

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

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.

~~XXXXXX~~

City of Plattsburgh

~~Town~~

~~Village~~

Local Law No. 3 of the year 2008

A local law AMENDING AND RESTATING CITY CODE CHAPTER 206 CONCERNING NOISE
(Insert Title)

Be it enacted by the Common Council of the
(Name of Legislative Body)

~~XXXXXX~~

City of Plattsburgh as follows:

~~XXXXXX~~

~~Village~~

1. City Code Chapter 206 is amended and restated in its entirety to read as follows:

NOISE
Chapter 206

- § 206-1. Definitions.
- § 206-2. Persons Liable for Violations.
- § 206-3. Unnecessary noise unlawful.
- § 206-4. Certain acts declared to be violations.
- § 206-5. Exemptions.
- § 206-6. Penalties for offenses.
- § 206-7. Enforcement

[HISTORY: Adopted by the Common Council of the City of Plattsburgh 9-8-88.1 Amendments noted where applicable.]

Declaration of Policy. It is hereby declared to be the public policy of the City to control unnecessary noise in order to preserve, protect and promote public health, safety and welfare and to foster the peace and quiet, convenience and comfort of its inhabitants. It is the public policy of the City that every person is entitled to life, health, and enjoyment of his or her property free from disturbances caused by unnecessary noise. It is hereby declared that the making, creation or maintenance of excessive or unreasonable noises within the City is a menace to public health, comfort, convenience, safety, welfare, quality of life and the prosperity of the people of the City.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

§ 206-1. Definitions.

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

COMMERCIAL DISTRICT — Those areas designated B-1, B-2, C and RC under the Chapter 270 of the City Code as of the date of the alleged violation.

COMMERCIAL STRUCTURE — Any structure located within a commercial district.

LESSEE — The person who has the right to occupy property owned by another for a period of at least thirty (30) consecutive days in consideration for the payment of rent, whether or not such right of occupancy is granted by written lease or instrument.

MULTIPLE FAMILY DWELLING — A building containing 2 or more dwelling units, including duplexes, triplexes and townhouses.

OWNER — The person who has record title to the property.

PERSON — Any individual, association, partnership or corporation.

PUBLIC PLACE — Any highway, street, sidewalk, park or playground or city owned building

RESIDENTIAL DISTRICT [*] — Those areas designated R-1, R-2, and RH under the Chapter 270 of the City Code as of the date of the alleged violation.

§206-2. Persons Liable for Violations.

The following persons shall be responsible for a violation of this Chapter:

- A. The person making the noise, or operating the equipment or device that makes the noise.
- B. The owner or lessee of premises which is the source of the noise, provided that the owner, lessee, or an employee or agent of an owner or lessee is present on that part of the premises where the noise is produced when the noise violation occurs.
- C..
- D. It shall be an affirmative defense to liability hereunder, if a person who has not caused the noise reports the suspected noise violation to the Plattsburgh Police Department before the police arrive on the premises to investigate the alleged noise violation and gives his name and address and the location of the suspected violation.

§ 206-3. Unreasonable Noise.

- A. It shall be a violation of this Chapter to intentionally make unreasonable noise or sound that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of another person.

B. The following factors may be considered in determining whether the noise is unreasonable at the time and under the circumstances it is made.

- 1) The volume, intensity and duration of the noise.
- 2) Whether the noise is normally associated with the permitted uses of property in the zoning district where the noise is created.
- 3) The ambient or background noise in the area where noise is created.
- 4) The time of day the noise occurs.
- 5) 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 11PM and 7AM.
- 6) 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.
- 7) 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.
- 8) 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 has responded.
- 9) Whether there are reasonable measures the person making the noise could have taken to make the noise not unreasonable.

§ 206-4. Certain acts declared to be violations.

It shall be a violation of this Chapter 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.
 - 1) In a residential district if the sound is plainly audible at the boundary of the property on which the sound is produced.
 - 2) In a dwelling unit in a multiple family dwelling at a volume where the sound is plainly audible in other dwellings in the building..
 - 3) In a commercial district if the sound is plainly audible at a distance of fifty (50) feet from the boundary of the property on which the sound is produced.
 - 4) In a motor vehicle on a public 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 on any public place within residential districts of the City of Plattsburgh so 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 in a multi family dwelling, except that, noise made by in connection with repairs or improvements to the dwelling unit which are made between the hours of 7AM and 8PM shall not constitute a violation of this section.

