

Resolution 53-2023

At a regular meeting of the Town Board of the Town of Milo, County of Yates, State of New York, held at the Town Hall, 137 Main Street, Penn Yan, New York, on August 21, 2023 at 7:00 P.M. there were

	PRESENT	ABSENT
Leslie Church, Supervisor	<u> X </u>	_____
James Harris, Councilperson	<u> X </u>	_____
Dale Hallings, Councilperson	<u> X </u>	_____
Arden Sorensen, Councilperson	<u> X </u>	_____
Gene Spanneut, Councilperson	<u> X </u>	_____

ALSO PRESENT: Patricia L. Christensen, Town Clerk,

At 7:00 p.m., on June 19, 2023 a Public Hearing was held before the Town Board to hear all persons wishing to comment on proposed Local Law Number 3 of 2023 "Noise Control Law of the Town of Milo" was presented by the Town Supervisor, Leslie Church. The Town Attorney, Richard M. Buck, Jr., had prepared the draft local law at the request of the Town. It was explained that this local law is necessary to prevent unreasonable noises as they are deemed to be detrimental to the health, welfare and quality of life to the people of the Town. The Town Supervisor asked if there were any questions and answered questions from those present. Noting that the public had been provided the opportunity to comment on the proposed local law, the Town Supervisor proceeded with the business of the regular Board meeting.

Later in the meeting Supervisor Church stated that the next order of business on the Board agenda was consideration of proposed Local Law Number 3 of 2023, for which the public hearing had been held. She asked if any Board members had any questions for her, the Code Enforcement Officer or the Town Attorney. Following discussion, the following resolution was offered by Councilmember Harris, who moved its adoption, and seconded by Councilmember

Spanneut, to wit:

WHEREAS, Introductory Local Law Number 3 of 2023 was duly introduced and considered at a regular meeting of the Town Board of the Town of Milo, held on May 15, 2023, and a resolution was adopted calling for a public hearing before the Town Board on June 19, 2023 at 7:00 p.m., to be held at the Milo Town Hall, and

WHEREAS, the legal notice calling for such Public Hearing was duly published and posted as required by law, and such public hearing has been duly held, and all persons desiring to be heard have been given an opportunity to speak and express their wishes to the members of the Town Board of the Town of Milo, and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the "Regulations" and collectively with the SEQR Act, "SEQRA"), the Agency must satisfy the requirements contained in SEQRA and the Regulations prior to making a final determination, and

WHEREAS, the Town has prepared a Short Form Environmental Assessment Form and determined that enacting the Noise Control Law of the Town of Milo will have no significant adverse environmental impacts and issues a negative declaration.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Milo adopts Local Law Number 3 of 2023, as submitted which is attached hereto and made part of this resolution.

Following discussion, the foregoing resolution was called to a vote which resulted as follows:

AYES: Church, Hallings, Harris, Sorensen, Spanneut

NOES: none

The Supervisor then declared the resolution to be adopted and directed the Clerk to proceed to contact the Town Attorney if necessary and to complete the publishing and posting as required by law.

STATE OF NEW YORK }
 }
 } SS.:
COUNTY OF YATES }

I, the undersigned, Patricia L. Christensen, Town Clerk of the Town of Milo, Yates County, New York, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the said Town Board including the resolution contained therein, held on August 21, 2023 with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting, and that, pursuant to Section 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media:

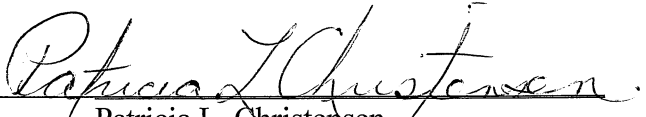
<u>Newspaper and/or other news media</u>	<u>Date given</u>
Chronicle Express	May 16, 2023

and that further notice of the time and place of such meeting was given to the public by posting such notice in the following places on the following dates, and by giving such notice as follows:

<u>Location of posted notice</u>	<u>Date given</u>
Town Clerk's Signboard	May 16, 2023

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town of Milo this date, August 23, 2023




Patricia L. Christensen
Town Clerk
Town of Milo

2023

CODE OF THE TOWN OF MILO

Chapter 249

Noise Control Law

FINAL

Reviewed by and approval date of such review:

- YC Sheriff – January 13, 2023 and March 27, 2023
- Zoning Committee – January 13, 2023
- Town Attorney – March 24, 2023
- Legislative Advisory Committee – N/A
- Town Board

Article I. General provisions.

