

VILLAGE OF COLD SPRING

INTRODUCTORY LOCAL LAW NO. 01 OF 2023

A Local Law to replace in its entirety, Chapter 76 of the Code of the Village of Cold Spring Entitled “Noise”

BE IT ENACTED BY THE VILLAGE BOARD OF THE VILLAGE OF COLD SPRING AS FOLLOWS:

**SECTION 1. Title.**

This local law shall be known as the “Amendments to Chapter 76 (Noise)”.

**SECTION 2. Authority.**

This Local Law is enacted pursuant to the authority of Municipal Home Rule Law 10.

**SECTION 3. Purpose**

In short, the purpose of this Local Law is to improve the Village’s existing noise regulations by making them more accessible and simplifying the language, so it is easier for the residents to understand and the Village to enforce. This Local Law also updates the noise regulations so that it aligns with the Village’s new zoning regulations. After due consideration, the Village Board of Trustees is of the opinion that this Local Law is in the best interest of the health, safety, and welfare of the Village residents.

**SECTION 4. Amendments to Chapter 76**

**Chapter 76 shall be repealed in its entirety and replaced with a new Chapter 76 as follows:**

**Chapter 76: NOISE**

**§ 76-1. Definitions.**

**§ 76-2. Prohibited acts.**

**§ 76-3. Determination.**

**§ 76-4. Classification; measurement.**

**§ 76-5. Permissible Noise levels.**

**§ 76-6. Districts defined.**



sources and excluding the specific noise under investigation; the A-weighted sound pressure level exceeded ninety percent (90%) of the time (L90).

**CONSTRUCTION** - Any site preparation, assembly, erection, substantial repairs, alterations or similar action for or of public or private rights-of-way, structures, utilities or similar property.

**DAYTIME HOURS** - 7:00 a.m. until 9:00 p.m. on weekdays, 8:00 a.m. until 9:00 p.m. weekends and holidays, unless otherwise stated herein.

**DECIBEL** - A logarithmic unit of measure used in describing the relative intensity of sound denoted as dB(A).

**DEMOLITION** - Any dismantlings, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

**EMERGENCY VEHICLES** - Authorized publicly or privately owned ambulances or motor vehicles belonging to a fire or police department or to any federal, state, or municipal agency, provided that said vehicles are in use as emergency vehicles by one authorized to use said vehicles for that purpose.

**IMPULSIVE SOUND** - Sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

**MOTOR VEHICLE** - Any vehicle or other machine with two or more wheels that is propelled or drawn by mechanical power and is used to transport passengers or property or any combination thereof. Motor Vehicles do not include locomotives, cars or other vehicles operated exclusively on rail or rails.

**NIGHTTIME HOURS** - 9:00 p.m. until 7:00 a.m. weekdays, 9:00 p.m. until 8:00 a.m. weekends and holidays, unless otherwise stated herein.

**OFF-ROAD MOTOR VEHICLE** Off-road vehicle means any motorized vehicle (including the standard automobile) designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or natural terrain.

**OFF-ROAD USE** - Driving, riding or otherwise operating a Motor Vehicle on any public or private property other than streets, highways and other areas governed by the Motor Vehicle laws of the State of New York. Off-Road Use includes such use on land, water, sand, snow, ice, marsh or swampland.

**PERSON** - Any individual, association, partnership, corporation, joint venture or any entity, public or private in nature.

**PLAINLY AUDIBLE SOUND** - Any sound for which the information content of that sound is unambiguously communicated to the listener, such as but not limited to understandable spoken speech, comprehension of whether a voice is raised or normal, or

comprehensible musical rhythms.

**POWERED MODEL VEHICLE** - Any self-propelled airborne, waterborne or landborne model plane, model vessel or model vehicle which is not designed to carry persons, including but not limited to any model airplane, boat, car, drone or rocket.

**POWER EQUIPMENT** - Any machine, tool or similar device driven or operated by a motor.

**PUBLIC RIGHT-OF-WAY**- Any street, avenue, boulevard, highway, sidewalk, alley or similar place normally accessible to the public which is owned or controlled by a governmental entity.

**SOUND-AMPLIFYING EQUIPMENT** - Any equipment, machine or device used for the sound amplification of the human voice, music or any other sound.

**SOUND LEVEL**- In decibels, the A-weighted sound pressure level obtained by use of a sound-level meter as specified by the American National Standards Institute.

**SOUND-LEVEL METER** - An instrument for measuring sound, including a microphone, amplifier, output meter and weighting network that is sensitive to pressure fluctuations.

**UNREASONABLE NOISE** - Any sound which exceeds the maximum permissible Sound Levels by land use categories as given in § 76-5.

