

CHAPTER 143: NOISE CONTROL ORDINANCE (DRAFT PROPOSAL revised 12/8/16)

§ 143-1. Short Title; Repealer.

This chapter shall be known and may be cited as the "Noise Control Law of the Village of New Paltz." The provisions of Chapter 68 of the Municipal Code, as enacted by Local Law No. 35 of the year 1978 and as amended by Local Law No. 6 of the year 1995, currently in effect, are hereby repealed.

§ 143-2. Declaration of Policy.

WHEREAS excessive noise is a hazard to the public health, welfare, safety, and quality of life to the residents of the Village of New Paltz and

WHEREAS residents have a right to an environment free from excessive noise

Now THEREFORE, it is the policy of the Village of New Paltz to prevent excessive noise that may jeopardize the health, welfare, or safety of residents or degrade the quality of life of residents.

This ordinance shall apply to the control of sound originating within the Village of New Paltz. Nothing herein shall be construed to abridge the emergency powers of any Village Department or the right of such Department to engage in any necessary or proper activities. Nothing herein shall abridge the powers and responsibilities of any police department or law enforcement agency to enforce the provisions of this chapter.

§ 143-3. Definitions.

As used in this chapter, the following terms shall have the following meanings unless the context clearly indicates otherwise.

ADULT PERSON- Any person who is 16 years of age or older

AMBIENT NOISE- The all-encompassing normal and customary noise associated with a given environment, being usually a composite of sounds from many sources near and far.

CONTINUING SOUND- A sound that is steady, regular, ongoing.

CONSTRUCTION- Any site preparation, excavation, assembly, erection, repair, alteration or similar action of buildings or structures.

DEMOLITION- Any dismantling, destruction or removal of buildings, structures or roadways.

EMERGENCY WORK – Any work or action necessary at the site(s) of an emergency to restore or deliver essential services including, but not limited to, repairing water, gas, electricity telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions or a state of emergency declared by a governing agency.

EXCESSIVE NOISE- Any sounds of such a level and/or duration as to be injurious to human health or welfare; or sounds that are unreasonably or unnecessarily loud in a given environment to the extent that the sounds either annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities or which cause injury to plant or animal life, or damage to property or business.

EXCESSIVE STREET NOISE – Unreasonable noise in the streets of the Village of New Paltz after 11 p.m. and before 7 a.m. is defined as disorderly conduct and a violation of NYS statute 240.20.

FALSE ALARM- Noise from a burglar alarm or other alarm system of any building or motor vehicle that is found to be a result of mechanical failure.

HOLIDAY- Those days recognized as holidays by New York State.

IMPULSIVE SOUND - A sound of short duration, usually less than one second, and of high intensity, with an abrupt onset and rapid decay.

MINOR VIOLATION- A violation that is not the result of the purposeful or reckless conduct of the alleged violator; and/or the activity or condition constituting the violation which has not been the subject of an enforcement action by any authorized local, county or state enforcement agency against the violator within the immediate preceding 12 months for the same or substantially similar violation.

MOTOR VEHICLE- Any vehicle that is propelled other than by human or animal power on land.

MUFFLER- A properly functioning sound dissipative device or system for abating the sound on engines or equipment where such a device is part of the normal configuration of the equipment.

MULTI-DWELLING UNIT BUILDING- Any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses and attached residences.

MULTI-USE PROPERTY- Any distinct parcel of land that is used for more than one category of activity, including, but not limited to a building which is both commercial and residential.

NOISE – A sound or noise which exceeds the ambient noise of a particular area to the extent that it is plainly audible and disturbs the peace, comfort, repose or concentration of a reasonable person of normal sensitivities.

OWNER- Person(s) or Principal of corporation or business in whose name a property is owned, leased or controlled.

PLAINLY AUDIBLE – Any excessive sound that can be detected by a Police Officer or Code Officer using his/her unaided hearing faculties of normal range. The officer need not be able to determine specific words.

PROPERTY LINE (REAL PROPERTY LINE) – (a) The vertical boundary that separates one parcel of property from another parcel of property; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property or building the vertical or horizontal line that divides the uses.

PUBLIC RIGHT-OF-WAY- Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased or controlled by a government entity

PUBLIC SPACE- Any real property or structures thereon that are owned, leased or controlled by a governmental entity.