§ 249-1. Title. This chapter shall be known as the “Noise Control Law of the Town of Milo.” Hereinafter referred to as “this chapter.”

§ 249-2. Purpose. The purpose of this chapter is to prevent unreasonable noises as they are deemed to be detrimental to the health, welfare and quality of life to the people of the Town. By this enactment, the Town Board intends to preserve, protect and promote the public health, safety and welfare and to foster peace within the Town. Furthermore, it is the intention of the Town Board that this chapter shall be liberally construed so as to effectuate the purposes described in this chapter.

§ 249-3. Applicability; exemptions. The provisions of this chapter shall apply to all land, structures and/or uses that are located within the Town, which are outside the Village of Penn Yan.

§ 249-4. Authority. This chapter is adopted under the grant of power as set forth in § 10 of Article 2 of the Municipal Home Rule Law of NYS as well as § 130 of Article 9 of the Town Law of NYS, as currently in effect and as hereafter amended from time to time.

Article II. Terminology.

§ 294-5. General.

- A. Scope. Unless otherwise expressly stated, the following abbreviations, acronyms and definitions shall, for the purpose of this Chapter, have the meanings shown in this Chapter.
- B. Interchangeability. Words used in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.
- C. Terms defined in other codes. Where the terms are not defined in this Chapter and are defined in local, state or federal law, such terms shall have the meanings ascribed to them as in such law.
- D. Terms not defined. Where terms are not defined by the methods authorized by this Chapter, such terms shall have the ordinarily accepted meanings such as the context applies.

§ 294-6. Abbreviations and acronyms.

ABBREVIATION / ACRONYM	TERM
AHJ	Authority Having Jurisdiction
HVAC	Heating, Ventilation and Air Conditioning

§ 249-7. General definitions. As used in this chapter, the following terms shall have the meanings indicated:

ACCUSATORY INSTRUMENT – Shall bear the same meaning as “accusatory instrument” that is defined in § 1.20 of Article 1 of the Criminal Procedure Law of NYS, as currently in effect and as hereafter amended from time to time.

AGRICULTURAL PRACTICES – Shall bear the same meaning as “agricultural practices” that is defined in § 186-2 of the Farming Law of the Town as well as “sound agricultural practices” that is defined in § 308 of Article 25-AA of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.

ANIMAL NOISE – Any noise emitted from a dog or other domesticated animal.

EMERGENCY – An urgent, sudden, and serious event or an unforeseen change in circumstances that necessitates immediate action to remedy harm or avert imminent danger to life, health, or property.

EMERGENCY WORK – Work or activity that is necessary to prevent or recover from an emergency.

FARM OPERATION – Shall bear the same meaning as “farm operation” that is defined in § 301 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.

HOURS OF REPOSE – That time period between the hours noted as follows:

- 10:00 p.m. Sunday through 7:00 a.m. Monday
- 10:00 p.m. Monday through 7:00 a.m. Tuesday
- 10:00 p.m. Tuesday through 7:00 a.m. Wednesday
- 10:00 p.m. Wednesday through 7:00 a.m. Thursday
- 10:00 p.m. Thursday through 7:00 a.m. Friday
- 11:00 p.m. Friday through 7:00 a.m. Saturday
- 11:00 p.m. Saturday through 7:00 a.m. Sunday

LANDS IN AGRICULTURAL PRODUCTION – Shall bear the same meaning as “lands in agricultural production” that is defined in § 301 of the Agriculture and Markets Law of NYS, as currently in effect and as hereafter amended from time to time.

