

Noise ordinance draft

RESOLUTION NUMBER __ OF 2021

HAVING TO DO WITH THE REGULATION OF SOUND WITHIN THE TOWN OF ULYSSES

Section 1. The Code of the Town of Ulysses is hereby amended to add thereto a new Article 215, to read as follows:

1. Title. This chapter shall be known and may be cited as the “Town of Ulysses Noise Ordinance”.
2. Purpose. The purpose of this article 215 of the Ulysses Town Code is to regulate the levels, times and locations of sound generated by human activity within the Town of Ulysses, for the health, peace, comfort, repose, welfare, safety and good order, welfare and convenience of residents of the Town, by suppressing the making or maintenance of excessive, unnecessary sounds that are unusual or unnatural in their time, place or use or which are detrimental to the environment.
3. Applicability. This article supersedes and replaces all local laws, ordinances, policies and practices of the Town of Ulysses which have previously governed sound or noise production within the limits of the Town [with the exception of the Village of Trumansburg].
4. Definitions. The following capitalized terms for the purposes of this Article shall have the meanings set forth below:
 - 4.1 Daytime Hours. The hours between 7:00 a.m. and 9:00 p.m. local time, Eastern Standard Time or Daylight Savings Time, as the case may be.

- 4.2 Nighttime Hours. The hours between 9:00 p.m. and 7:00 a.m. local time, Eastern Standard Time or Daylight Savings Time as the case may be.
- 4.3 Decibel. A unit for measuring the volume of a sound, equal to the logarithm of the ratio of the sound pressure of the sound to the sound pressure of a standard sound (0.0002 microbar); abbreviated “dB.”
- 4.4 Person. A human being; any business, governmental, or nonprofit entity, or any officers, employees or contractors of such entities.
- 4.5 Plainly Audible. Any Sound that can be detected by a person using his or her unaided hearing faculties, regardless of the pitch, duration, or frequency of the Sound.
- 4.6 Real Property Line. Either the imaginary line, including its vertical extension, that separates one parcel of real property from another, or the vertical and horizontal boundaries of a dwelling unit that is one in a multi-dwelling-unit building.
- 4.7 Measurement Point. The Real Property Line of the Receiving Property nearest the Sound Source measured at four feet or more vertically above the boundary.
- 4.8 Receiving Property. A parcel of real property at which can be heard Sound emanating from a Sound Source not located on the particular parcel.
- 4.9 Receiving Land Category. [per zoning: Residential, Commercial, Industrial, etc., from Code § 212-10A]

- 4.10 Sound. An oscillation of air pressure having a frequency of between 20 and 20,000 cycles per second (hertz, abbreviated as Hz).
- 4.11 Impulse Sound. A Sound of short duration, usually less than one second, having either a single pressure peak or a single burst (multiple pressure peaks) and of high intensity with an abrupt onset and rapid decay, regardless of whether the Sound is repeated
- 4.12 Sound Level. Either
- 4.12.1 The weighted sound pressure level in decibels obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute (ANSI) specifications for sound level meters. If the frequency weighting employed is not indicated, the A-weighting shall apply; or
- 4.12.2 Plainly Audible Sound classified according to the nature of the Sound Source as set forth in Table A, attached.
- 4.13 A-weighted Sound Level. The sound pressure level in Decibels as measured on a sound level meter using the A-weighted network. The level so read is designated "dBA". All references to "decibel" shall be presumed to mean "dBA" unless otherwise specified.
- 4.14 Unlawful Sound. Any Sound that exceeds the Sound Level prescribed for a Receiving Property, at the Measurement Point, at a given hour, as set forth in Section 5 hereof, attached.

- 4.15 Sound Meter. An instrument for the measurement of sound, that conforms to ANSI S1.4-1983 or its successors.
- 4.16 Sound Source. The human voice, or any device or mechanism devised by man now or in the future, or any animal kept or cultivated by a Person, that produces Sound.
- 4.17 Sound-amplifying Equipment. Any device used to amplify or direct Sound.
- 4.18 Vehicle. Any vehicle as defined by the New York State Vehicle and Traffic Law, as it may be amended from time to time.
- 4.19 Vessel. Any floating craft as defined by the New York Navigation Law.