REFUSE COMPACTING VEHICLE -- Any vehicle which is designated to be used or is actually used to compact and/or transfer refuse, garbage, recyclables or trash.

REPETITIVE SOUND- Recurring regularly and/or frequently for a period of ten minutes or longer

RESIDENTIAL DISTRICT -- Any zoning district in which one-family detached dwellings or one-family and multifamily dwellings are permitted principal uses. Should such law be amended or replaced and by so doing adds additional districts or differently denominated districts, "residential districts" shall mean those districts determined under such law or any successor statute wherein the predominant intended land use is residential.

SOUND PRODUCTION DEVICE - Any device whose primary function is the production of sound, including but not limited to, any musical instrument, loudspeaker, radio, television, computer, digital or analog music player, alarm, public address system or sound-amplifying equipment.

SOUND REDUCTION DEVICE- Any device provided by the manufacturer, or that is otherwise required, that mitigates the sound emission of equipment.

TENANT, CURRENT OCCUPANT- A person(s) at a residence other than the person listed as the owner of the premises.

VEHICLE -- Any carrier which is propelled or drawn on land or water by an engine or motor or other artificial or natural means of propulsion. Includes, but is not limited to, automobiles, trucks, buses, motorcycles, mini-bikes, and any other vehicle as defined by the Vehicle and Traffic Law of the State of New York

§ 143-4. Excessive noise prohibited.

The creation of any excessive noise is prohibited. Excessive noise shall be any continuing or unusually loud sound which is plainly audible and exceeds the ambient noise of a particular area to the extent that it either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities or which causes injury to plant or animal life, or damage to property or business.

A. No person, acting with intent to cause public inconvenience, annoyance or alarm, or acting with reckless disregard of the effects on others, shall cause, allow or permit the creation of excessive noise.

B. The following acts are declared to be prime facie evidence of a violation of this chapter. This enumeration is not to be deemed as exclusive.

1. Any excessive noise from any source between the hours of 11:00 p.m. and 7:00 a.m. the following day.

2. Noise from a dog or other privately owned animal that continues with only minor interruptions for 10 minutes or more.

3. Noise from a burglar system or other alarm system of any building or motor vehicle that continues with only minor interruptions for ten minutes or more and is found to be a false alarm.

4. Noise from any sound reproduction system operating or any device that reproduces or amplifies sound at a level as to be heard 50 feet beyond the property line from where the sound emanates.

5. All construction including excavation, demolition, alteration or repair of any structure other than between 7:00 a.m. and 9:00 p.m. except in case of an emergency public safety requirement.

6. The operation of a motor vehicle, motorcycle, lawn mower, tractor or other gasoline/diesel/electric engine that due to modifications or through normal wear and tear, emits a sound greater than that emitted as originally manufactured.

7. The operation of a refuse compacting and/or recycling vehicle in the process of compacting or collecting refuse contained in a dumpster or similar receptacle or individual garbage/recycling cans or power equipment, such as tractors, mowers, power saws and similar noise-producing equipment on weekdays between the hours of 8 p.m. and 7:00 a.m. the following day.

8. The sounding of any horn or signaling device of a motorized vehicle for any unnecessary or unreasonable period of time.

9. Operating a motorized vehicle in such a manner as to cause excessive motor roar or excessive squealing of tires.

10. Shouting or other outcry or clamor on public streets or sidewalks between 11 p.m. and 7 a.m. of the following day except to sound an emergency.

11. Excessive noise emanating from any bar, restaurant, single or multi-family residence, multi-dwelling unit building or multi-purpose use property as to be heard 50 feet beyond the property line from where the noise emanates.

143:5. EXCESSIVE MECHANICAL NOISE.

When an unattended mechanical device such as an engine or an alarm is emitting noise for a period of ten minutes or more the Town of New Paltz Police or other local, county or state enforcement agency will make a reasonable effort to find the person responsible for the device or a person who can silence the device.

EXEMPTIONS TO EXCESSIVE MECHANICAL NOISE.

