

LOCAL LAW NO. ____ OF 2022

TOWN BOARD
TOWN OF BEDFORD
PROPOSED LOCAL LAW TO
AMEND CHAPTER 83, ARTICLE I
OF THE CODE OF THE TOWN OF BEDFORD

A LOCAL LAW to amend Chapter 83, Article I, Sections 2, 3, 5, 6, 7 and 10 of the Code of the Town of Bedford concerning "Noise".

BE IT ENACTED by the Town Board of the Town of Bedford as follows:

Section 1. Chapter 83, Article I, entitled "Noise" is amended as follows (amended text is underlined and in red and deleted text is marked -----).:

§ 83-1. Short title.

This Article shall be known as the "Town of Bedford Noise Control Law."

§ 83-2. Statement of policy.

It is hereby declared to be the policy of the Town of Bedford to safeguard the right of its residents within the privacy of their homes and businesses to be free from intrusive unwanted sounds and to be free from unreasonable noise disturbances in general. Problems concerning disturbance of peace and quiet by noise from various activities are best solved by thoughtful discussions and cooperative agreements between affected parties. However, to resolve remaining problems of noise which is disturbing to others, it is the policy of the Town of Bedford to establish standards, enforcement procedures and penalties. It is the purpose of this chapter to provide for the health, safety, and general welfare of persons in the Town of Bedford by establishing criteria to safeguard residents while in their homes or on their property from intrusive unwanted sounds and unreasonable noise disturbances in general. This policy sets forth parameters whereby noise is considered reasonable depending on a variety of factors or exempted from use for the public good. Problems concerning disturbance of peace and quiet from various activities are best solved by thoughtful discussions and cooperative agreements between affected parties. However, to resolve remaining problems of noise which is disturbing to others, it is the policy of the Town of Bedford to establish standards, enforcement procedures and penalties.

§ 83-3. Definitions.

As used in this Article, the following terms and phrases shall mean:

CLEAN-UP SEASONS

In the year 2022: The period of time between April 1 – May 15 and October 1 - December 15. ~~when there is a great quantity of leaves and debris on the ground.~~

In the year 2023: The period of time between April 1-30 and October 15 – December 15.

In the year 2024 and beyond: The period of time between November 7-November 21 and April 15-30.

DECIBEL (dB)

A unit for measuring the volume of sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to a standard pressure of twenty (20) micronewtons per square meter.

EMERGENCY WORK

Any work or action necessary to deliver essential services, including but not limited to repairing water, gas, electricity, telephone or sewer facilities or public transportation facilities, removing fallen trees on public rights-of-way or abating life-threatening conditions.

Any work to clean up after major storms or other emergencies as determined by the Town Supervisor, or his or her designee. In such an event, snow blowers, chain saws, leaf blowers, and other domestic tools and equipment are exempt from the provisions of this chapter for the purpose of cleaning up for a period not to exceed seven (7) days from the end of the storm or other emergency, except for municipal operations and where the Town Supervisor, or his or her designee, approves additional time for cleanup in response to a major storm or other emergency.

HOLIDAYS

New Year's Day; Dr. Martin Luther King, Jr., Birthday; Lincoln's Birthday; Columbus Day; Election Day; Veterans' Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Yom Kippur; Thanksgiving Day; and Christmas.

INTERNAL COMBUSTION LEAF BLOWER

Any device powered by an internal combustion engine/motor which is used or designed to move leaves, grass clippings, dust, dirt, or other matter by blowing them with air emitted by such device.

LEAF BLOWER

Any device which is used or designed to move leaves, grass clippings, dust, dirt, or other matter by blowing them with air emitted by such device.

MOTORIZED EQUIPMENT

Any power equipment utilizing an electric or internal-combustion engine.