**VILLAGE** – The Village of Cold Spring

**§ 76-2. Prohibited acts:**

A. The making and creating, within the Village, of an excessive or unusually loud noise, or an Unreasonable Noise which, as heard without measurement, is considered to be objectionable because it is Impulsive, continuous, rhythmic, periodic or shrill, and causing public inconvenience, annoyance or alarm, or recklessly create a risk thereof; or, Unreasonable Noise that is heard and measured in the manner prescribed in § 76-4, is hereby declared to be unlawful; except when made under and in compliance with a permit issued pursuant to § 76-4.

B. It shall be unlawful for any Person to operate or to allow to be operated any source of sound or any type of Vehicle, including Powered Model Vehicles, machine, Motor, model airplane or device or carry on any other activity in such a manner as would be a violation of § 76-5 or other applicable sections contained herein.

**§ 76-3 Determination**

In proof of a violation of this Chapter, evidence of Unreasonable Noise heard and measured in the manner prescribed in § 76-4 which is less than that required for a conviction by use of test or measurement as set out in § 76-4 may be offered to prove a violation of this Chapter as heard without measurement. The time and location of the Unreasonable Noise as well as the above-mentioned characteristics of Unreasonable Noise shall be considered in reaching a decision under this Chapter.

**§ 76-4. Classification; measurement.**

A. For purposes of determining and classifying any Unreasonable Noise as excessive or unusually loud as declared to be unlawful and prohibited by this Chapter, the following test measurements and requirements may be applied; provided, however, that a violation of § 76-2 may occur without the following measurements being made.<sup>1</sup>

(1) Unreasonable Noise occurring within the jurisdiction of the Village shall be measured at a distance of at least twenty-five (25) feet from an Unreasonable Noise source located within the Public Right-Of-Way, and if the Unreasonable Noise source is located on private property or property other than the Public Right-Of-Way, at the property line of the property on which the Unreasonable Noise source is located.

(2) The Unreasonable Noise shall be measured on the A-Weighted scale on a Sound-Level Meter of standard design and quality and having characteristics established by the American National Standards Institute. Instrument response shall be fast for Motor Vehicle measurements and slow for all other measurements.

(3) For purposes of this Chapter, measurements with Sound-Level Meters shall be made when the wind velocity at the time and place of such measurement is not more than five (5) miles per hour, or twenty five (25) miles per hour with a wind screen.

B. In all Sound-Level measurements, consideration shall be given to the effect of the Ambient Noise Level created by the encompassing noise of the environment from all sources at the time and place of such Sound-Level measurement.

**§ 76-5. Permissible noise levels.**

A Unreasonable Noise measured or registered as provided above from any source other than as provided in § 76-11 at a level which is equal to or in excess of the dB(A) established for the time period and districts listed in this section is hereby declared to be excessive and unusually loud and is unlawful.

**WEEKDAYS**

<b>Zoning District</b>	<b>L [maximum] dB(A) 7:00 a.m. to next 9:00 p.m.</b>	<b>L [maximum] dB(A) 9:00 p.m. to next 7:00 a.m.</b>
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<sup>1</sup> Editor's Note: See also § 76-13, Exemptions.

R-O, R-N, R-L, MF, B-3, B-4, PMU	55	50
B-1, B-2	60	55
PR, C, ERC	40	35

**WEEKENDS & HOLIDAYS**

Zoning District	L [maximum] dB(A) 8:00 a.m. to next 9:00 p.m.	L [maximum] dB(A) 9:00 p.m. to next 8:00 a.m.
R-O, R-N, R-L, MF, B-3, B-4, PMU	55	50
B-1, B-2	60	55
PR, C, ERC	40	35

**§ 76-6. Districts defined.**

For purposes of this Chapter the aforementioned districts are as defined in § 134 Zoning.

**§ 76-7. Permissible increases.**

Between the hours of 7:00 a.m. to 9:00 p.m. on weekdays, and 8:00 a.m. to 9:00 p.m. on weekends and holidays , the noise levels permitted in § 76-3 may be increased by ten (10) dB(A) for a period not to exceed fifteen (15) minutes in any one (1) hour period.

**§ 76-8. Periodic or Impulsive Noises.**

Where Unreasonable Noise is periodic, Impulsive or shrill, the permitted Sound Level for such noises shall be five (5) dB(A) less than those listed in § 76-3.

**§ 76-9. Construction projects.**

Construction projects (including Demolition) shall be subject to the maximum permissible noise levels specified for business districts for the period within which Construction is to be completed pursuant to any applicable Construction permit issued by

proper authority, or if no time limitation is imposed, then for a reasonable period of time for completion of project.

