

Local Law Filing

(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 Village
(Select one.)

of Franklin

Local Law No. 2 of the year 2017

A local law To Control Unnecessary Noise in the Village of Franklin
(Insert Title)

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

County City Town Village
(Select one.)

of Franklin as follows:

Section 1: Legislative Intent

The purpose of this local law is to preserve the public health, peace, welfare, and good order by suppressing the making, creation or maintenance of excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place, and use and which are detrimental to the environment.

Section 2: Loud and unnecessary noise prohibited

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which endangers the health, safety or welfare of the community or which annoys, disturbs, injures or endangers the comfort, rest, health, peace or safety of others of normal and usual sensitivity within the Village of Franklin.

See Sections 3, 4, 5, 6, and 7 on an additional sheet.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Section 3: Enumeration of unlawful acts

The following acts, among others, are declared to be loud, unnecessary and disturbing and a danger to the health, safety and welfare of the community and its people in violation of Section 2, but the enumeration shall not be deemed to be exclusive:

- A. Using, operating or permitting to be played, used or operated any radio, television, hi-fi, stereo, phonograph, CD player or other machine or device for the producing or reproducing of sound in a manner as to disturb the peace, quiet and comfort of any persons of normal sensitivity in the vicinity. The operation of any of the devices set forth in this subsection in such a manner as to be plainly audible at a distance of **25** feet from the building, structure, device or vehicle in which it is located shall be prima facie evidence of a violation of this section. A person who causes the production of said sound through the operation of the machines or devices enumerated herein may be deemed a violator of this local law.
- B. Yelling, shouting, hooting, whistling or singing or the making of loud or disturbing noises by the use of clappers, bells, horns, musical instruments or similar devices at any time or place so as to unreasonably annoy or disturb the quiet, comfort or rest of any person of normal sensitivity in any residence, school, place of business, street or public place.

Section 4: Presumptions.

- A. Where the source of the prohibited noise is a portable noise-producing or noise-reproducing device, and where such device is present in or being transported through a public street, highway area or access area, or is present on any private property, the person or persons in possession of the device shall be presumed to have permitted the noise violation of this local law in the absence of evidence to the contrary.
- B. Where the source of the prohibited noise is located in a building or other structure, the owner, occupant, resident, manager or other person in possession of the premises shall, if present, be presumed to have permitted the noise in violation of this local law in the absence of evidence to the contrary.
- C. For the purposes of this statute, any law enforcement officer shall be deemed a person of normal sensitivity for determining the factors prohibited in this local law.

Section 5: Exceptions.

Nothing in this local law shall be construed to prevent the following:

- A. The production of music in connection with any military or civic parade, funeral procession or religious service or school activities or functions.
- B. Use of any organ, bell, chimes or any other similar 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.
- C. Sounds created by any governmental agency by the use of public warning devices, including but not limited to police and fire vehicles.
- D. Sounds connected with sporting events of any public or private school, burglar alarms or other warning devices when properly installed on publicly or privately owned property, provided that the cause for such alarm or warning device producing the sound is investigated and turned off within a reasonable period of time.
- E. Emergency construction work, upon permission of the Mayor, which is necessary for the protection of life or property.

Section 6: Penalties for offenses.

Any person alone or in concert with others, who shall violate any provision of this local law shall be guilty of a violation, and upon conviction thereof, shall be subject to a fine of not more than \$100 for the first offense, \$250 for the second offense, or to imprisonment not exceeding 15 days, or both.

Section 7. Enforcement.

This local law shall be enforced by the Delaware County Sheriff's Department and the New York State Police.

(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. 2 of 2017 of the (County)(City)(Town)(Village) of Village of Franklin was duly passed by the Board of Trustees on May 8 2017, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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____.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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 20____ of the City 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.

Eduyana Barstow
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 6/6/2017

(Seal)