

# VILLAGE OF UPPER NYACK

## Local Law 5 of 2021

Be it enacted by the Board of Trustees of the Village of Upper Nyack as follows:

### SECTION 1. TITLE

A Local Law regulating unnecessary noise within the Village of Upper Nyack. This Local Law may be cited as the “Noise Law of the Village of Upper Nyack.”

### SECTION 2. LEGISLATIVE INTENT

The making and creating of unreasonably disturbing or excessive noise within the Village of Upper Nyack is a condition which has persisted, and the level and frequency of occurrences of such noises continues to increase. These noise levels are a detriment to the public health, comfort, convenience, safety and welfare of the citizens of the Village. It is the intent of this Local Law to balance the rights of residents and property owners to use their property in a reasonable manner with the rights of others in the Village to be free of excessive, continuous, unnecessary or disturbing noise.

### SECTION 3. UNNECESSARY NOISE PROHIBITED

It shall be unlawful for any person to make, continue or cause to be made or continued any of the following acts producing audible sound that exceed the limits in the following provisions:

**A. Radios, televisions, electronic sound-reproduction devices, and other similar devices.**

The using, operating or permitting to be played, used or operated of any radio, television, speaker, musical instrument or instruments, or other similar devices, in such a manner as is plainly audible beyond the property line of the property from which the sound is emanating during the hours of 10:00 p.m. to 10:00 a.m., or plainly audible from a point that is 300 feet from the property line of the property from which the sound is emanating at all other times.

**B. Animals.** The keeping or harboring of any animal outdoors which barks, whines or makes any other noise continuously for a period of 10 minutes or more at a volume which can be heard anywhere beyond the property line of the property on which the animal is located.

**C. Leaf blowers, outdoor power tools and machinery.**

- i. Leaf Blowers: Gasoline-powered leaf blowers may be used only between March 15 and May 1 and September 15 and December 15. During the portions of the year when the use of gasoline powered leaf blowers is permitted, they may only be used from 8:00 a.m. until 6:00 p.m. on Monday through Friday; 10:00 a.m. until 5:00 p.m. on Saturday; and 12 noon until 5:00 p.m. on Sunday and legal holidays. The use of gasoline powered leaf blowers shall be prohibited at all other times. Electric and battery-powered leaf blowers are exempt from the date restrictions of this section but shall be subject to the hours of operation set forth in this section.
- ii. Outdoor Power Tools and Machinery: The operation of engine-driven power tools or motorized equipment, including, but not limited to, lawn mowers, weed trimmers and other similar equipment that emit sound beyond the property line on which

such equipment is being used, other than leaf blowers (which are regulated by Section 3C(i) hereof) and heavy machinery (which is regulated by Section 3C(iii) hereof) is hereby permitted in the Village provided that such equipment may only be used from 8:00 a.m. until 6:00 p.m. on Monday through Friday; 9:00 a.m. until 6:00 p.m. on Saturdays; and 12 noon until 5:00 p.m. on Sundays and legal holidays. Where possible any such tool or equipment shall be properly equipped with a muffler or other properly installed manufacturer-approved noise-reduction device so designed and in such a condition as to prevent unnecessary noise and to prevent a public nuisance in its operation.

- iii. Work Involving the Use of Heavy Machinery: Work involving the use of heavy machinery, including but not limited to rock breaking, pile driving, riveting, jackhammering, power sandblasting or glass blasting, chain sawing, tile sawing, and using other engine powered saws, that emits continuous sounds, audible from a distance of 100 feet or more from the property line of the property on which the work is occurring, must cease for 30 minutes within every three hours of operation to provide respite to the surrounding community. Work by anyone using such machinery may commence no earlier than 9:00 a.m. and shall end no later than 4:30 p.m., Monday through Friday, and commence no earlier than 10:00 a.m. and end no later than 3:00 p.m. on Saturdays. Such work shall be prohibited on Sundays and legal holidays.
- iv. Exceptions to this Section 3C: The following shall not be subject to the limitations and restrictions of this Section 3C:
  - a) The use of regulated devices and machinery by municipal and school employees or contractors while in the performance of their regular duties beyond 100 feet from the nearest residence.
  - b) The use of regulated devices and machinery by utility companies, municipal and school employees or property owners and/or their subcontractors while performing emergency repairs.
  - c) Emergency generators providing power in the event of an outage and HVAC equipment serving buildings and structures.
  - d) Clean up occurring within 72 hours after a storm event if the Mayor, in the exercise of his or her reasonable discretion, suspends the provisions hereof which term may be extended by the Mayor for up to 72 additional hours depending on the severity of the storm and extent of damage within the Village. Such suspension may be subject to reasonable conditions and limitations provided by the Mayor.

D. **Restaurants.** The playing, causing to be played or permitting to be played of music of any kind or description, including instrumental music, radio, player piano, jukebox, recorded, electronically produced or vocal music, which is plainly audible from a point that is 300 feet from the property line of the property on which the use is located or the nearest residential property, whichever is closer, between the hours of 10 p.m. and 7:30 a.m. in any

restaurant, bar, tavern and/ or other public place licensed to sell liquors, wines or beer to be consumed on the premises.

#### **SECTION 4. ENFORCEMENT AND PENALTIES FOR OFFENSE**

**A. Enforcement.** The Village's Code Enforcement Official, Code Enforcement Officer, and any duly authorized deputy Code Enforcement Official, Officer or Building Inspector, the Village Engineer, and the Town of Clarkstown Police Department are hereby authorized to enforce the provisions of this Local Law and are authorized to issue appearance tickets for any violation of this Local Law.

**B. Penalties for Offenses.** Any person violating the provision of this Local Law shall be guilty of an offense punishable by a fine of \$250 for the first offense and \$500 for each subsequent offense in the same calendar year. For purposes of this section, a "person" shall mean the owner or user (i.e. tenant) of the property on which the prohibited activity occurs and the owner of the instrumentality exceeding permissible noise levels if such instrumentality is being used by such owner or an employee or contractor of such owner who is working at the direction of such owner.

#### **SECTION 5. AUTHORITY**

This Local Law is enacted pursuant to the authority of Section 10 of the Municipal Home Rule Law.

#### **SECTION 6. SEPARABILITY**

Should any section, sentence or provision of this Local Law be determined by any court of competent jurisdiction to be unconstitutional or invalid in any way, such determination shall not affect the validity of this Local Law as a whole or any part thereof other than the part expressly so determined to be unconstitutional or invalid.

#### **SECTION 7. EFFECT ON OTHER LAWS**

Nothing in this Local Law shall be construed to vary or modify the provisions of any other general or Local Law or to authorize the violation thereof; however, where there is a conflict between this Local Law and another Local Law the more restrictive provision shall control. .

#### **SECTION 8. EFFECTIVE DATE**

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State.