NOISE DISTURBANCE

A. That level of sound which, in each context described in Section 83-5 below, either:

- (1) Annoys or disturbs a reasonable person of normal auditory sensitivities; or
- (2) Is loud, disturbing, unusual, unreasonable and unnecessary as well as audible outside the structure or the real property boundary from which it originates.

B. The following criteria shall be considered in determining whether a particular noise constitutes a noise disturbance:

- (1) The volume of the noise;
- (2) The intensity of the noise;
- (3) Whether the nature of the noise is usual or unusual;
- (4) Whether the origin of the noise is natural or unnatural;
- (5) The volume and intensity of the background noise, if any;
- (6) The proximity of the noise to parks or other public places, hospitals, nursing homes, day-care centers or schools, and houses of worship;
- (7) The nature and the zoning district of the area within which the noise emanates;
- (8) The time of day or night the noise occurs;
- (9) The duration of the noise;
- (10) Whether the sound source is temporary;
- (11) Whether the noise is continuous or impulsive; and
- (12) The presence of discrete tones.
- (13) The determination by this Chapter that an activity constitutes a Noise Disturbance.

C. A noise disturbance, or other violation of this chapter, may be substantiated by any of the following:

- (1) Sworn affidavits from two or more unrelated persons who reside in different residences and who are in general agreement as to the times and durations of the noise; or

- (2) Direct observation by an officer or official tasked with enforcement of this chapter; or
- (3) A noise in excess of the maximum permissible sound levels, as measured by a sound level device, as set forth in Section 83-4(C) below.
- (4) A time-stamped geo-video/photo of any violation by any person, accompanied by a sworn affidavit confirming the validity of the video/photo.

REAL PROPERTY BOUNDARY

An imaginary line along the ground surface, and its vertical extension, which separates the real property owned or controlled by one person from that owned or controlled by another person, including intrabuilding real property divisions.

SOUND LEVEL

The quantity in decibels measured by a sound level meter satisfying the requirements of American National Standards Specification for Sound Level Meters S1.4-1971. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018. Sound level is the frequency-weighted sound pressure level obtained with the standardized dynamic characteristic fast or slow and weighting A, B or C; unless indicated otherwise, the A-weighting with a slow response is understood.

SOUND-LEVEL METER

An instrument for the measurement of sound levels which conforms to Type 1 or Type 2 standards under ANSI Specification S1.4-1971 or the latest approved revision thereof.

SOUND-REPRODUCTION DEVICE

Any electronic or electrical device that is used for the production of sound, including but not limited to any loudspeaker, radio, television, tape recorder, phonograph or any other sound-amplifying equipment.

WEEKDAY

Any day Monday through Friday, which is not a state or federal legal holiday.

ZONING DISTRICT

Any zone as defined in the Zoning Ordinance of the Town of Bedford.

§ 83-4. Measurement and maximum permitted sound levels.

- A. No person shall operate or permit to be operated in the Town of Bedford any sound source that produces a sound level exceeding the limitations in this Article.

- B. The measurement of any sound or noise shall be made with a sound-level meter using the A-weighted scale and slow response, except for sounds or noises which occur in single or multiple bursts with a duration of less than one (1) second, for which fast response shall be used. The sound level determination or measurement shall be conducted not nearer to the sound source than the closest property line of the parcel on which such noise is generated. When the determination or measurement is made for a dwelling unit of a multi-dwelling-unit building as the receiving property, all exterior doors and windows of the dwelling unit shall be closed and the determination or measurement shall be taken in the center of a room.
- C. Noises produced by any act or activities on properties on a weekday and Saturday within any residential zoning district shall not exceed sixty (60) dB(A) during the hours of 8:00 a.m. to 6:00 p.m. or forty-five (45) dB(A) during the hours of 6:00 p.m. to 8:00 a.m. and all day Sunday on any such property within any residential district.
- D. Noises produced by any act or activities on properties on a weekday and Saturday within any nonresidential zoning district shall not exceed sixty-five (65) dB(A) during the hours of 8:00 a.m. to 6:00 p.m. or 50 dB(A) during the hours of 6:00 p.m. to 8:00 a.m. and all day Sunday on any such property within a nonresidential zoning district.