LAW ENFORCEMENT OFFICER – A peace officer or police officer as defined herein.

PEACE OFFICER – Shall bear the same meaning as “peace officer” that is defined in § 1.20 of Article 1 of the Criminal Procedure Law of NYS, as currently in effect and as hereafter amended from time to time.

POLICE OFFICER – Shall bear the same meaning as “police officer” that is defined in § 1.20 of Article 1 of the Criminal Procedure Law of NYS, as currently in effect and as hereafter amended from time to time.

PERSON – A natural person, heirs, executors, administrators or assigns, and includes a firm or business entity, its or their successors or assigns, or the agent of any of the aforesaid.

TOWN – The Town of Milo, New York.

TOWN ATTORNEY – The Attorney of the Town or Town Attorney.

TOWN BOARD – The Town Board of the Town.

UNREASONABLE NOISE – Any excessive or unusually loud noise (verbal, electronic or other means), which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities, as determined by a law enforcement officer. During hours of repose, any noise audible on adjacent properties not necessary for protection or preservation of property or of the health, safety, life or limb of a person may be considered an unreasonable noise.

Article III. Prohibited acts.

§ 249-8. Prohibited acts.

- A. No person shall cause, suffer, allow or permit to be made an unreasonable noise during the hours of repose.
- B. No person shall fail to control animal noise that is substantially continuous and repetitive for a period in excess of fifteen (15) minutes, as it is unreasonable noise, whether within or without the hours of repose.

§ 249-9. Exemptions. The following sounds shall not be deemed to be in violation of this Chapter:

- A. Sounds created by any government agency or its agents, including but not limited to the use of an emergency warning device or authorized emergency vehicle.
- B. Sounds created by any emergency response agency or its agents, including but not limited to the use of an emergency warning device or authorized emergency vehicle.
- C. Sounds created by emergency work.

- D. Sounds created by emergency power generators and/or HVAC equipment.
- E. Sounds created by the lawful use of firearms for any of the following:
 - 1. Hunting.
 - 2. At a firing range or at a gun club that is compliant with § 150 of the General Business Law of NYS, as currently in effect and has hereafter amended from time to time.
 - 3. On lands that is compliant with § 11-0931 of the Environmental Conservation Law of NYS, as currently in effect and as hereafter amended from time to time.
- F. Sounds created by public utilities in carrying out the operations of their franchise.
- G. Sounds created by sporting events that are reasonable for such purposes.
- H. Sounds created by bells, chimes or other instrument, apparatus, or device from places of religious worship (e.g., churches), institutional occupancies (e.g., correctional centers, detention centers, hospitals, etc.) or educational occupancies (e.g., schools).
- I. Sounds created by agricultural practices at farm operations and/or lands in agricultural production.
- J. Sounds created by safety and protective devices (e.g., fire and security alarms) used for their intended purpose.
- K. Sounds created by snow removal equipment.
- L. Sounds created by an industrial occupancy from its assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations.
- M. Sounds created by the Penn Yan Flying Club, Penn Yan / Yates County airport and Seneca Flight Operations as well as its related operations.
- N. Sounds created by the Yates County Fair.
- O. Sounds created by the display of fireworks for which a fireworks display permit has been issued by an AHJ.
- P. Sounds which are authorized as exempt from this chapter by adoption of a resolution of the Town Board (e.g., public works project or a special event). A copy of this resolution shall be transmitted by the Town Clerk to the applicable law enforcement agency and/or Yates County Sheriff's 911 Communication Center.

Article IV. Administration and enforcement.

§ 249-10. Enforcement. Upon receipt of a complaint by any person(s) to a law enforcement officer and/or the Yates County Sheriff's 911 Communication Center, a law enforcement officer shall be dispatched to investigate any complaint regarding noise in violation of this chapter and may exercise all those lawful powers and duties deemed necessary to enforce the provisions of this chapter.