5. Unlawful Sound. The following Sound Levels are unlawful sound:

5.1 Sound in excess of the following Decibel Levels, Day and Night, by Receiving Land Category, measured at the Property Line of the Receiving Property:

Area	Residential	Commercial (OTMU)	Industrial	Parks or Conservation areas	Agricultural, Fairgrounds, Lakeshore and all others
Daytime Max	60	65	80	60	68
Nighttime Max	55	55	65	65	58

5.2 Any Impulse Sound in excess of 80 dBA.

- 5.3 Prima Facie Evidence of Unlawful Sound. The following shall be *prima facie* evidence of Unlawful Sound when above proscribed levels in Sec. 5.1 of this ordinance:
- 5.3.1 Any unnecessary Sound from any source between the hours of 9:00 p.m. and 7:00 a.m. the following day on Sunday through Thursday, and between 11:00 p.m. and 9 a.m. on Friday and Saturday.
- 5.3.2 The keeping of any animal which engages in habitual or continued barking, howling, or whining for longer than 10 minutes, so as to cause a person's rest to be broken, or sleep to be interrupted, or the reasonable use or enjoyment of home or property to be otherwise interfered with, disturbed or diminished, or that causes a person to be otherwise harassed, annoyed or disturbed.
- 5.3.3 Sound that is Plainly Audible at the Property Line of a property classified as Residential, [educational, religious, public use, park, library, medical facility, nursing home or assisted living facility, other categories?] regardless of the nature of the Sound Source or whether the Sound is amplified by Sound Amplifying Equipment.
- 5.3.4 Sound produced by a Vessel that is Plainly Audible at a point 50 feet inboard from the shoreline of Cayuga Lake.
- 5.3.5 Sound from a burglar or other alarm system of any building, motor vehicle or boat which continues with only minor interruptions for five minutes or more.

5.3.6 Sound from erections, including excavation, demolition, alteration or repair of any structure other than between 7:00 am and 9:00 pm except in case of an emergency public safety requirement.

5.3.7 Sound generated by the operation or repair of any machinery, motor vehicle, construction equipment or other equipment, pump, fan, air-conditioning apparatus or similar mechanical device, or engaging in any commercial or industrial activity in any manner so as to create unreasonable noise. In making such determination with respect to the matters governed by this subsection, additional factors to be considered shall include:

-the necessity of the work being done.

-the ability of the creator of the noise to minimize or reduce the amount of noise created or to otherwise minimize its adverse effects.

5.3.8 The sounding of any horn or signaling device of an automobile, motorcycle or other vehicle for any unnecessary or unreasonable period of time.

6 Exceptions. The following Sound Sources are not subject to this Chapter:

6.1 Aircraft regulated by the US Federal Aviation Administration, including unmanned aerial devices (drones) operated during Daylight Hours at an altitude in excess of 400 feet above mean ground level.

6.2 Signaling or warning devices used by law enforcement or emergency personnel to alert members of the public to their passage or to the existence of a condition, or to call members of a service such as volunteer fire fighters.

- 6.3 Sound generated in the course of alleviating an emergency condition affecting the provision of essential services, such as water, gas, electricity, telephone, cable, sewer or public transportation.
- 6.4 Sound generated during the course of agricultural operations defined as “sound agricultural practices” pursuant to Agriculture and Markets Law Article 25-AA, Section 308, as amended.
- 6.5 Sound generated in the course of necessary emergency repair to a structure, whether privately or publicly owned.
- 6.6 Sound generated by any activity necessary or incidental to the demolition, construction, or equipping of buildings, public or private highways, roads, parks, utility lanes or other property, or landscaping activities, conducted between the hours of 7:00 a.m. and 9:00 p.m., provided that any equipment used in such activity is equipped with functioning mufflers if powered by an internal combustion engine.
- 6.7 Sound customarily generated in the course of a funeral or burial service, including the discharge of firearms by members of any association of veterans of United States military service.
- 6.8 Sound generated during Daytime Hours by the operation of bells or chimes, in each case without use of Sound Amplifying Equipment, when part of a religious observation or service or in conjunction with the normal operations of any school licensed or chartered by the State of New York.

