

LOCAL LAW FILING

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVE., ALBANY, NY 12231

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 MONTICELLO

Local Law No. ____ of the year 2020

A local law to add a Noise Ordinance to the Village of Monticello Code

Be it enacted by the BOARD OF TRUSTEES of the

County
City
Town
Village of MONTICELLO, as follows:

§ 220-1. Title.

This chapter shall be known and may be cited as the "Village of Monticello Noise Law."

§ 220-2. Findings.

The Village Board finds that unreasonable noises, as that term is defined herein, degrade the environment of the Village to a degree which is harmful and detrimental to the public health, safety and welfare of its inhabitants. Such noises interfere with the comfortable enjoyment of life, property and recreation and with the conduct and operation of business and industry. Effective control and elimination of unreasonable noises is essential to the furtherance of the public health, safety and welfare of the Village 's inhabitants and to the conduct of the normal pursuits of life, recreation, commerce and industrial activity.

§ 220-3. Definitions.

Unless the context otherwise clearly indicates, the words and phrases used in this chapter are defined as follows:

EMERGENCY WORK — Work made necessary to restore property to a safe condition following a public calamity or work necessary to protect persons or property from an imminent exposure to danger.

IMPULSIVE SOUND — A sound of short duration, usually less than one second, and of high intensity, with an abrupt onset and rapid decay.

PERSON — Includes the singular and plural and also any individual; any property owner and/or lessee; any firm; a corporation; a political subdivision; a government agency, including any agency of the Village of Monticello; an association or an organization, including but not limited to officers, directors, employees, agents and/or independent contractors thereof; or any legal entity whatsoever.

SOUND-AMPLIFYING EQUIPMENT — Any machine or device for the amplification of the human voice, instrumental music or any other sound. Sound-amplifying equipment shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle or construction equipment used only for traffic safety purposes or authorized fire horns or other authorized emergency alarms.

VILLAGE — Village of Monticello, Sullivan County, New York.

NOISE — Any sound created or caused to be created by any person, animal, equipment or machinery that causes public annoyance or alarm.

§ 220-4. Unreasonable noise prohibited.

A. No person shall intentionally cause public inconvenience, annoyance or alarm or recklessly create a risk thereof by making unreasonable noise or by causing unreasonable noise to be made unless otherwise permitted by the terms and conditions of this chapter.

B. Factors to be considered in determining whether unreasonable noise exists include but are not limited to any or all of the following:

- (1) The intensity of the noise;
- (2) Whether the nature of the noise is usual or unusual;
- (3) Whether the origin of the noise is associated with nature or humanmade activity;
- (4) The intensity of the background noise, if any;
- (5) The proximity of the noise to sleeping facilities;
- (6) The nature and the zoning district of the area within which the noise emanates and of the area within 500 feet of the source of the sound;
- (7) The time of the day or night the noise occurs;
- (8) The time duration of the noise;
- (9) Whether the sound source is temporary;

(10) Whether the noise is continuous or impulsive sound;

(11) The volume of the noise; and

(12) The existence of complaints concerning the noise from persons living or working in different places or premises who are affected by the noise., machine, instrument or item owned, operated by or under such person's control which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of the public or which causes injury to animal life or damages to property or business.

§ 220-5. Specific acts constituting unreasonable noise.

This section contains a list of specific acts constituting unreasonable noise. The provisions of this section complement and supplement § 220-4 hereof and are in addition to and not in lieu of that section. This list is not exclusive and any noise that meets the criteria set forth in § 220-4 may be deemed to be a violation of this chapter. Notwithstanding, a permit may be issued in accordance with this chapter to conditionally allow noise that may otherwise constitute an unreasonable noise.

A. The use of any sound-amplifying equipment or musical instrument outside a structure either on private property or on a public right-of-way or public space at any time within the Village which, by causing noise, annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities.

B. The use of any sound-amplifying equipment or musical instrument inside a structure in such a manner as to result in the sound or any part thereof from such apparatus to be projected therefrom outside of the structure or out-of-doors at any time whereby the sound can be audibly heard more than 100 feet from the real property boundary line from which the noise emanates which would annoy or disturb the quiet, comfort or repose of a reasonable person of normal sensitivities.

