

## Town of Corning Noise Control Ordinance

### SECTION 1. PURPOSE

- a) Intent The Town of Corning intends this Ordinance to establish requirements to prevent, mitigate, and eliminate noise which effects residents' health, safety, welfare; impairs the constitutional rights of residents; or degrades the quality of life of community members.
- b) Responsibility Disturbances of peace and quiet by noise from various activities are best solved by mutual respect of the interests, rights, and obligations of all persons through thoughtful discussion and cooperative agreements between affected parties. However, municipal policy can serve to prevent, mitigate, or aid such situations.
- c) Excessive Sound Excessive sound is a serious hazard to public health, welfare, safety, and quality of life, and a substantial body of science and technology exists by which excessive sound may be substantially abated. Therefore, citizens should be ensured an environment free from excessive sound. The Town of Corning hereby enacts a policy to prevent excessive sound from jeopardizing the health, welfare, safety, and quality of life of its citizens.
- d) Application All land uses shall comply with this Noise Control Ordinance except where maximums or hours are stated in this law or the Town of Corning Zoning Ordinance for a specific use or as part of a conditional use permit as determined by the Planning Board.

### SECTION 2. DEFINITIONS

- a) **BACKGROUND SOUND LEVEL** is the relative sound level in an area, exclusive of both extraneous sounds and the sound contributing to the specific source in question.
- b) **CONSTRUCTION** is any site preparation, assembly, erection, demolition, substantial repair, maintenance, alteration, or similar action for or of public or private rights-of-way, structures, utilities, or similar property.
- c) **DAY-TIME HOURS** are 7:00 a.m. to 10:00 p.m.
- d) **NIGHT-TIME HOURS** are 10:00 p.m. to 7:00 a.m.
- e) **NOISE** is any unwanted sound or vibration that encroaches upon the real property of another. It may consist of multiple factors including, and not limited to, time-of-day or time-of-week; structure of the sound, e.g., impulse sound and sounds defined in ISO 12001 standards; frequency of the sound occurrence (how often); duration; relative sound level compared to background sound level, e.g., "loudness"; the waveform frequency of the sound, e.g., "high" or "low" pitch; and nature of the sound, e.g., screaming or screeching.

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- f) NOISE DISTURBANCE is a noise deemed to:
  - i) endanger or injure the safety of health of humans or animals;
  - ii) interfere with basic living tasks of others;
  - iii) impair or degrade the rights of another person or property;
  - iv) interfere with the quiet use and enjoyment of the property of another;
  - v) disrupt, limit, or interfere with the peace of the premises of another or with activities of another person; or
  - vi) endanger or injure personal or real property
- g) PERSON may refer to an individual or an organization such as an established group, firm, or corporation. Whenever used in imposing a penalty on an organization, the term "person" shall include the members or officers of the entity.
- h) PREMISES refers to a lot, plot, or parcel together with all the buildings and uses thereon.
- i) PROLONGED indicates continuing for a long time, as in over an hour.
- j) SOUND is an oscillation in pressure, particle displacement, particle velocity, or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium.

### SECTION 3. PROHIBITIONS

- a) General No person shall, by any means, make, continue, cause to be made, or cause to be continued, any noise disturbance within the Town of Corning beyond the premises within their authority, as determined by the Code Enforcement Officer.
- b) Responsibility The owner, tenant, manager or person in control and charge of any premises or any person present wherein such violation takes place is presumed to be the person making or creating such violation.

### SECTION 4. SPECIFICALLY PROHIBITED

- a) Animals; dogs, birds, etc. The keeping of any animal which causes a frequent or prolonged noise disturbance, especially during night-time hours.
- b) Disruption of Institutions The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided that conspicuous

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signs are displayed in such streets indicating the same is a school, hospital or court street.

