

**CITY OF BEACON  
CITY COUNCIL**

**NOTICE OF PUBLIC HEARING**

**PLEASE TAKE NOTICE** that the City of Beacon will hold a public hearing on Tuesday, September 21<sup>st</sup>, 2009 at the City of Beacon Municipal Center, One Municipal Plaza, Beacon, New York at 7:00 p.m. or as soon thereafter as the matter is reached on the agenda, to Consider a Proposed Local Law to Amend §149, to Define and Abate Unsafe Noise in the City of Beacon.

This local law would take effect immediately upon filing with the Secretary of State. Complete copies of the proposed local laws are available at the Municipal Center for inspection during regular business hours.

All interested persons and citizens shall have an opportunity to be heard on said proposals at the date, time and place aforesaid.

Iola C. Taylor, City Clerk

Dated: September 10, 2009

CITY OF BEACON

CITY COUNCIL

LOCAL LAW OF 2009

**PROPOSED LOCAL LAW PROVIDING CITY CODE CHAPTER 149 TO  
DEFINE AND ABATE UNSAFE NOISE IN THE CITY OF BEACON**

BE IT ENACTED by the City Council of City of Beacon as follows:

**Section 1. Title.**

This Local Law shall be known and cited as the “City of Beacon Noise Control Law”.

**Section 2. Legislative Intent.**

The intent of this law is to supersede the present “Noise Control Law of the City of Beacon” by the enactment of the following provisions, definitions and standards for noise elimination or abatement in the City of Beacon.

**Section 3. Findings and Declarations.**

It is hereby found and declared that:

- A. The making, creation or maintenance of loud, unnatural or unusual noises, which are prolonged and unnatural in their time, place and use, affect and are a detriment to the public health, comfort, convenience, safety and welfare of the residents of the City of Beacon.
- B. The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared the provisions and prohibitions hereinafter contained and enacted are for the purpose of securing and promoting the public health, comfort, convenience, safety and welfare, and the peace and quiet of the City of Beacon and for its inhabitants.

**Section 4. Definitions.**

As used in this chapter, the following terms shall have the meanings as indicated:

**BOOMBOX** – Self contained, portable, hand-held music or sound amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this chapter.

**COMMERCIAL AREA** – A group of commercial facilities and the abutting public rights-of-way and public spaces.

**COMMERCIAL FACILITY** – Any premises, property or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- A. Banking or other financial institutions
- B. Dining establishments
- C. Establishments providing retail services
- D. Establishments providing wholesale services
- E. Establishments for recreation and entertainment, including serving alcohol
- F. Office buildings
- G. Transportation
- H. Warehouses
- I. Establishments providing commercial living accommodations and commercial property used for human habitation, when such is the source of the sound under investigation.

**COMMERCIAL SCHOOL** – An educational or training establishment operated for a business, including the instruction of language, dance, fine or applied arts, martial arts, business computers, trades, vocations or similar activity.

**CONSTRUCTION** – Any site preparation, assembly erection, repair, alteration or similar action, but excluding demolition of buildings or structures.

**DECIBEL** – The practical unit of measurement for sound pressure level. The number of “decibels” of a measured sound is equal to 20 times the logarithm to the base of 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated “dB”.

**DEMOLITION** – Any dismantling, intentional destruction or removal of buildings or structures.

**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.

**INDUSTRIAL FACILITY** – Any activity and its related premises, property, facilities or equipment involving the fabrication, manufacture or production of durable or nondurable goods.

**MOTORIZED EQUIPMENT** – Any power equipment utilizing an electric or internal combustion engine.

**MOTOR VEHICLE** – Any vehicle that is propelled or drawn on land by an engine or motor.

**MUFFLER** – A sound-dissipative device or system for abating the sounds of escaping gasses of an internal combustion engine.

**MULTI-DWELLING UNIT BUILDING** – Any building wherein there are two or more dwelling units.

**MULTIUSE PROPERTY** – Any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

- A. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
- B. A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent thereto.

**MUSIC AMPLIFIED CARS** – A personal or commercial vehicle with music amplification or reproduction equipment capable of emitting sound that is audible at distances exceeding the permissible limits established within this chapter.

**NOISE CONTROL OFFICER** – A City of Beacon police officer trained in the measurement of sound. Said officer is empowered to issue an order of abatement or appearance ticket for a violation of this chapter.