§ 83-5. Prohibited Acts.

- A. Each of the following is declared to constitute a violation of this section and is prohibited at all times unless exempted herein or in section 83-7:
- A1. Electronic devices, ~~including but not limited to radios, phonographs and television sets. The using, operating or permitting to be played, used or operated of any~~ television or radio receiving set, musical instrument, phonograph or other machine or device for producing or reproducing of sound in such manner as to create a noise disturbance;
~~Notwithstanding anything herein to the contrary, the operation of any such~~
2. eElectronic devices, instrument, phonograph, machine or device producing or reproducing sound after 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday nights and after 12:30 a.m. on Saturday or Sunday mornings, in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, vehicle or area in which it is located, shall be considered a violation of this chapter;
~~The owner of the establishment or premises from which the sound is released and the person transmitting the sound are both separately liable for a violation of this chapter.~~

~~B3.~~ Horns and signaling devices or alarms, the sounding of which results in a harsh or loud sound or repetitive sounds for any unreasonable or unnecessary period of time, so as to create a noise disturbance. ~~The sounding of any horn, signaling device or alarm (except as a danger warning, pursuant to § 375 of the Vehicle and Traffic Law of the State of New York); which results in a harsh or loud sound or repetitive sounds for any unreasonable or unnecessary period of time, so as to create a noise disturbance.~~

~~C4.~~ Shouting and yelling. Shouting, yelling, singing, calling, hooting or whistling so as to create a noise disturbance;:-

~~D5.~~ Animals and birds. ~~The keeping of any one or more animals or birds~~ whose howling, barking, squawking or any other sounds by virtue of loudness, frequency, ~~or intensity, or for a continued duration,~~ causes a noise disturbance; ~~or the owning, possessing or harboring any animal or bird that frequently or for a continued duration makes or creates a noise disturbance~~ across a residential real property line as measured at the property line. A noise disturbance includes an animal or bird emitting a sound continually for a period of 5 minutes or intermittently for 15 minutes within any one hour period;:-

~~E6.~~ —Engines. ~~The~~ operation, including the stationary idling, of any engine, including, but not limited to, an automobile, truck, motorcycle, motorbike, motorboat, minibike engine, or all-terrain vehicle so as at to create a noise disturbance;:-

~~F7.~~ Motor vehicles operation shall constitute a noise disturbance and is a violation of this chapter under the following conditions:- ~~The following shall constitute a noise disturbance:-~~

- a) Operating or permitting the operation of any motor vehicle, or any auxiliary equipment attached to such a vehicle, for a period longer than five minutes in any sixty-minute period so out of repair or in such a condition as to create a noise disturbance.
- b) Operating a vehicle without a properly functioning muffler, ~~.-The operation of a vehicle which is~~ unmuffled or ifs the vehicle is equipped with straight pipes is a violation of this chapter.
- c) Operating a car radio or car stereo so that the sound is plainly audible at a distance of 25 or more feet from the vehicle. ~~shall be a violation of this chapter.~~
- d) The making of improper noise or disturbance or operating a motor vehicle in such a manner as to cause excessive squealing or other excessive noise of the tires.
- e) An exterior alarm of a motor vehicle ~~must not~~which audibly sounds s for more than

five minutes continuously or 10 minutes intermittently.