- D. Operate any tools or equipment used in construction, drilling, excavation, or demolition work between the hours of 8PM and 7AM the following day, except emergency work.
- E. Operate a motor vehicle on public 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 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 15 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 residential districts between the hours of 8PM and 7AM the following day that is plainly audible at the boundary of a nearby residential property.
- I. The use of a loudspeaker or other sound amplification device without a permit, except when used to warn or provide information about a public emergency.

§ 206-5. Exemptions

This chapter shall not apply to noise or sounds caused by:

- A. Church bells, horns and sirens of trains and authorized emergency vehicles;
- B. Parades, concerts or other public gatherings for which a permit has been issued under this chapter or any other ordinance or law of the City of Plattsburgh, or which has been authorized to be held by resolution of the Common Council of the City of Plattsburgh
- C. Non-commercial public speaking and public assembly activities conducted in any public place.
- D. The use of domestic power tools for property repair or improvements, lawnmowers and other lawn maintenance tools between 6AM and 9PM.
- E. The use of snow removal equipment at any time.

§206-6 Penalties for offenses

Any person violating any provision of this chapter shall have committed an offense and shall be subject to a fine of not less than two hundred and fifty dollars (\$250). 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). A separate offense shall be deemed committed on each day during which a violation occurs or continues.

§ 206.7. Enforcement

This Chapter may be enforced by any peace officer or any code inspector employed in the office of the Building Inspector of the City of Plattsburgh.

2. This local law shall take effect upon approval by the Mayor and filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ 3_____ of 2008 of the ~~(County)~~(City)~~(Town)(Village)~~ of Plattsburgh was duly passed by the Common Council on 6 Mar 2008, and was (approved)~~(not approved)~~~~(repassed after disapproval)~~ by the Mayor and was deemed duly adopted on 14 Mar 2008, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)


I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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-----2-----, above.



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body Keith A. Herkalo

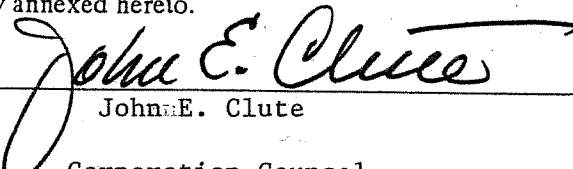
(Seal)

Date: _____ 18 Mar 2008 _____

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Clinton

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.



Signature John E. Clute

Title Corporation Counsel

~~CORPORATION~~
City of Plattsburgh
~~TOWN~~
~~VILLAGE~~

Date: 25 Mar 2008

New Local Law Filing Instructions

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

PLEASE OBSERVE THESE RULES FOR FILING LOCAL LAWS WITH THE SECRETARY OF STATE:

1. Each local law shall be filed with the Secretary of State within 20 days after its final adoption or approval as required by section 27 of the Municipal Home Rule Law. The cited statute provides that a local law shall not become effective before it is filed in the office of the Secretary of State.
2. Each local law to be filed with the Secretary of State shall be an original.
3. Each local law shall be filed on a form provided by the Department of State, as attached hereto. In case additional pages are required, they must be on the same letter size as the form provided. For convenience, printed, mimeographed or typewritten copies of the local law may be pasted on the form, but these must not be of a size larger than the form and printing must be on only one side of the sheet. Only true and legible copies will be accepted for filing.
4. ONLY THE NUMBER, TITLE AND TEXT OF THE LOCAL LAW SHALL BE FILED. In case of a local law amending a previously enacted local law or ordinance, the text must be that of the law as amended. Do not include in copy parts of old law to be omitted.
5. For the purpose of filing with the Secretary of State, number local laws consecutively, and start with the number one in each calendar year. It is suggested that introductory identifying numbers be used while a proposed local law is being considered.
6. Each copy of a local law filed with the Secretary of State shall have affixed to it a certification by the Clerk of the County legislative body or the City, Town or Village Clerk or other officer designated by the local legislative body. There shall also be attached or annexed thereto a certification executed by the County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney that the local law contains the correct text and that all proper proceedings have been had or taken for its enactment. Certification forms are provided herewith.
7. For filing purposes, local laws shall be mailed or delivered as follows:

An original for the Secretary of State:

State Records and Law Bureau
Department of State
41 State Street
Albany, NY 12231

(DO NOT FILE THIS INSTRUCTION SHEET WITH THE LOCAL LAW.)