on geographically defined real property other than a public right-of-way.

UNREASONABLE NOISE

Any noise defined in this chapter.

SECTION 3 - Unreasonable noise prohibited.

It shall be unlawful for any person to make, continue, cause to be made, or permit to be made any unreasonable noise within the geographic boundaries of the Town of Carrollton, or within those areas over which the Town has jurisdiction. The determination as to the existence of unreasonable noise may be established by the specific acts considered to be unreasonable noise enumerated within the subsections hereinafter.

SECTION 4 - Prohibited acts.

The following acts are declared to be loud, disturbing or excessive noise in violation of this chapter, but said enumeration shall not be deemed to be exclusive.

A.

Amplified sound. The operation, playing or permitting of the operation or playing of any radio, receiver, television, phonograph, tape player, compact disc or digital sound systems, sound amplifier, boom box, musical instrument, loudspeaker, or similar device, whether from a moving vehicle or stationary location, which reproduces or amplifies sound in such a manner as to create a sound level across a real property line or through partitions common to two or more persons within a building or from a stationary or moving vehicle and which exceeds the limits set forth in Table I herein. (This subsection does not apply to commercial enterprises or industrial manufacturing plants in the regular conduct of their business on their own properties.)

B.

Horns and signaling devices. The sounding of any horn, signaling device or alarm (except as a danger warning, pursuant to § 375 of the Vehicle and Traffic Law of the State of New York) which results in harsh or loud sound or repetitive sounds for any unreasonable or unnecessary period of time so as to create a noise disturbance.

C.

Shouting and yelling. Shouting, yelling, singing, calling, hooting or whistling so as to create a noise disturbance.

D.

Engines. The operation, including the stationary idling, of any engine, including, but not limited to, an automobile, truck, motorcycle, motorbike, motorboat or minibike engine, so as to create a noise disturbance, or the use of any automobile, motorcycle or motor vehicle so out of repair, so loaded or in any manner so as to create excessive or unusual grating, grinding, rattling or other noise, or the discharge into the open air of the exhaust from any stationary steam engine, stationary internal combustion engine or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom which exceed maximum permissible sound levels in Table I herein. (This subsection does not apply to commercial enterprises or industrial manufacturing plants in the regular conduct of their business on their own properties.)

E.

Heavy equipment. The operation of any pile driver, bulldozer, pneumatic hammer, grinder, or other construction equipment which creates a noise disturbance, except between 7:00 a.m. and 11:00 p.m. and except in cases of urgent necessity in the interest of public safety.

F.

Construction. Any construction, excavation, demolition, alteration or repair which creates a noise disturbance, except between 7:00 a.m. and 11:00 p.m. and except in cases of urgent necessity in the interest of public safety.

G.

Domestic equipment. The operation of or permitting to be operated any power saw, drill, sander, router, lawn or garden device, leaf or snow blower, insect control device or domestic equipment so as to create a noise disturbance, except between 7:00 a.m. and 11:00 p.m. However, the use of snowblowers, chain saws and other domestic tools and equipment are exempted from these limits when they are being used to clear driveways, streets, or walkways during and within 24 hours after snowfalls, rainstorms, ice storms, windstorms, or similar emergencies.

H.

Machinery. The operation of any machinery, equipment, pump, fan, air-conditioning apparatus or other mechanical device in such a manner as to create a noise disturbance which exceeds maximum permissible sound levels in Table I herein. (This subsection does not apply to commercial enterprises or industrial manufacturing plants in the regular conduct of their business on their own properties.)

I.

Loading and unloading. The loading or unloading of any materials, equipment or garbage cans or the handling of bales, boxes, crates, containers or similar objects so as to create a noise disturbance which exceeds maximum permissible sound levels in Table I, herein.

J.

Domestic animals. The howling, barking, whining, squawking, neighing or other sound of a domestic animal which occurs continuously or intermittently or so frequently so as to create a noise disturbance. (For purposes of this subsection, "continuous" shall be a period of 10 minutes and "intermittent" shall be a period of 30 minutes.)

K.

The making of any noise for advertising purposes in any street or public place, or by means of aircraft, or the advertisement or calling attention to any advertisement, article, business, calling or profession upon any street, sidewalk or entrance to a place of business by means of any horn, megaphone, siren, bell, radio or any other sound-producing or sound-amplifying mechanism, instrument or device.

L.

Alarms. The sounding or permitting of the sounding of any exterior alarm on any building or motor vehicle, unless such alarm shall terminate its operation within 15 minutes of its being activated.

M.

Stationary emergency signaling devices. Testing of only the electromechanical functioning of a stationary emergency signaling device shall occur at the same time each day when a test is performed, but not before 7:00 a.m. or after 11:00 p.m. Any such testing shall not exceed one minute.

SECTION 5 - Noise levels by land use.

A.

It shall be unlawful for any person to operate or permit to be operated any noise source in such a manner as to create a sound pressure level in dB(A)s which exceeds the limits set forth in Table I when measured at the real property boundary of the complainant.

B.

The restrictions set forth in this chapter shall not apply to alarms as defined in this chapter.

