

VILLAGE OF ALFRED, NEW YORK

INTRODUCTORY LOCAL LAW NO. 2 OF 2015

A LOCAL LAW GOVERNING NOISE CONTROL IN THE VILLAGE OF ALFRED

Title.

This chapter shall be known as the “Noise Control Law of the VILLAGE OF ALFRED”

§ 1. Policy.

It is hereby declared to be the policy of the VILLAGE OF ALFRED to prevent excessive, unnecessary or unusually loud noise. It is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of preserving, protecting and promoting the public health, comfort, convenience, safety, welfare and prosperity as well as the peace and quiet of the VILLAGE OF ALFRED and its inhabitants.

§ 2. Definitions.

Unless otherwise indicated by context, the following terms and phrases shall have the following meanings:

DEVICE—Any machine, mechanism or equipment which is intended to or which actually produces sound or vibration.

PERSON—Any individual, partnership, company, public or private corporation, association, firm, organization, political subdivision, governmental agency, administration or department, municipality, trust, estate, group of individuals or any other legal entity whatsoever.

SOUND REPRODUCTION DEVICE—Any device that is designed to be used or is actually used for the production or reproduction of sound, including but not limited to any musical instrument, radio, television, tape recorder, phonograph or any other sound amplifying device.

UNREASONABLE NOISE—Any raucous, excessive or unusually loud sound or any sound, whether by a group of people or an individual, which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a person or which causes injury to animal life or damage to property or business or which knowingly or recklessly causes public inconvenience, annoyance or alarm or otherwise relates to an assault on public sensibilities or otherwise publicly offensive. Standards to be considered in determining whether unreasonable noise exists in a given situation include, but are not limited to, the following:

- A. The intensity of the noise.
 - B. Whether the nature of the noise is usual or unusual.
 - C. Whether the origin of the noise is associated with nature or with manmade activity.
 - D. The intensity of the background noise, if any.
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- E. The proximity of the noise to sleeping facilities.
- F. The time of the day or night the noise occurs.
- G. The time duration of the noise.
- H. Whether the sound source is temporary.
- I. Whether the noise is continuous or impulsive.
- J. The volume of the noise.

§ 3. Procedural Rules.

The VILLAGE OF ALFRED BOARD (“Board”) shall have the authority to make, amend and rescind such procedural rules as may be necessary to carry out the provisions and intent of this chapter.

§ 4. Effect on Other Laws and Regulations.

Nothing in this chapter shall restrict any right which any person might have under any statute, including but not limited to the Environmental Conservation Law, Vehicle and Traffic Law, Labor Law and the Industrial Code, or the common law, to seek enforcement of any noise control requirement contained in such statutes or common law or to seek any other relief.

§ 5. Noise Prohibited During Certain Hours.

A. It shall be unlawful for any person to make, continue, aid, countenance, cause to be made or assist in making any unreasonably loud, disturbing and unnecessary noise between the hours of 10 p.m. and 7 a.m. Monday through Saturday and between the hours of 10 p.m. and 8 a.m. on any Sunday or holiday, except as otherwise hereinafter provided, within the limits of the VILLAGE OF ALFRED in such a manner as to disturb the peace, quiet and comfort of VILLAGE OF ALFRED residents or of any other reasonable person of normal sensitiveness, or which knowingly or recklessly causes public inconvenience, annoyance or alarm or otherwise relates to an assault on public sensibilities or otherwise publicly offensive whether residing in the VILLAGE OF ALFRED or not.

B. For the purposes of this ordinance, the Code Enforcement Officer, Code Ordinance Officer, or any police officer having jurisdiction within the VILLAGE OF ALFRED shall be considered a reasonable person of normal sensitiveness, whether residing in the area or not.

C. For the purposes of this section, it shall be presumed that the owner, tenant, person or persons in possession, control or occupancy of the particular premises are jointly or severally causing or permitting such sound.

§ 5. Noise Sensitive Zones: Schools, Courts, Churches, Hospitals, Nursing Homes, etc.

The creation of excessive noise on a street adjacent to a school, institution of learning, church or court while in use or adjacent to a hospital or nursing home, which unreasonably

interferes with the working of the institution or which disturbs or unduly annoys patients in the hospital or nursing home, is prohibited provided that conspicuous signs are displayed in such a street indicating that it is a school, hospital, church, nursing home or court street.