- c) Engine The use of any automobile, motorcycle or vehicle in such manner; so out of repair; or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a standard muffler as supplied by the original manufacturer of the engine or vehicle or other device which will effectively prevent loud or explosive noises therefrom.
- d) Generators Noise from a generator, other than for emergency purposes, shall be considered a noise disturbance when any of the following is applicable while the generator is running:
  - i) Especially during night-time hours;
  - ii) Past the duration required for the stated purpose of the generator;
  - iii) Without consideration of placement which might improve the buffering of noise.
- e) Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary or unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- f) Loading/unloading The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- g) Sound reinforcement as in loudspeakers, radios, amplifiers, etc. The using, operating, or allowing use of a device for producing or reproducing sound in such manner as to create a prolonged noise disturbance to be the predominant sound distinguishable from background sound levels beyond the premises within the person's authority, especially during night-time hours. All duly constituted and properly governed churches and the Salvation Army are excluded from the provisions of this subsection.
- h) Steam whistles The blowing of any locomotive steam whistle, diesel whistle or steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper Town authorities.

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- i) Vocalizations Prolonged yelling, shouting, hooting, whistling or singing on public streets causing a noise disturbance by being prominently distinguishable from background sound levels, especially during night time hours.

### SECTION 5. EXEMPTIONS

Exemptions shall be narrowly construed. A person shall be exempt from this Ordinance provided that:

- a) The noise is being generated to request assistance for or warn of an imminent hazardous situation; or
- b) The noise emanates from an authorized emergency vehicle or a vehicle operated by a gas, electric, communications, or water utility when responding to an imminent emergency; or
- c) The noise emanates from a bell, chime or similar device used by a school or religious institution but with full consideration of effects on the community and neighboring premises; or
- d) Any noise for which a permit has been issued by an authority having jurisdiction to issue the permit; or
- e) Any reasonable noise created by a government entity in performance of an official and necessary duty; or
- f) Any activity the regulation of which has been expressly preempted by New York statute or regulation; or
- g) Any activity involving aircraft, airports, or railroad operations that are expressly preempted by federal law.

### SECTION 6. SPECIFICALLY EXEMPT

- a) Construction Activity A person shall be exempt from this Ordinance provided that the construction noise:
  - i) is generated by properly permitted construction activities;
  - ii) occurs only during day-time hours;
  - iii) exposure complies with regulations or guidelines promulgated by OSHA, the EPA, the New York Department of Health, and the New York Department of Labor; and
  - iv) is completed within a professionally reasonable period.

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- b) Emergency work required to restore essential services to a premises or to mitigate sudden, serious damage to a premises, emergency work shall be exempt provided the work proceeds in a professionally reasonable period and until the bona fide emergency is abated.
- c) Emergency Generators During a power outage, emergency generators may be used and are exempt from this ordinance provided that the generator uses a fully-functioning and effective muffling system. Noise created by the testing of an emergency generator shall be exempt during weekday hours between 10:00 AM and 4:00 PM if the generator uses a fully-functioning and effective muffling system, testing occurs no more than once per week, and the test duration is less than five minutes.
- d) Public Events
  - i) Any noise connected with a parade, or "special event" that is being conducted by or permitted by the Town provided that the background noise level is not exceeded beyond the duration permitted or publicly posted by the Town.
  - ii) Any noise generated by the crowd at a sporting event or other event being conducted pursuant to a permit issued by the Town, if required, or by a school provided that the background noise level is not exceeded for more than two hours in any day and not more than two days per week.
- e) Lawn Care Noise emanating from properly muffled lawn care—and other necessary household lawn maintenance—equipment and tools used during day-time hours.

### SECTION 7. PENALTIES

Any person who violates any provision of this ordinance shall be deemed guilty of an offense and subject to a fine of not more than \$250 or imprisonment for not more than fifteen (15) days or by both such fine and imprisonment, and each day following enforcement action on which such violation continues shall constitute a separate offense.

### SECTION 8. POWERS AND DUTIES

- a) The provisions of this ordinance shall be enforced by the Town of Corning Code Enforcement Officer.

### SECTION 9. APPEALS

Any person aggrieved by any decision of the Code Enforcement Officer may appeal to the Zoning Board of Appeals. Any determination by the Zoning Board of Appeals under this Local Law may be appealed to the Supreme Court under Article 78 of the Civil Practice Law and Rules.

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### SECTION 10. VALIDITY

If any section, paragraph, subdivision or provision of this Law shall be declared invalid, such invalidity shall apply only to the section, paragraph, subdivision or provision adjudged invalid and the rest of this Law shall remain valid and effective.

### SECTION 11. EFFECTIVE DATE

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