C.

In the event that qualified Town personnel approved by the Chief of Police or Code Enforcement Officer are not available to operate a sound-level meter, this chapter shall liberally be construed by Town personnel with proper police power to prevent excessive, unreasonable, disturbing and unnecessary noise, due consideration being given to the circumstances, time of day and particular location of each violation and the demands of the public health, safety and welfare.

SECTION 6 - Presumptive evidence of violation.

A.

The use of any sound-producing, sound-reproducing or sound-amplifying device, machinery, domestic equipment, heavy equipment or engine so as to cause the sound produced thereby to be audible outside the building or beyond the boundary of the property (real and personal) where it originates, between the hours of 11:00 p.m. and 7:00 a.m. the following day, shall be presumptive, prima facie evidence of a violation of this chapter.

B.

Barking, squawking, whining, neighing or any other domestic animal sound which is audible at a point beyond the real property boundary from which such sound emanates and which continues continuously for 10 minutes, or intermittently for over 30 minutes, between the hours of 11:00 p.m. and 7:00 a.m. shall be presumptive, prima facie evidence of a violation of this chapter.

SECTION 7 - Exceptions; construal of provisions.

A.

The following sounds are exempt from the operation of this chapter:

(1)

The sounds created by emergency vehicles, such as fire, police or ambulance, while on emergency calls using radios, sirens, horns, bells or whistles.

(2)

The sounds created by any governmental agency or by the use of a public warning device.

(3)

The sounds created by sporting events, public organization, private schools, carnivals, fairs, exhibitions, picnics or parades, provided that such events shall take place between the hours of 7:00 a.m. and 12:00 midnight local time.

(4)

The sounds created by emergency construction work or repair which is necessary for the protection of life, property or restoration of utility service.

(5)

The sounds created by trains, buses, aircraft or other items of transportation governed by either the state of federal noise regulations.

(6)

The sounds created by emergency alarms, such as fire alarms, or burglar alarms, prior to a reasonable opportunity for the owner or tenant in possession of the premises served by such alarm to turn off the alarm.

(7)

The sounds created by bells or chimes associated with a church, synagogue or other place of public worship.

(8)

The sounds created by municipal refuse collection.

(9)

The sounds created by activities that are otherwise governed, authorized or permitted under state or federal regulations.

(10)

The sounds created by any legitimate commercial or industrial use or activity as long as the noise emanating therefrom does not begin prior to the hour of 7:00 a.m. and does not regularly run beyond the hour of 11:00 p.m. local time or is not otherwise scheduled to run beyond 11:00 p.m. local time.

B.

It is the intention of the Town Board that this chapter, while in addition to and supplementing the federal and state regulations, be construed to secure for the people freedom from unlawful noise as described herein, without violating any of the rights secured by the Constitution of the United States or the Constitution of the State of New York.

SECTION 8 - On-duty police officers and firemen excepted.

The provisions of this chapter shall not apply to police officers and firemen while in the discharge of duty.

SECTION 9 - Enforcement.

A.

When the enforcement officer or official seeks to apply the decibel provisions set forth in the aforementioned Table I relative to any violation of this chapter, such officer shall use a sound-level meter conforming to ANSI (American National Standards Institute). Type I or II standards shall be used and shall be calibrated at least annually. Qualified law enforcement personnel or Code Enforcement Officer shall operate, witness and read the sound-level meter(s) and related equipment. Qualified law enforcement personnel or Code Enforcement Officer shall be able to enforce this chapter in the event that a sound-level meter is not available.

B.

This chapter shall be enforced by qualified law enforcement officer with jurisdiction in the Town of Carrollton or the Town of Carrollton Code Enforcement Officer.

Section 10 – Penalties for Offenses.

Any person who shall violate any of the provisions of this chapter shall be guilty of a violation and shall be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both. Each day that such violation occurs shall be deemed a separate offense punishable as such.

SECTION 11 - Severability.

If any section, subdivision, paragraph, sentence or other portion of this chapter shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, it is the intention of the Town Board that such section, subdivision, paragraph, sentence or other portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this chapter shall be and remain in full force and effect.

SECTION 12 - Repealer.

This shall supersede any prior noise ordinance.

SECTION 13 - When effective.

This local law shall take effect immediately upon the filing thereof in the office of the Secretary of State of the State of New York.

CERTIFICATION

I hereby certify that the local law annexed hereto, designated as local law number 1 of 2019 of the Town of Carrollton was duly passed by the Town Board on the _____ day of _____, 2019 in accordance with the applicable provisions of law.

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 1 above.

DATE: _____

Julie M. Carlson, Clerk
Town of Carrollton

Table I
Maximum Permissible Sound Levels by Receiving Land Use Category

Sound Source Land Use	Receiving Land Use (dBA)		
	Residential	Commercial	Manufacturing
Residential			
7:00 a.m. to 11:00 p.m.	95	95	95
11:01 p.m. to 6:59 a.m.	65	65	65
Commercial and Manufacturing			
7:00 a.m. to 11:00 p.m.	95	100	100
11:01 p.m. to 6:59 a.m.	65	75	75