**NOISE DISTURBANCE** – Any sound that:

- A. Endangers the safety or health of any person
- B. Disturbs a reasonable person of normal sensitivities
- C. Endangers personal or real property
- D. Affects persons in the City of Beacon under A, B, or C and is from a sound source located outside the City of Beacon city limits

and exceeds the permissible levels of this local law.

**PERSON** – Any individual, corporation, company, association society, firm, partnership or joint-stock company.

**PUBLIC RIGHT-OF-WAY** – Any street, avenue, boulevard, road, highway, sidewalk, alley or parking lot used by members of the general public.

**PUBLIC SPACE** – Any real property or structures therein that are either owned, leased or controlled by a governmental entity or used by members of the general public. “Public space” includes but is not limited to parks, sports fields or lots.

**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.

**RESIDENTIAL AREA** – A group of residential properties and the abutting public rights-of-way and public spaces.

**RESIDENTIAL PROPERTY** – Property used for human habitation, including but not limited to:

- A. Private property used for human habitation
- B. Commercial living accommodations and commercial property used for human habitation
- C. Recreational and entertainment property used for human habitation
- D. Community service property used for human habitation
- E. Hospitals, long-term medical or residential care facilities.

**SCHOOL** – Any place of education or instruction, other than a commercial school, college, university, theological seminary, convent, monastery, day-care center, children’s day camp and religious retreat.

**SOUND LEVEL** – The sound pressure level measured in decibels with a sound level meter set for A-weighting; “sound level” is expressed in “dBA”.

**SOUND LEVEL METER** – An instrument used to measure sound level which conforms to Type 1 or Type 2 standards specified by ANSI Specifications S1.4-1971.

**WEEKDAY** – Any day that is not a legal holiday beginning on Monday at 7:00 a.m. and ending on the following Friday 6:00 p.m.

**WEEKEND** – Begins on Friday at 6:00 p.m. and ends on the following Monday at 7:00 a.m.

**Section 5. Noise disturbance prohibited.**

It shall be unlawful for any person to make, continue, cause or allow, orally or mechanically, any noise disturbance affecting persons in the City of Beacon.

**Section 6.****Enumeration of prohibited noise.**

The following acts are declared to be a violation of Section 5 when exceeding the sound limits in Table I of this Local Law. This enumeration shall not be deemed to be exclusive.

- A. **SOUND-REPRODUCTION SYSTEMS** – Operating, playing or permitting the operation or playing of any radio, phonograph, tape player, compact disc player, television, receiver or similar device that reproduces or amplifies sound, or sound produced orally, in such a manner as to create a noise disturbance as measured at the property line for any person other than the operator of the device. The owner of the establishment from which the sound is released and the person transmitting the sound are separately liable for a violation of this ordinance. Commercial facilities, such as dining, recreation or entertainment facilities, shall keep their doors and windows closed during hours of operation except as necessary for entrance or egress.
- B. **LOUDSPEAKERS AND PUBLIC-ADDRESS SYSTEMS:** Using or operating any loudspeaker, public-address system or similar device between the hours of 10:00 p.m. and 9:00 a.m. of the following day such that the sound therefrom creates a noise disturbance across a residential real property line as measured at the property line.
- C. **ANIMALS AND BIRDS:** 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 noise disturbance continually for 10 minutes or intermittently for 30 minutes.
- D. **LOADING AND UNLOADING:** Loading, 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 between the hours of 10:00 p.m. and 7:00 a.m. the following day when the sound therefrom creates a noise disturbance across a residential real property line as measured at the property line.
- E. **MOTOR VEHICLES:** 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 while the vehicle is stationary for reasons other than traffic congestion or emergency work on a public right-of-way or public space within 150 feet of a residential area, or operating or permitting the operation of any motor

vehicle so out of repair or in such a condition as to create a noise disturbance.

- (1) No motor vehicle may be operated without a properly functioning muffler on a public right-of-way.
- (2) The operation of a vehicle which is unmuffled or is equipped with straight pipes is a violation of this Local Law. It shall be unlawful to operate a car radio or car stereo so that the sound produced exceeds the sound level limits in Table I at a distance of 25 or more feet from the vehicle.
- (3) 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.
- (4) The horn or signaling device on any motor vehicle may not be operated, except when used as a danger or traffic warning signal, and such operation must terminate when the danger has passed.
- (5) It shall be unlawful for a motor vehicle to audibly sound a false alarm.
- (6) An exterior alarm of motor vehicle must not audibly sound for more than five minutes continuously or ten minutes intermittently.