**§ 76-10. Relief.**

A. Application for relief, for other than vehicular traffic, from the noise level designated in § 76-5 Permissible noise levels on the basis of undue hardship may be made to the Code Enforcement Officer. or his/her duly authorized representative. No relief will be granted from any prohibitions listed in § 76-11 Specific prohibitions. Any relief granted by the Code Enforcement Officer or his/her duly authorized representative hereunder shall be in a format determined by him/her and contain all conditions upon which said relief has been granted and shall specify a reasonable time for which the relief shall be effective. The Code Enforcement Officer or his/her duly authorized representative may grant the relief as applied for if he/she finds:

- (1) That additional time is necessary for the applicant to alter or modify their activity or operation to comply with this Chapter.
- (2) That the activity, operation or Unreasonable Noise source will be of temporary duration and cannot be done in a manner that would comply with §§ 76-5 through 76-9.
- (3) That no reasonable alternative is available to the applicant.

B. The Code Enforcement Officer may prescribe any conditions or requirements he/she deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

**§ 76-11. Specific prohibitions.**

In addition to the general prohibitions set out above, the following specific acts are declared to be in violation of this Chapter:

- A. Animals. It shall be unlawful to own or harbor any animal or bird which frequently or for continued duration howls, barks, meows, squawks or makes other sounds which creates a Unreasonable Noise disturbance prohibited by this Chapter.
- B. Horns, signaling devices. It shall be unlawful to sound any horn or signaling device on any street or public place in the Village for purposes other than Motor Vehicle, driver and/or pedestrian safety.
- C. Radios, televisions, musical instruments and similar devices.
  - (1) It shall be unlawful to operate or play any radio, television, audio tape or CD player, phonograph, musical instrument, loudspeaker, Sound-Amplifying Equipment or

similar device on a Public Right-Of-Way, in a public park or from a Motor Vehicle which produces or reproduces sound in a manner as to be Plainly Audible at a distance of seven and five-tenths (7.5) meters [twenty-five (25) feet].

(2) It shall be unlawful to operate or play any radio, television, audio tape or CD player, phonograph, musical instrument, digital audio player, loudspeaker or similar device between 9:00 p.m. and 10:00 a.m. in parks, playgrounds or recreation areas.

D. Businesses. Businesses operating in business districts or as a pre-existing legal nonconforming use within or adjacent to residential (R-O, R-N, R-L, MF) or PMU district shall comply with the provisions of § 76-5. Upon initial determination of a violation of § 76-5, a business will be given three (3) months to comply with the terms of the Chapter if insulation or other major structural modifications are necessary for compliance. Nothing in this section shall relieve the business owner or manager from the responsibility of taking other reasonable actions directed at reducing Unreasonable Noise levels upon determination of a violation.

E. Loudspeakers. It shall be unlawful to use or operate any loudspeaker, loudspeaker system or similar device that is Plainly Audible upon any street, alley, sidewalk, park or public property for the purpose of commercial advertising or attracting the attention of the public to any building, structure or Vehicle without relief issued in accordance with § 76-10.

F. Power Equipment.

(1) It shall be unlawful to operate or permit to be operated any Power Equipment in residential districts outdoors between the hours of 9:00 p.m. and 7:00 a.m. on weekdays, and on weekends and holidays between 9:00 p.m. and 8:00 a.m. Examples of Power Equipment includes, but is not limited to, lawn mowers, leaf blowers, backhoes, air nailers, chain saws, etc.

(2) During Daytime Hours (7:00 a.m. to 9:00 p.m. weekdays, 8:00 a.m. to 9:00 p.m. on weekends and holidays) Power Equipment rated five (5) horsepower or less shall not exceed a Sound Level of seventy-five (75) dB(A) at a distance of fifty (50) feet. Power Equipment rated more than five (5) horsepower shall not exceed a Sound Level of eighty-two (82) dB(A) at a distance of fifty (50) feet.

G. Machinery, fans and air conditioners.

It shall be unlawful to operate or permit the operation of any stationary machinery, air conditioners, air-handling equipment, fans or similar devices in such a manner as to exceed the permissible Unreasonable Noise level of § 76-5 when measured on receiving property.

H. Vehicle or motor boat repairs and testing.

It shall be unlawful for any Person within any district in the Village to repair, rebuild or test any Vehicle in such a manner that the noise exceeds the loud use levels established in § 76-5 when measured at the receiving property line.



I. Motor vehicles.

Motor Vehicle Sound Level limits and equipment shall be in compliance with provisions of any state law, including but not limited to §§ 386 and 375, Subdivisions 31 and 31-a, of the New York State Vehicle and Traffic Law.