~~The registered owner of the vehicle, if present when the violation occurs, is in violation of this section. If the owner of the vehicle is not present, the violation will be served upon the person in charge or control of the vehicle, or anyone who assists in the production of the sound that is found to be in violation.~~

G. ~~Defect in vehicle or load. The use of any automobile, motorcycle or vehicle so out of repair, or loaded in such a manner so as to create loud, grating, grinding, rattling or other sounds so as to create a noise disturbance.~~

H. ~~Heavy equipment. The operation of any pile driver, pneumatic hammer, derrick, electric hoist, bulldozer, grinder or other appliance or other heavy equipment, the use of which creates a noise disturbance, except between the hours of 8:00 a.m. and 6:00 p.m., not including holidays, and except in cases of urgent necessity, not including emergency work or in the interest of public safety.~~

I. ~~Loading and unloading. The loading or unloading of any vehicle, boat, barge or train or the opening and destruction of bales, boxes, crates and containers or the loading or unloading of any materials, equipment or garbage cans so as to create a noise disturbance. Loading or unloading, opening, closing or other handling of boxes, crates, containers, bales, cans, drums, refuse or similar objects or the pumped loading or unloading of materials in liquid, gaseous, powder or pellet form, except between the hours of 8:00 a.m. and 6:00 p.m. (not including Sundays and holidays), when the sound therefrom can be heard across a residential real property line as measured at the property line shall also be considered a violation of this chapter.~~

J. ~~Construction or repairing of buildings. Any construction, excavation, demolition, alteration or repair which creates a noise disturbance, except as permitted pursuant to Section 83-7(A) below.~~

K8. ~~Schools, courts, religious institutions, hospitals.~~ The creation of any noise disturbance on any street adjacent to any school, institution of learning, religious institution or court while the same is 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 signs are displayed in such streets indicating that the same is a school, hospital or court street.

~~L. Transportation of metal rails, pillars and columns. The transportation of metal rails, pillars or columns of iron, steel or other material over and along streets and other public places upon carts, drays, cars, trucks or in any other manner so as to create a noise disturbance.~~

~~M. Domestic equipment. The operation of or permitting to be operated any power saw, drill, sander, router, lawn or garden device, snowblower, insect control device or domestic equipment (not including leaf blowers—refer to Town Code chapter 77 for specific restrictions and limitations with respect to the use of leaf blowers) so as to create a noise disturbance, and except in cases of emergency work or in the interest of public safety.~~

~~Q9. Commercial music.~~ Music originating from or in connection with the operation of any commercial facility, establishment or enterprise in such a manner so as to create a noise disturbance.

~~P10. Explosives, firearms and similar devices.~~ The use or firing of explosives, firearms or similar devices so as to create a noise disturbance, except as permitted by any other federal, state, county or local law.

~~Q11.~~ Any activity or action not set forth in this section that is determined to cause a noise disturbance and is not exempt from or permitted as otherwise set forth in this chapter.

B. Each of the following is declared to constitute a violation of this section and is prohibited at all times except during the hours of 8:00 a.m. to 6:00 p.m. not including holidays and as exempted by section 83-7:

1. Heavy equipment. The operation of any pile driver, pneumatic hammer, derrick, electric hoist, bulldozer, grinder or other appliance or other heavy equipment, the use of which creates a noise disturbance;

2. Construction activities. Any construction, building, excavation, demolition, alteration or repair, including the clearing and removal of trees or other site preparation work, which is audible outside of a building or structure and creates a noise disturbance; and

3. Domestic equipment. The operation of or permitting to be operated any power saw, drill, sander, router, lawn or garden device, snowblower, insect control device, electric leaf blower, or other domestic equipment (see section 83-5(D) for internal combustion leaf blowers) so as to create a noise disturbance

C. Each of the following is declared to constitute a violation of this section and is prohibited at all times except during the hours of 8am and 6pm not including holidays and Sundays and as exempted by section 83-7:

1. Loading and unloading. The loading or unloading of any vehicle, boat, barge or train or the opening, closing, or destruction of bales, boxes, crates, containers, bales, cans, drums, garbage cans, refuse, or similar objects, or the pumped loading or unloading of materials in liquid, gaseous, powder or pellet form so as to create a noise disturbance or when the sound therefrom can be heard across a residential real property line as measured at the property line.
2. Transportation of metal rails, pillars and columns. The transportation of metal rails, pillars or columns of iron, steel or other material over and along streets and other public places upon carts, drays, cars, trucks or in any other manner so as to create a noise disturbance.
3. Blasting is not permitted on Saturday, Sunday and holidays and is further regulated by Chapter 125, Article IVA of the Town Code.