F. CONSTRUCTION, REPAIR AND DEMOLITION: Operating or permitting the operation of any tool or equipment used in construction, repair, demolition or excavation between the hours of 7:00 p.m. and 7:00 a.m. on any day. Such operation does not constitute a violation if the tool or equipment is used in an emergency situation. This section shall not apply to the following activities so long as they are operating within the time and volume parameters set forth by this ordinance: road maintenance/improvement on pre-existing roads, on which daytime construction would prove disruptive on traffic flow. All motorized equipment used in construction and demolition activity shall be operated with a muffler.

G. POWER TOOLS: Used for landscaping and yard maintenance, excluding emergency work, shall not be operated within 200 feet of a residential property line between the hours of 7:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 7:00 p.m. and 9:00 a.m. on weekends or legal holidays, unless such activities can meet the limits set forth in Table I. All motorized equipment used in these activities shall be operated with a muffler. The limits set forth in Table I notwithstanding, the sound levels from these power tools may not exceed 70 dBA when measured at the property line of an affected person, for a duration exceeding at or within the property line of an affected person, for a duration exceeding 15 minutes continuously or 30 minutes intermittently in any single day, between the hours of 8:00 a.m. and 7:00 p.m. on weekdays, or between the hours of 8:00 a.m. and 9:00 p.m. on weekends or legal holidays.

- H. **SOUND DEVICES ON PUBLIC TRANSPORTATION:** Operating, playing or permitting the operation or playing of any radio, phonograph, tape player, compact disc player, cell phone, television receiver or similar device on or in any method of public transportation in such a manner that the sound from such device is audible to any other person.
- I. **MISCELLANEOUS SOUND PRODUCERS:** Creating or emitting a noise which constitutes a noise disturbance by any manner, including but not limited to a horn, siren, whistle, shout, bell, musical instrument, tool or engine.

**Section 7. Prima facie evidence of noise disturbance.**

The following shall be considered prima facie evidence of a noise disturbance:

- A. A sound-level reading taken at a dwelling within a multi-dwelling unit building, arising from any location within a multi-dwelling unit building, above 55 dBA during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.
- B. A sound-level reading taken at a dwelling within a multi-dwelling unit building, arising from any location within a multi-dwelling unit building, above 45 dBA during the time period commencing at 10:00 p.m. and ending at 7:00 a.m. the next day.
- C. A sound-level reading taken at a residential property line, arising from another residential property, above 70 dBA during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.
- D. A sound-level reading taken at a residential property line, arising from another residential property, above 50 dBA during the time period commencing at 10:00 p.m. and ending at 7:00 a.m. the next day.
- E. A sound-level reading taken at a residential property line, arising from a commercial property, an industrial property, a public space or a public right-of-way, above 70 dBA during the time period commencing at 7:00 a.m. and ending at 10:00 p.m.
- F. A sound-level reading taken at a residential property line, arising from a commercial property, an industrial property, a public space or a public right-of-way, above 50 dBA during the time period commencing 10:00 p.m. and ending at 7:00 a.m. the next day.
- G. A sound-level reading taken at a commercial property line at any time, arising from any property source, above 70 dBA.

- H. A sound-level reading taken at an industrial property line at any time, arising from any property source, above 70 dBA.

**Section 8. Exemptions.**

The following sounds are exempt from the restrictions of this chapter:

- A. Sounds from motorized equipment such as power tools, lawn mowers and garden equipment when operated between the hours of 9:00 a.m. and 8:00 p.m., provided that they produce less than 70 dBA at any property line of a residential property.
- B. Sound for the bells or chimes of a church, synagogue or other house of worship.
- C. Sound from a snow blower, snow thrower, electric snow shovel or snowplow used for the purpose of snow removal.
- D. Sound from an exterior burglar alarm of any building or motor vehicle, provided that such alarm shall terminate within fifteen (15) minutes after it has been activated.
- E. Sound used for the purposes of alerting a person of an emergency.
- F. Sound from the performance of emergency work.
- G. Sound from a municipally sponsored or approved celebration or event.
- H. National warning system (NAWAS); systems used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane.
- I. Sounds from municipal sponsored projects or repairs as ordered by the City Engineer or City Highway Superintendent.
- J. Emergency generators which may be used during a power failure.

**Section 9.**

**TABLE I  
Maximum Permissible Sound Level Limits**

	Residential 7:00 a.m. to 10:00 p.m.	Residential 10:00 p.m. to 7:00 a.m.	Commercial 24 hours	Industrial 24 hours
Outdoors (dBA)	70	50	70 *	70 *
Indoors (dBA)	55	45	55 *	65 *

\* does not pertain to levels identified in Section 7, E and F.

