

LOCAL LAW NO. 3 FOR THE YEAR 1989 ENTITLED NOISE REGULATION

The Code of the Town of Busti is hereby amended to add "Article 37-100: Noise Regulation" as follows:

Section 37-101. Purpose

To promote the safety and general welfare of the public and to maintain the quality of neighborhoods by reducing continuous or frequent unreasonably loud noises associated with the operation of gas compressors, generators and equipment connected thereto. The conditions specified in this section are to be enforced for all gas compressors, generators, and equipment connected thereto not already subject to New York State Law and regulations.

Section 37-105. Administration

(a) Permit Requirements: A Special Use Permit shall be required for the placement of a gas compressor, generator and all equipment connected thereto.

(b) Preexisting Gas Equipment: All gas compressors, generators and equipment connected thereto in place or being placed on real property at the time of the enactment of this Section and for which a permit has not been issued by the building inspector of the Town of Busti shall be subject to the following conditions: Location, Noise levels, Certification of noise levels, Buffers, Identification Signs and Protective fencing. Notification to comply must be given within 10 days of enactment and compliance shall take place within 60 days after notification. A longer compliance period may be granted by the Permitting Officer after appropriate public hearing if the cost of the alterations are significantly high.

Section 37-110. Conditions

All gas compressors, generators and equipment connected thereto shall be located and designed such that the noises associated with the use shall be mitigated to the standards set forth herein. It shall be unlawful for any person or firm owning or operating gas compressors, generators and related motorized equipment to make, continue or cause to be made or continued any noise in excess of the standards specified herein. The following specific conditions shall be met:

(a) Location: The equipment and appropriate mechanical silencing apparatus shall be appropriately located with consideration given to predominant wind direction, topography, location of dwelling units and other relevant physical factors, including ambient noise levels and natural acoustical buffers. The equipment shall be located on land owned or leased by the operator of the equipment and placed no closer than 500 feet (as a safety factor only) from any dwelling unit which is present on the date the permit is granted and all proposed residential construction for which a zoning permit has been received and substantial work has been completed within one (1) year from the granting of the permit.

(b) Noise Levels:

(1) Decibel level (existing equipment) - The compressors, generators and equipment connected thereto shall be designed, operated and maintained by the owner or operator so that the sound level produced by the equipment does not exceed 40 decibels (A-weighted) (expressed as 40dBA) sound level at the exterior of any presently existing residence and all proposed residential construction for which a zoning permit has been received and substantial work has been completed within one (1) year from the granting of the permit.

(2) Decibel level (proposed equipment) - The compressor, generator and equipment connected thereto shall be designed, operated and maintained with good engineering practices and shall not emit noise at a level exceeding 40dBA at the distance from the compressor predicted by the inverse square law and atmospheric attenuation at standard conditions to yield 40dBA when the criteria ((52 plus 10 log HP) dBA at 50 feet on-axis to the heat-exchanger fans) is invoked.

(3) The compressor, generator and equipment connected thereto shall not be operated except for daytime testing until the owner or operator demonstrates that the compressor meets the performance standards expressed in Paragraphs b(1) and b(2) above. It is the responsibility of the owner or operator of the equipment to satisfy these standards.

(4) The same standards of performance described in Paragraphs b(1), b(2), and b(3) above shall be required for any continuously operating power source and meeting this requirement shall be the responsibility of the owner and/or operator of the source.

(c) Certification of Noise Level: Prior to being granted a permit for the placement of equipment, the owner operator of the equipment proposed to be placed shall be responsible for verifying that the equipment and quieting devices (silencer, low speed fan, building, buffers, etc.) as proposed will meet the specified db level requirements. An ambient noise study conducted by a qualified expert in acoustical engineering must be submitted in writing with the permit application for the ambient noise level of the location and at occupied dwelling units located in proximity thereto. Additionally, after placement of the equipment is completed along with specified quieting devices, the same noise consultant must verify that the decibel requirements are complied with.

(d) Buffers: Where it is deemed necessary, either a natural or man-made acoustical buffer may be required for the purpose of minimizing the nuisance associated with the equipment. In extreme cases, where no alternative is available, a fully enclosed and muffled structure may be required.

(e) Identification Sign: Each piece of equipment shall be identified with a sign conspicuously placed at the intersection of the access road and the public highway, identifying the equipment, its location, and the name of the person/company responsible for the unit, and a 24-hour emergency telephone number.

Section 37-115. Protective Fencing

All compressors, generators and related equipment not surrounded by a building constructed to bring the equipment in compliance with the decibel levels herein specified shall be surrounded by a protective fence of suitable construction as a safety factor.

Section 37-120. Partial invalidity

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

Section 37-125. Penalties

Failure to comply with any provision of this local law or the Uniform State Fire Prevention and Building Code shall be deemed a violation and the violator shall be liable for a fine of not less than \$250.00 or imprisonment not to exceed 15 days, or both, and each day such violation continues shall constitute a separate violation.

Section 37-130. Effect

This local law shall take effect upon filing with the Secretary of State.