

Town of AuSable

Local Law No. 3 of 2016

A Local Law Providing for the Control of Unreasonable Noise

Be it enacted by the Town Board of the Town of AuSable as follows:

Section 1. Purpose. The purpose of this local law is to preserve the public health, peace, welfare and good order by suppressing the making or creation of unnecessary, unnatural or unusual loud noises which are prolonged, unusual, or abnormal in their time, place and use and which are detrimental to the environment.

It is recognized that people have the right to an environment free from excessive noise that may jeopardize their safety or welfare or degrade the quality of life. This ordinance is enacted to protect, preserve and promote the health, safety, welfare or not degrade the quality of life for the citizens of the Town of AuSable through the reduction, control and/or prevention of excessive noise.

Section 2. This local law shall be known as the “Local Law Providing for Control of Unreasonable Noise” of the Town of AuSable.

Section 3. 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 make the noise.
- (B) The owner, or lessee of premises which is the source of noise, provided that the lessee or an employee or agent or promoter of an owner or lessee is present on that part of the premises where the noise is produced when the noise violation occurs.

Section 4. Unreasonable Noise. It shall be a violation of this Local Law to make unreasonable noise. The following factors may be considered in determining whether the noise is unreasonable at the time and under the circumstances it is made:

- (A) The volume, intensity and duration of the noise.
- (B) The ambient or background noise in the area where noise is created.
- (C) The time of day the noise occurs.
- (D) 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 10:00 pm and 7:00 am Sunday evening through Friday morning; and 11:00 pm to 8:00 am from Friday evening through Sunday morning.
- (E) 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.
- (F) Whether the person making or responsible for the noise might reasonably expect that the noise would be plainly audible to a person outside the boundaries of the property or the dwelling where the noise is created.
- (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.

Section 5. 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 neighborhood 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) On a commercial property if the sound is plainly audible at the boundary of the property on which the sound is produced.
 - (iv) In a motor vehicle on a public or private 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 in any public place within the Town of AuSable 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 of a multi-family dwelling between 9:00 pm and 7:00 am.
- (D) Operate any tools or equipment used in construction, drilling, excavation, or demolition work between the hours of 9:00 pm and 7:00 am the following day, except emergency work.
- (E) Operate a motor vehicle on public or private 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 or private 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, screeching that continues for more than thirty (30) minutes and which is plainly audible at the boundary of the property, or in a dwelling unit in a multi-family dwelling.
- (H) Noise caused by loading or unloading equipment, material or supplies for deliveries to properties within the Town of AuSable between the hours of 9:00 pm and 7:00 am that is plainly audible at the boundary of a nearby property.

Section 6. Exemptions. This Local Law shall not apply to noise caused by the following:

- (A) Church bells, horns and sirens of trains and authorized emergency vehicles.
- (B) Parades, concerts or other community gatherings.
- (C) Non-commercial public speaking and public assembly activities conducted in any public place.
- (D) The use of domestic power tools and/or equipment for property repair or improvements, lawnmowers and other lawn maintenance tools between 7:00 am and 9:00 pm.
- (E) The use of snow removal equipment at any time for the snow removal purposes.
- (F) The use of vehicles for agricultural purposes at any time.
- (G) Permitted use of fireworks (permit from Town of AuSable Code Officer)

Section 7. Penalties for Offenses. Any violation of this Local Law is hereby declared to be an offense punishable by a fine not exceeding Two-Hundred Fifty Dollars (\$250.00) for the first day where each day of continued violation shall constitute a separate additional fine. 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 Dollars (\$500.00) per day.

Section 8. Manner of Enforcement. This Local Law may be enforced by any Clinton County peace officer or any Code Enforcement Officer employed in the Town of AuSable.

Section 9. Severability. Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 10. Effective Date. This Local law shall take effect upon filing with the New York State Secretary of State.