§ 249-11. Prosecution. Upon the filing of an accusatory instrument by a law enforcement officer in an applicable local criminal court alleging a violation of this chapter, said accusatory instrument shall be prosecuted by the Town Attorney unless said Attorney has a conflict of interest and then by the District Attorney.

ARTICLE V. Violations.

§ 249-12. Violations unlawful. It shall be unlawful for any person to make, continue, or cause to be made, or continued, any unreasonable noise that is in violation of this chapter, or fail in any manner to comply with any notice, directive or order of a law enforcement officer.

§ 249-13. Public nuisance. Any noise caused or permitted to exist in violation of this chapter shall be deemed a public nuisance and shall be abated as such by the person responsible for the violation.

§ 249-14. Criminal penalty. Any violation of any part of this chapter shall constitute a "violation" as defined in the Penal Law of NYS, and shall be punishable by a fine not to exceed two hundred fifty dollars (\$250), or fifteen (15) days' imprisonment, or both such fine and/or imprisonment. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

Article VI. Severability, Interpretation & Effective Date.

§ 249-15. Severability. If any clause, sentence, paragraph, section or a part of this local law shall be adjudged by a 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 a part thereof directly involved in a controversy in which such judgment shall have been rendered.

§ 249-16. Interpretation.

- A. General. This local law shall be interpreted in such a way wherever possible so that the meaning of the words and phrases and sections herein shall make them valid and legal in their effect. Whenever the requirements of this law are at variance with the

requirements of other lawfully adopted rules, regulations or laws, the law with the most restrictive provisions or those imposing the higher standards shall govern.

- B. Figures. Figures are provided for convenience and reference only and do not define or limit the scope of any provision of this chapter. In case of any difference of meaning or implication between the text of this chapter and any figure, the text shall govern.

§ 249-17. Other laws. The provisions of this chapter shall not nullify any provisions of local, state or federal law.

§ 249-18. Effective date. This local law shall be operative immediately and effective upon being filed with the NYS Secretary of State pursuant to § 27 of the Municipal Home Rule Law of the NYS, as currently in effect and as hereafter amended from time to time.

The Chronicle-Express
AFFIDAVIT OF PUBLICATION

Affidavit of Publication Under Section 206 of the Limited Liability Company Law

AFFIDAVIT OF PUBLICATION: #1126100

STATE OF NEW YORK
SS.
COUNTY OF YATES

I, Kathy Malm, as publisher/agent of

The Chronicle-Express

of Yates County, State of New York, state that this newspaper is a qualified newspaper, published and of general circulation in said county, was published in regular edition of said paper, and that the notice of which the annexed is a copy was published on the following date(s):

06/08/2023



Agent Signature

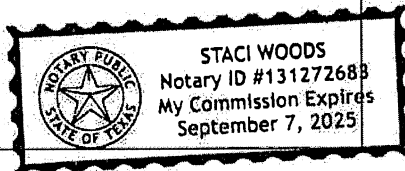
Subscribed and sworn to before me this

9th day of June, A.D. 2023



Notary Public

Advertising Fee: \$35.07



LEGAL NOTICE

TOWN OF MILO

NOTICE OF PUBLIC HEARING ON PROPOSED LOCAL LAW

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Town Board of the Town of Milo at the Town Hall, 137 Main Street, Penn Yan, New York, at 7:00 P.M. on the 19th day of June 2023, concerning proposed Local Law Number 3 of 2023, entitled the "Noise Control Law of the Town of Milo." The purpose of the proposed local law is to prevent unreasonable noises as they are deemed to be detrimental to the health, welfare and quality of life to the people of the Town. A copy of the proposed local law is available for inspection at the office of the Town Clerk.

At such time and place all persons interested in the subject matter of the proposed local law will be heard concerning the same.

Dated: Town of Milo, New York
May 16, 2023

Patricia L. Christensen
Milo Town Clerk

1126100