- 6.9 Sound generated by clock bells or chimes striking the hour, half and or quarter hour, in each case without electronic amplification.
- 6.10 Sound generated by any external fire alarm bell, or burglar alarm on a building exterior or vehicle, provided that the Sound is terminated not more than five minutes after activation of the alarm.
- 6.11 Sounds originating with any concert, carnival, fair, exhibition or equivalent activity authorized by permit for events of temporary duration issued by the Town pursuant to section 9 of this chapter.
- 6.12 Sounds generated in the course of sporting or other public entertainment events.
- 6.13 Sound generated in connection with any parade authorized under any provision of law.
- 6.14 Sound generated by garbage collection vehicles during Daylight Hours on any day of the week except Sundays.
- 6.15 Sound generated in the course of non-commercial public speaking and public assembly activities conducted in any public space.
- 6.16 Sound generated by gun clubs or firing ranges during Daylight Hours.
- 6.17 Sound generated from domestic power tools including lawn mowers, leaf blowers, snow removal equipment and agricultural equipment when operated with a functioning muffler between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, or between 8:00 a.m. and 9:00 p.m. on weekends and legal holidays, provided, however, that no Sound generated by such machinery shall exceed 75 dBA at or within the Real Property Line of any receiving residential property.

7 Unlawful Sound Prohibited. It shall be unlawful for any Person to produce, generate, maintain, or contribute or assist in the production, generation, or maintenance of Unlawful Sound, regardless of the Sound Source.

8 Enforcement and Penalties.

8.1 This chapter may be enforced by the Town Enforcement Officer or by any peace or police officer.

8.2 Any Person who observes or has knowledge of a violation of this chapter may file a complaint with any court or law enforcement agency having jurisdiction in the Town of Ulysses or with the Town Code Enforcement Officer.

8.3 Classification of violations, Jurisdiction.

8.3.1 Any violation of the provisions of this chapter is declared to be an offense, punishable as follows:

First offense: warning

Second offense: fine not exceeding \$500

Third and subsequent offenses: fine of not less than \$500 nor more than \$1,000.

8.4 Each day's continued violation shall constitute a separate, additional violation.

8.5 To the extent that this section is inconsistent with Town Law § 268(1), it is intended to supersede such section in accordance with Municipal Home Rule Law § 10(1)(ii)(d)(3) with respect to the maximum penalties which may be imposed upon a conviction of a violation of this section.

9 Permit System for Events of Temporary Duration.

- 9.1 When a Sound Source exists, is planned, installed, or intended to be installed or modified by any Person in a manner that would otherwise be prohibited by the provisions of this Chapter, such Person may make application for a Noise Permit to allow the production of what would otherwise be Unlawful Sound, for a limited time and upon conditions imposed by such permit.
- 9.2 Application for a Noise Permit shall be made to the Town Code Enforcement Officer on a form provided by the Town Clerk.
- 9.3 Any application for a Noise Permit shall be submitted to the Town Code Enforcement Officer not fewer than one week prior to the date and hour at which it is proposed that the noise permit should be effective.
- 9.4 Any application for a Noise Permit shall provide the following:
- 9.4.1 The reason for such usage, including a demonstration of why it is desirable or necessary for the public good that the Sound Source involved be permitted.
 - 9.4.2 Plans and specifications for the contemplated use.
 - 9.4.3 Methods to be used for noise abatement and control.
 - 9.4.4 The period of time during which the Noise Permit is to apply.
 - 9.4.5 The name and address and telephone number at which the applicant, or in the case of an application by other than a natural person, a responsible individual, can be reliably reached at any time.

9.4.6 Proof that notice of application for the Noise Permit has been furnished to any Person reasonably expected to be affected by Sound produced, including the content of such notice and the manner in which such notice has been given

9.4.7 Any comment or objection received by the Person applying for the Noise Permit.

9.4.8 A Noise Permit pursuant to this chapter may be issued as part of or in conjunction with a Special Events Permit issued by the Town pursuant to Chapter 142 of the Ulysses Town Code.

9.4.9 Any violation of an issued Noise Permit shall be treated as an offense under this Article, and shall be subject to the same penalties as set forth in Section 8 hereof.

Section 2. The Code of the Town of Ulysses is hereby amended to delete or amend the following provisions:

- a. Code Section 205-5, deleted in its entirety.
- b. Code Section 212-31(N), amended to delete the dependent clause reading “except during weekdays from 7:30 a.m. to 5:00 p.m. during the school calendar year.”
- c. Code Section 212-120 (B), deleted in its entirety.

Section 3. This local law shall take effect immediately upon its filing with the Secretary of State of the State of New York.

Schedule A

Source of Sound	dB
human breathing	10
whisper, rustling leaves	20
conversation at home	50
conversation in restaurant with background music	60
passenger car at 65 mph measured 25 feet from highway edge	65
garbage disposal, dishwasher, food blender, or diesel truck at 40 mph, measured from 50 feet	80-88
motorcycle at 25 feet	90
jet liner take-off at 25 meters	150