**Section 10.           Variances.**

- A. Any sound producer adversely affected by a provision of this chapter may apply to the Building Inspector for a variance from such provision.
  
- B. Applications for a variance shall set forth the following information:
  - (1) The name and address of the applicant
  - (2) The name and location of the noise source for which such application is made.
  - (3) The reason for which the variance is requested, including the hardship that will result to the applicant or the public if the variance is not granted.
  - (4) The nature and intensity of noise that will occur during the period of the variance.
  - (5) The section or sections of this chapter to which the variance shall apply.
  - (6) A description of interim noise control measures to be taken by the applicant to minimize noise and the impact occurring from the noise.
  - (7) A specific time schedule of noise control measures.
  - (8) A presentation of adequate proof that noise levels occurring during the period of the variance will not constitute a danger to public health.
  - (9) A presentation of adequate proof that compliance with this chapter would impose an arbitrary or unreasonable hardship upon the applicant without equal or greater benefit to the public.

- C. The applicant's failure to supply the foregoing information shall be cause for rejection of the application.

**Section 11. Fee and duration of variance.**

- A. The Building Inspector shall charge the applicant for the variance a fee of \$25.
- B. The duration of the variance shall not exceed one year and may be limited by the Building Inspector to any period of time up to one year.
- C. A copy of the variance shall be on file with the City of Beacon Building Department and available to the public.

**Section 12. Approval of variance.**

In granting the application for a variance, the Building Inspector shall consider:

- A. The character and degree of injury to or inference with the health and welfare of use of the property which is affected.
- B. The social and economic value of the activity for which the variance is sought.
- C. The ability of the applicant to apply the best practical noise control measures.

**Section 13. Revocation of variance.**

The variance may be revoked by the Building Inspector if:

- A. There is a violation of one or more conditions of the variance; or
- B. There is a material misrepresentation of fact in the variance application; or
- C. There is a material change in any of the circumstances relied upon by the Building Inspector in granting the variance.

**Section 14. Permit Required.**

No person shall operate, use or permit operation of any sound producing device on or in front of any public right-of-way or public space without a permit from the Police Chief of the City of Beacon Police Department. Such permit shall be issued in accordance with such rules and conditions as the Chief may prescribe.

**Section 15. Revocation of permit.**

A variance issued pursuant to Section 10 of this chapter may be revoked by the Police Chief of the City of Beacon Police Department for persistent violations of this Local Law or a single violation of this Local Law exceeding the permitted decibel level by 10 or greater dBA.

**Section 16. Abatement orders.**

A police officer of the City of Beacon may issue an order requiring abatement of any source of sound in violation of this chapter.

Such directed abatement must be made within a reasonable time period and in accordance with the conditions prescribed by the officer.

**Section 17. Issuance of appearance ticket.**

Violation of any provision of this chapter or of an abatement order shall be cause for an appearance ticket to be issued by a police officer of the City of Beacon.

**Section 18. Penalties for offenses.**

Any violation of any provision of this chapter or violation of a lawful abatement order shall constitute an offense. For a first offense, a fine of \$50 shall be imposed. For a second offense occurring within one year of the first offense, a fine of up to \$150 may be imposed for each such additional violation. For a third or further violation, imprisonment for up to 20 days may be imposed in addition to a fine of up to \$150.

**Section 19. Severability.**

It is the intent of the City Council that if any provision of this Chapter shall be declared invalid, all other provisions herein shall remain valid and enforceable.

**Section 20. Effective Date.**

This law shall take effect immediately upon its filing in the Office of the Secretary of State pursuant to the Municipal Home Rule Law.

The foregoing was put to a vote which resulted as follows:

Local Law: _____ of 2009		<input type="checkbox"/> AMENDMENTS			<input type="checkbox"/> 2/3 REQUIRED		
_____ , 2009		<input type="checkbox"/> NOT ON A ROLL CALL			<input type="checkbox"/> ON A ROLL CALL		
Motion	2 <sup>nd</sup>	Council Member	Yes	No	Abstain	Reason	Absent
		Leake, Deanna					
		Kelly, Charles					
		Thompson, Eleanor					
		Fredericks, Marlene					
		Casale, Randy					
		Pasti, Sara					
		Gold, Steve					

Dated: Beacon, New York  
 \_\_\_\_\_ , 2009

The Local Law is hereby duly declared adopted.

\_\_\_\_\_  
 \_\_\_\_\_, City Clerk