§ 6. Specific Acts Prohibited.

The following acts are prohibited and declared to be a violation of this section, said enumeration not to be deemed exclusive:

A. The keeping in any building or upon any premises of any animal, bird or fowl which produces and creates noises of a degree and kind or in such a manner as to disturb the peace, quiet and comfort of VILLAGE OF ALFRED residents or of any other reasonable person of normal sensitiveness, whether residing in the VILLAGE OF ALFRED or not. The playing of music or a sound reproduction device or the operation of any radio, television or stereo device in such a manner and with such volume as to disturb the peace, quiet and comfort of the VILLAGE OF ALFRED residents or of any reasonable person of normal sensitiveness or which knowingly or recklessly causes public inconvenience, annoyance or alarm or otherwise relates to an assault on public sensibilities or otherwise publicly offensive.

B. The playing of music by any band or orchestra or a sound reproduction device in such a manner as to disturb the sleep, comfort, repose, health or safety of VILLAGE OF ALFRED residents or of any other reasonable person of normal sensitiveness or which knowingly or recklessly causes public inconvenience, annoyance or alarm or otherwise relates to an assault on public sensibilities or otherwise publicly offensive.

C. The operation of a motor vehicle, motorcycle, or other motorized device in such a manner as to cause unnecessary noise (e.g., spinning or squealing the tires, loud muffler or exhaust system) of such vehicle so that it disturbs the peace, quiet and comfort of VILLAGE OF ALFRED residents or of any reasonable person of normal sensitiveness or which knowingly or recklessly causes public inconvenience, annoyance or alarm or otherwise relates to an assault on public sensibilities or otherwise publicly offensive.

D. The operating or permitting to be operated in a place of public entertainment, including but not limited to a restaurant, bar, café, discotheque or dance hall, a sound reproduction device in such a manner as to disturb the sleep, comfort, repose, health or safety of VILLAGE OF ALFRED residents or of any other reasonable person of normal sensitiveness or which knowingly or recklessly causes public inconvenience, annoyance or alarm or otherwise relates to an assault on public sensibilities or otherwise publicly offensive.

E. Unreasonably loud shouting or other outcry, clamor or loud, obnoxious behavior upon the public streets or sidewalks for the purpose of selling or otherwise creating a noise disturbance that would offend a reasonable person.

F. Any unreasonably loud noise from any source between those hours set forth in §5(a) above.

§ 7. Exceptions.

The provisions of this local law shall not apply to:

1. Activities of the VILLAGE OF ALFRED or Volunteer Fire Companies or other Emergency Response Personnel in the performance of their duties, drills or public demonstrations.
2. Activities in public parks, playgrounds or public buildings under permission or authority of the VILLAGE OF ALFRED.
3. Refuse collecting vehicles.
4. The use of snow blowers.
5. Electrical distribution transformers.
6. Noise due to emergency repairs, where the repairs are necessary due to actual or imminent physical or property damage which demands immediate action.
7. Noise typically associated with residential uses (e.g., air conditioners in good working order, swimming pool filter motors, etc.).
8. Noise from emergency generators used during power outages.

§ 8. Suspension of Provisions.

The Board is hereby authorized to suspend by resolution or permit any of the provisions of this chapter in connection with any holiday celebration or upon any occasion of special public interest, for such time and upon such conditions as shall be prescribed by the Board.

§ 9. Penalties for Offenses.

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not below **\$50.00** and not exceeding **\$500.00** or by imprisonment for a term not exceeding Fifteen (15) days, or by both such fine and imprisonment. The continuation of any offense against any provision of this chapter shall constitute a separate and distinct offense hereunder for each period of Two (2) hours in which the offense is continued.

G. In addition to the remedies set forth herein, the VILLAGE OF ALFRED Board may also seek restitution to the VILLAGE OF ALFRED for costs incurred by the VILLAGE OF ALFRED in identifying and remedying each violation, including but not limited to, reasonable attorney fees.

§ 10. Repeal of Local Law No. 5 of 2012

This local law repeals Local Law No. 5 of 2012 in its entirety.

§ 11. Severability.

The invalidity of any section, clause or sentence or provision of this local law shall not affect the validity of any other part of this local law, which can be given effect without such invalid part or parts.

§ 12. Effective Date.

This local law shall take effect immediately upon its filing with the office of the Secretary of State as required by section 27 of the Municipal Home Rule Law.

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