D. The following activities shall create a sound disturbance at all times except during Clean Up Seasons on non-holiday weekdays during the hours of 8:00 a.m. – 5:00 p.m., Saturdays 10:00 a.m. – 4:00 p.m. and Sundays from 12:00 p.m. – 4:00 p.m. - until such time as the criteria in section 83-5(E) are met to exempt their use at all times, or as otherwise exempted under section 83-7:

1. Internal combustion leaf blowers. Operating, or permitting to be used or operated, any internal combustion leaf blower shall constitute a noise disturbance under this chapter.

§ 83-6. Specific limits Enforcement,; liability and responsibility of owner or lessee.

- A. It shall be unlawful for any person to create a noise disturbance or engage in any prohibited activities as set forth in Section 83-5, unless otherwise permitted in this chapter.
- B. It shall additionally be unlawful for the owner, lessee or person having possession and control of any property to permit a noise disturbance or such noise producing allow thereon any prohibited activities thereon as set forth in Section 83-5, unless otherwise permitted in this chapter. Except as set forth in this section below, for any violation of this chapter the owner of the establishment or premises from which the sound is released and the person transmitting the sound or in control of the animal or object making the sound may both separately liable for a violation of this chapter.

C. For violations of this chapter related to motor vehicles, the registered owner of the vehicle, if present when the violation occurs, is in violation of this section. If the owner of the vehicle is not present, the violation will be served upon the person in charge or in control of the vehicle, or anyone who assists in the production of the sound that is found to be in violation.

D. For violations of this chapter related to internal combustion leaf blowers, Section 83-5 (D), the owner of the leaf blower, the party who employed the person operating the leaf blower at the time of the violation, and the party who owns the property (or for a single-family residential property the person who legally occupies the property) may both be found separately liable for a violation of this chapter.

§ 83-7. Prohibited activities; e~~Exemptions to prohibited acts.~~

A. Any prohibited acts are exempt from the restrictions of this chapter when used to perform emergency work.

~~A.B.~~ The following shall be exempt from the provisions of this chapter:

~~A1.~~ Construction activities restricted by Section 83-5(B)(2). ~~Any building or construction activity, including the clearing and removal of trees or other site preparation work, which is audible outside of a building or structure is permitted with prohibitions as follows or as~~ may be permitted by a variance granted by the Zoning Board of Appeals in accordance with § 125-129 et seq.

2. Heavy equipment operation restricted by section 83-5(B)(1) above may be permitted in cases of urgent necessity or in the interest of public safety.

~~(1) — Activity is prohibited on holidays and between the hours of 6:00 p.m. to 8:00 a.m.~~

~~(2) — Blasting is not permitted on Saturday, Sunday and holidays and is further regulated by Chapter 125, Article IVA of the Town Code.~~

~~B3.~~ Uses of snow blowers, chain saws, leaf blowers ~~and other domestic tools used to perform~~ and equipment ~~are exempted from these limits when they are being used to clear driveways, streets or walkways during and within twenty four (24) hours after snowfalls, rain storms, ice storms, wind storms or similar~~ emergency work.

~~€4.~~ The production of music in connection with any military or civic parade, funeral procession or religious service.