**§ 76-12. Off-Road Motor Vehicles.**

A. Findings and purpose.

(1) The Village Board finds that the Off-Road Use of Motor Vehicles on public or private property within the limits of the Village may cause Unreasonable Noise, destroy landscaping and other real and personal property, harm ecosystems, raise objectionable dust and disrupt the comfort and privacy of the residents of the Village. Because such use may be intermittent, fleeting, moving or conducted by minors, other provisions of this Code, as well as other legal remedies, are inadequate to control the use and its adverse effects. The provisions of this section relating to the regulation of the Off-Road Use of Motor Vehicles are therefore necessary for the public welfare.

(2) The Village Board declares that the purpose of this section is to exercise the general police power in order to allow the enjoyment of public and private property, to protect privacy, to preserve property and personal values, to promote peace and quiet and to provide for proper recreational Off-Road Use of Motor Vehicles in the Village.

(3) This section shall not apply to the driving, riding and other operation of Motor Vehicles on streets, highways and other areas governed by the Motor Vehicle laws of the State of New York.

B. The Off-Road Use of a Motor Vehicle within six hundred sixty (660) feet of a residence or other occupied structure shall be unlawful, unless such use is conducted by the owner or a resident of said residence or structure or by a Person carrying written permission for such use from such owner or resident.

- 1) Where such Vehicle is ridden, driven or used upon Property by the owner, resident or tenant of such Property; and provided that such operation shall not be within six hundred sixty (660) feet of the neighboring residences or occupied structures unless permission has been granted by the neighboring residents or occupants.
- 2) Where such Vehicle is ridden, driven or used by a visitor when such visitor is accompanied by or has in his possession a copy of a written authorization from the owner or occupant of such Property, and provided that such operation shall not be within six hundred sixty (660) feet of the neighboring residences or occupied structures unless permission has been granted by the neighboring residents or occupants.
- 3) Where such use is permitted pursuant to Chapter 134 (Zoning) of the Village of Cold Spring.

### **§ 76-13. Exemptions.**

The following are exempt from the Sound Level limits of § 76-5:

- A. Noises resulting from any authorized Emergency Vehicles when responding to an emergency.
- B. Safety signals and alarm devices, storm warning sirens or horns and the authorized testing of such equipment. However, regarding burglar alarms, no Person shall operate or cause to be operated an audible burglar alarm unless such alarm is capable of and shall terminate operation within thirty (30) minutes after such alarm is first activated.
- C. Noises made during a parade or concert sponsored by the Village or for which relief has been granted by the Village.
- D. Any Noise resulting from activities of a temporary duration for which relief has been granted pursuant to this Chapter and which conforms to the conditions and limits stated thereon.
- E. Noises from nonamplified church bells and chimes.
- F. Interstate railway locomotives and cars.
- G. Installation and maintenance of public and private utilities.
- H. Sporting events.
- I. Emergency Construction as determined by the Code Enforcement Officer.
- J. Emergency Activities required by the Village.
- K. Events sponsored by the local school district in celebration of student or athlete achievements.

### **§ 76-14. Penalties for offenses.**

On the first offense of this chapter, the Code Enforcement Officer or a Cold Spring Police Officer will issue a verbal or written notice to remedy. No fine or summons will be issued if the cause of the violation is abated or corrected. For subsequent violations, any person who violates any provision of this chapter, upon conviction, shall be subject to a fine not to exceed \$500 for each offense. The Village may also seek injunctive relief to prevent the continued violation of this chapter.

### **§ 76-15. Enforcement**

The provisions of this chapter shall be enforced by the Cold Spring Police Department or the Code Enforcement Officer, or other officials designated by the Village Board of Trustees. The investigating police officer, Code Enforcement Officer or other designated official who is a witness to the noise which is in violation to this chapter is authorized to issue a summons.

**§ 76-16. Additional remedy.**

As an additional remedy, the operation or maintenance of any device, instrument, Vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable Persons of normal sensitivity or which endangers the comfort, repose, health or peace of residents in the area shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

**§ 76-17. Severability.**

It is the intention of the Village Board that each separate provision of this Chapter shall be deemed independent of all other provisions herein, and it is further the intention of the Village Board that if any provision of this Chapter be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

**§ 76-18 Other regulations**

The regulations contained herein do not supersede or preclude the enforcement of zoning regulations or any other regulations contained in this Code, which are applicable to any conduct regulated hereby.

**SECTION 5. Separability**

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Local Law, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

**SECTION 6. Repeal**

All other Resolutions, Ordinances or Local Laws of the Village of Cold Spring which conflict with the provisions of this Local Law are hereby superseded or repealed to the extent necessary to give this Local Law force and effect.

**SECTION 7. Effective Date**

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the New York State Municipal Home Rule Law.