C. The use of any sound-amplifying equipment or musical instrument within 500 feet of any school, religious facility, hospital, clinic or courthouse while the same is in session or conducting business therein so as to interfere with the functions of such activities.

D. The use of any motor vehicle, including any automobile, motorcycle, trail bike, mini-bike, snowmobile, bus, vehicle, truck, all-terrain vehicle, motor-driven equipment or motor-driven vehicle, or water-going vessel, Boating and Watercraft, hereof, in such a manner as to create noise which would annoy or disturb a reasonable person with normal sensitivities or if it injures or endangers the comfort, repose, health, hearing, peace or safety of another person.

E. The sounding of any horn, alarm or signal device on any automobile, motorcycle, bus, truck or other vehicle or water-going vessel, Boating and Watercraft, hereof, except as a warning signal such as provided by § 15 of the Vehicle and Traffic Law of the State of New York.

F. Repeated or continuous yelling or shouting on or open to the public space or public right-of-way that either annoys or disturbs a reasonable person with normal sensitivities or if it injures or endangers the comfort, repose, health, hearing, peace or safety of another person.

G. Construction activity

(1) Except as provided for in this section, no person shall engage in the erection, construction (including excavating), grading, dredging or pneumatic hammering, demolition, alteration or repair of any building or structure other than on weekdays between the hours of 7:00 a.m. and 6:00 p.m. or on Saturdays, Sundays or holidays between the hours of 10:00 a.m. and 4:00 p.m.

(2) Any person desiring to engage in construction activity beyond the stated hours of limitation, based upon cases of urgent necessity or in the interests of public health, safety and convenience, may request the Building Department for authorization allowing such activity. The request shall include all of the information required by § 220-7D(1) through

(3). No permit fee shall be charged. The authorization, if granted, shall be limited to a period of up to three days' duration but, at the sole discretion of the Code Enforcement Officer, may be renewed for additional periods of up to three days each, to a maximum of 15 days, if the emergency or need continues. The Building Department shall keep written records of all requests and their disposition. Permittees seeking more than a fifteen-day total period must make application to the Village Clerk in accordance with § 220-7E and pay the required permit fee.

H. Operation of machinery.

(1) It shall be unlawful for any person to operate or repair any machinery, motor vehicle, construction equipment or other equipment, pump, fan, air-conditioning apparatus or similar mechanical device or to engage in any commercial or industrial activity in any manner so as to create unreasonable noise as defined and described in §§ 220-4 and 220-5 of this chapter. In making such determination with respect to the matters governed by this section, additional factors to be considered shall include:

(a) The necessity or purpose of the work being done; and

(b) The ability of the creator of the noise to minimize or reduce the amount of noise created or to otherwise minimize its adverse effects.

(2) The operation of gasoline, electric or diesel power equipment or machinery in residential zones outdoors or covered structures with large openings, such as a carport or a garage with the garage door open, between the hours of 9:30 p.m. and 7:00 a.m. the following day, and on weekends between 9:30 p.m. and 8:00 a.m. the following day, is declared to be prima facie evidence of violation of this chapter.

I. Nothing contained in this section shall be construed to prevent the issuance of a permit pursuant to §220-7 that will authorize particular sound sources.

§ 220-6. Exemption of certain horns and alarms.

A. The provisions of this chapter shall not apply to fire horns, sirens or other alarms authorized by any duly constituted fire department located in the Village or Sullivan County, or any Village of Monticello Police Officer, Sullivan County Sheriff's officer, or New York State police officer and operated in accord with that authorization.

B. The provisions of this chapter shall not apply to emergency warning devices, sirens, alarms or other devices being used in connection with the operation of emergency vehicles when performing emergency work.

C. The provisions of this chapter shall not apply to any warning device or alarm that is required to be sounded by applicable law.

§ 220-7. Permits for certain activities.