- ~~D~~5. The use of any organ, bell, chimes or any other similar instrument or device by any church, synagogue or school on or within its own premises in connection with religious rites or ceremonies of such church or synagogue or in connection with a school education program.
- ~~E~~6. Sound-reproduction devices used in connection with weddings or similar events on any property, provided that sound levels in excess of those permitted in §§ 83-4 and 83-5A do not exceed sixty-five (65) dB(A) and cease by 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday nights and by 12:30 a.m. on Saturday or Sunday mornings.
- ~~F~~7. Sounds created by any governmental agency by the use of public warning devices.
- ~~G~~8. Sounds created by public utilities in carrying out the operations of their franchise.
- ~~H~~9. Sounds connected with sporting events of any public or private school, swim or tennis club or country club or with Town of Bedford sponsored or permitted special events or sports programs are exempt from the limitations of this Article.
- ~~I~~10. Sounds connected with activities and equipment taken, owned or operated by ~~of~~ the Town of Bedford.
- ~~J~~11. Sound from the bells or chimes of a church, synagogue or other house of worship.
- ~~K~~12. Sound used for the purposes of alerting a person of an emergency.
- ~~L~~. ~~Sound from the performance of emergency work.~~
- ~~M~~13. Sound from a municipally sponsored or approved celebration or event.
- ~~N~~14. National warning system (NAWAS); systems used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane.
- ~~O~~15. Sounds from municipal-sponsored projects or repairs as ordered by the Town Engineer or Commissioner of Public Works.
- ~~P~~16. Emergency generators which are used during a power failure or during normal scheduled testing hours.

17. Internal combustion leaf blowers used in the following situations:

- a. On eighteen-hole golf courses for the purpose of removing debris from aeration procedures and in response to weather events which result in a large quantity of debris on the fairway that inhibit play and the groundskeeper determines that electric equipment is insufficient to address the need in a reasonable time and manner.
- b. In Town operations for the clearing of catch basins, storm drains, and town property to maintain accessibility, usability, and public safety as needed when the Director of Parks and Recreation or the Commissioner of Public Works determines that electric equipment is insufficient to address the need in a reasonable time and manner.
- c. In agricultural operations for the purpose of removing debris around stables and barns when electric equipment is insufficient to address the need in a reasonable time and manner.
- d. In multifamily housing complexes to remove debris from stairways and walkways when electric equipment is insufficient to address the need in a reasonable time and manner.

B-C. Notwithstanding the foregoing, the exemptions to the requirements with respect to noise as set forth in this Section 83-7 shall not exceed the National Institute for Occupational Safety and Health recommended exposure levels for occupational noise exposure. Measurement of the alleged unsafe noise levels shall take place at the location of the person or persons making the complaint.

§ 83-8. Construal of provisions.

The provisions of this Article shall in no case remove, or render less restrictive, limitations on noise generation or other conditions imposed for specific properties by actions of the Town of Bedford Town Board, the Bedford Zoning Board of Appeals, or the Bedford Planning Board, by order of the Police Department of the Town of Bedford or as required under any other applicable laws or regulations.

§ 83-9. Enforcement official.

The provisions of this Article shall be enforced by the Police Department of the Town of Bedford, the Town Code Enforcement Officer, or other officials designated by the Town Board.

§ 83-10. Penalties for offenses.

- A. Any person violating any provision of this Article shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine not to exceed the sum of two hundred fifty dollars (\$250.00) for the first violation, five hundred and 00/100 dollars (\$500.00) for the second violation and one thousand and 00/100 dollars (\$1,000.00) for the third and any additional violations. ~~Each day shall constitute a separate offense, punishable by a like fine or penalty as herein set forth.~~
- B. Notwithstanding the penalties herein above provided, the Town of Bedford may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter.
- C. The foregoing provisions for enforcement of the regulations in this chapter are not exclusive, but are in addition to any and all laws applicable thereto.

§ 83-11. Severability.

If any clause, sentence, paragraph, section or part of this Article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Article, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the litigation in which such judgment shall have been rendered.

Section 2. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 83, Article I of the Code of the Town of Bedford is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 3. Numbering for Codification.

It is the intention of the Town of Bedford and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Bedford; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 4. Severability.

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect

or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 5. This local law shall be enacted upon filing with the Secretary of State.