

LOCAL LAW FILING

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001

(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.

County
City
Town of South Bristol
Village

Local Law No. ____ of the year **2019**

A local law "Adopting a Noise Law"
(Insert Title)

Be it enacted by the **Town Board** (Name of Legislative Body)

County
City
Town of South Bristol as follows:
Village

1. The Code of the Town of South Bristol is hereby amended with the adoption of a new Chapter 113 to read as follows:

Chapter 113. Noise

§ 113-1. Authorization.

This chapter is adopted pursuant to the authority granted to the Town of South Bristol by New York Municipal Home Rule Law §10.

§ 113-2. Title; purpose.

This chapter shall be known as and may be cited as the Noise Law of the Town of South Bristol. The purpose of this Chapter is to regulate noise within the Town.

§ 113-3. Legislative finding.

The Town Board of the Town of South Bristol finds and hereby determines that excessive or otherwise unreasonable noise within the Town can negatively affect the protection, order, conduct, safety, health, welfare and well-being of the persons and property within the Town of South Bristol. Therefore, the Town Board of the Town of South Bristol hereby further finds and determines that noise shall be regulated within the Town.

§ 113-4. Definitions.

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

EXCESSIVE NOISE - Any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of a reasonable person of reasonable sensitivities or which causes injury to animal life or damage to a property or business. Standards to be considered in determining whether excessive noise exists in a given situation include, but are not limited to, the following:

- A. The volume or intensity of the noise;
- B. Whether the nature of the noise is unusual or rare;
- C. Whether the origin of the noise is created by man or is natural;
- D. The volume or intensity of the ambient or background noise;
- E. The proximity of the noise to sleeping facilities;
- F. The nature of the area and the zoning district where the noise emanates from and into;
- G. The time of the day or night the noise occurs;
- H. The duration of the noise;
- I. Whether the noise is continuous.

PROPERTY LINE - In addition to the boundaries of real property established by deeds, this also includes those boundaries created by rental or lease agreements.

§ 113-5. Excessive noise prohibited

Excessive noise is prohibited within the Town of South Bristol and shall be a violation of this chapter. For the purpose of this chapter, the Code Enforcement Officer or any law enforcement officer having jurisdiction within the Town to enforce this chapter, including the Ontario County Sheriff's Department, and NYS Police shall be considered a reasonable person of reasonable sensitivities.

§113-6. Specific acts deemed excessive noise.

Any noise which falls within the excessive noise definition herein shall be excessive noise and thus a violation of this chapter. Given the aforementioned, excessive noise includes, but is not limited to, the following:

- A. The following shall constitute Excessive Noise at all times:
- (1) The sound of a horn, except as an emergency signal or warning, including novelty horns, audible at 25 feet from the vehicle.
 - (2) The unnecessary creation of sound from a motor vehicle, including the squealing of tires, racing of engines, and playing of electronic equipment, including radios, audible at 25 feet from the vehicle.
 - (3) The operation of equipment, including motor vehicles, generators, engines, compressors, and HVAC units, that are in such disrepair as to create noise beyond the design specifications for the equipment, such that the sound is audible 25 feet or more beyond the property line of the premises upon which the sound is created. Disrepair includes the reduction in effectiveness of or elimination of any required muffling devices.
 - (4) Barking of a dog which violates Chapter 61 of the South Bristol Town Code.
 - (5) Any noise which is intentionally caused to annoy, disturb, harass, or injure any other person or business.
 - (6) The playing of any radio, television, musical instrument, or other machine or device for producing, reproducing, or amplification of sound, such that, the sound is audible at 25 feet or more beyond the property line of the premises upon which it is being used.
- B. The following shall constitute excessive noise from the hours of 10:00 p.m. until 7:00 a.m. Sunday through Thursday and 11:00 p.m. until 7:00 a.m. Friday and Saturday.

- (1) The deliberate creation or allowance of sounds that disturb the ambient quiet 25 feet or more beyond the property line of the premises upon which the sound is created.

§ 113-7. Exemptions.

The following shall not constitute excessive noise. Rather, the following is permitted by this chapter:

- A. Audible alarm and alerting devices designed to identify, alert the owner to and/or deter crime and emergencies, given that said alarm or device is working properly and is not malfunctioning and is in compliance with Chapter 58 of the South Bristol Town Code.
- B. Lawfully permitted fireworks displays.
- C. Ringing of bells or chimes in conjunction with normal church or religious activities.
- D. Sounds created by emergency vehicles, equipment and operations while lawfully operating.
- E. Sounds created by the normal operation of a properly functioning heating or cooling unit.
- F. Reasonable production of sound or noise in connection with any reasonable military, civic or authorized parade, funeral procession, religious ceremony, or wedding conducted at a reasonable time and with reasonable frequency.
- G. Reasonable use of properly maintained and operated lawnmowers, hedge trimmers, leaf blowers, snow blowers, recreational vehicles and other domestic power tools and devices utilized for the care and maintenance of one's property between the hours of 7:00 a.m. and 9:00p.m.
- H. A gathering permitted by Chapter 170 of the South Bristol Town Code as long as said gathering is operating within the permit granted by the Town.
- I. Lawful discharge of firearms.
- J. Agricultural activities as defined in Chapter 56 of the South Bristol Town Code.
- K. Snow removal and normal property maintenance conducted by either a governmental agency, private contractor, owner or owner's agent

§ 113-8. Enforcement; penalties for offenses.

- A. Enforcement. It shall be the duty of the Code Enforcement Officer, the Ontario County Sheriff's Department, NYS Police and any other law enforcement officer with the requisite jurisdiction to enforce this chapter.
- B. Violation. Any person, firm or corporation who or which fails to comply with or violates any of the provisions of this chapter shall be guilty of a violation and subject to the penalties of that violation or violations. Separate violations may be deemed committed during the same day if additional violations continue or occur after one is cited with a violation that same day.
- C. Penalties. For each violation, any person, firm, company or corporation who or which neglects or refuses to do any act required by this chapter shall be punishable as follows:
 - (1) For the first violation, a fine of up to \$250.
 - (2) For a second violation committed within three months from the commission of any prior offense, a fine of up to \$500.
- D. Civil enforcement. Appropriate actions and proceedings may be taken by law or in equity proceedings to prevent any violation of this chapter, to recover damages, to restrain and correct or abate a violation. These remedies shall be in addition to the penalties described above. Consequently, the Town may institute any appropriate action or proceeding to prevent and to restrain, correct or abate such violation or to prevent any illegal act, conduct, business or use in and about such premises.

Section 2. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 3. This local law shall take effect immediately upon 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 2019 of the **Town of South Bristol** was duly passed by the South Bristol Town Board on _____, 2019, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer¹.)

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 _____ and was deemed duly adopted on _____, 20__ in accordance with the applicable provisions of law.

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.

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.

¹ 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 2005 of the City of _____ 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 1, above.

Clerk of the Town

(Seal)

Date: _____