A. Where a sound source is planned, installed or intended to be installed or modified by any person in a manner that such source will create or is likely to create unreasonable noise or otherwise fail to comply with the provisions of this chapter, such person must secure a permit pursuant to this § 220-7.

B. Where any person uses or plans to use any sound-amplifying equipment in such a way that such equipment is or will be heard outside of any building between 9:00 p.m. of any day and 7:30 a.m. the following day, such person must secure a permit pursuant to this § 220-7.

C. Where any person uses or plans to use a public-address system that will make sound outside of a building, such person must secure a permit pursuant to this § 220-7.

D. Application for permit.

(1) The application for a permit issued under this chapter shall provide the following information:

(a) The name of the applicant, who shall be responsible for ensuring that the activity complies with any permit issued for it pursuant to this section;

(b) A description of any planned activity, including the reasons supporting the need for an issuance of a permit under this section;

(c) A description of the noise source and the plans and specifications of its use, which shall include the period of time during which the permit shall apply;

(d) A description of any noise-abatement and noise-control methods to be used with respect to the noise source involved; and

(e) If the event is not a community-wide or public event, evidence that notification of the application for the permit has been given to each person reasonably expected to be affected by the noise, the content of such notification and the manner in which such notification has been given. The notification shall state that any person objecting to the granting of such permit may contact the Village Clerk to express his or her opposition to the granting of the permit.

(2) The application for a permit shall be submitted at least 30 days in advance of an event.

E. Permit applications made pursuant to § 220-5G(2) shall be made to the Building Department. All other permit applications shall be made to the Village Clerk who shall forward each application to the Village Board for review and consideration. The issuance of a permit shall be discretionary and shall be issued only where the Village Board determines that i) the permit application is complete and ii) such permit is reasonable and necessary and will allow an activity that is consistent with the general findings of this chapter. For each permit application, the Village Board shall consider the volume of the noise, proximity of the noise to sleeping facilities, time of day or night the noise shall occur, time duration of the noise, and the impact of the noise on persons living or working in different places or premises who are affected by the noise. The Village Board may conduct a public hearing prior to any determination to issue or deny a permit. The Village Board may include any reasonable conditions in the permit and may limit the term of the permit to a fixed period of time, date, duration and location of the noise generation. In the absence of any express provision in the permit to the contrary, each permit shall expire on December 31 of the calendar year in which it was issued. If the Village Board fails to rule on a permit application within 30 days of its submission to the Village Clerk, the application shall be deemed denied.

F. A copy of any permit shall be provided to the Village Police Department and the Building Department for use by the Code Enforcement Officers and inspectors.

G. Each permit applicant shall pay a nonrefundable application fee at the time of making the permit application in an amount established from time to time by resolution of the Village Board.

§ 220-8 Penalties for Offenses.

A. Persons who violate this chapter, or any permit issued under this chapter, shall be guilty of a violation and subject to punishment by a fine of not less than \$50 nor more than \$500, or by imprisonment of not more than 15 days, or by such fine or imprisonment or other penalties as may be available under the Village Law or the Penal Law. Each separate violation shall constitute a separate additional offense.

B. For any violation of this chapter that takes place on private property where the person or persons responsible for the violation cannot be determined, then all residents of the property from which the violation emanated shall be presumed to be responsible for said violation.

C. In addition to the foregoing, any permit issued under this chapter may be modified, suspended or revoked by the Village Board if the permit holder is found to be in violation of the permit or any applicable provision of this chapter. Violations include any material representations made in the permit application. Any actions taken by the Village Board shall be subject to a public hearing, notice of which must be served upon the permit holder either personally or by certified mail, return receipt requested, sent to the address listed on the permit application prior to the commencement of the public hearing.

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Board of Trustees of the Village of Monticello hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

This Local Law shall take effect immediately when it is filed in the Office of the Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2020 of the Village of Monticello was duly passed by the Board of Trustees on _____ 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 correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Village Clerk

Date: _____

STATE OF NEW YORK
COUNTY OF SULLIVAN

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.

MICHAEL DAVIDOFF, ESQ.

VILLAGE ATTORNEY

VILLAGE OF MONTICELLO

Date: _____