The provisions of this chapter shall not apply to the following acts:

- A. The emission of sound for the purpose of alerting persons to the existence of an emergency.
- B. Noise from municipally sponsored celebrations, parades or events. This includes music in connection with a military or civic parade, funeral procession or religious service authorized by the Village.
- C. Noise of aircraft or flight operations.
- D. The operation or use of any organ, radio, bell, chimes, or the like by any church, synagogue, or school licensed or chartered by the State of New York, provided that such operation or use does not occur between the hours of 8:00 p.m. and 8:00 a.m.
- E. Sounds created by any government agency or its agents or by the use of an emergency warning device, alarm or authorized emergency vehicles or other emergency work and operations.
- F. Authorized sporting events.
- G. Sound production devices required or sanctioned under the American with Disabilities Act, FEMA or other government agencies.
- H. Sounds created by an audible alarm when actually giving notice of fire, unlawful entry or other damage to or intrusion upon property, for a period of 15 minutes after the alarm device is initially activated.

143:6. EXCESSIVE STREET NOISE OR ANIMAL NOISE

The Town of New Paltz Police or any other local, county or state enforcement agency is authorized to take any reasonably necessary action to abate excessive street noise and/or plainly audible animal noise in the Village of New Paltz.

143:7. PENALTIES FOR EXCESSIVE MECHANICAL NOISE, EXCESSIVE STREET NOISE OR ANIMAL NOISE(S)

If a violation is deemed by an enforcement officer to be a minor violation a notice of warning may be issued.

The first notice of violation is intended to serve as a notice of warning and to give the responsible adult/violator of the violation an opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation.

Any person who repeats to violate any provision of this chapter after receiving a notice of warning within a 12 month period shall be guilty of an offense, punishable by a fine to be set each year by the Village Board. [suggested fines to voted in each year: not less than \$250 nor more than \$300 for the first violation. A fine of not less than \$300 nor more than \$350 for a second violation within 12 months. A fine of not less than \$350 nor more than \$400 for a third violation and any subsequent violations within 12 months.]

The Village of New Paltz may also seek injunctive relief to prevent continued violation of this chapter.

143:8. EXCESSIVE NOISE OTHER THAN MECHANICAL OR STREET NOISE.

The Town of New Paltz Police or any other local, county or state enforcement agency is authorized to take any reasonably necessary action to abate excessive noise other than street or mechanical that is plainly audible noise in the Village of New Paltz.

143:9. PENALTIES.

If a violation of this Chapter is deemed by an enforcement officer to be a minor violation, a Notice of Warning may be issued to the named occupant(s) and/or Property Manager and/or owner of record of the premises for which the complaint is received by either the New Paltz Police Department (NPPD) or the Village Code Enforcement Officer.

("IN HIS OR HER DISCRETION, THE ENFORCEMENT OFFICER MAY ISSUE A NOTICE OF WARNING TO THE NAMED OCCUPANTS AND/OR PROPERTY MANAGER AND/OR OWNER OF RECORD OF THE PREMISES FOR WHICH THE COMPLAINT IS RECEIVED")

In accordance with Police Policy and Procedure, a complaint will be entered in the NPPD log and a Notice of Warning of violation will be presented in person or by logged and recorded telephone message to the occupant(s) and/or Property Manager and/or owner of record within five (5) business days of the complaint or as soon thereafter as possible. The Notice of Warning is intended to give the responsible party an opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation. Appearance tickets/summons shall be issued either by the NPPD or by the Village Code Enforcement Officer for any violations that occur following the service of the Notice of Warning.

Should a violation occur at the property within 12 months of the warning issued at the first complaint, the responsible parties and/or adult(s) at the location shall be issued an appearance ticket. The violation will be entered in the NPPD log and a notice of violation will be presented in

person by an officer or phoned to the owner of record of the property within 5 business days of the violation.

Should a second violation occur at the property within 12 months of the first violation, the responsible parties and/or adult(s) shall be issued an appearance ticket. The violation will be entered in the NPPD log and a notice of violation will be presented in person by an officer or phoned to the owner of record of the property within 5 business days of the violation

Should a third violation occur at the property within twelve months both the responsible parties and/or adult(s) and the owner of record of the property shall be issued a criminal summons by the Village Code Enforcement Officer at the direction of the NPPD.

Any person who repeats to violate any provision of this Chapter within 12 months after receiving a first notice of warning shall be guilty of an offense, punishable by a fine to be set each year by the Village Board. [of not less than \$250 nor more than \$300 for the first violation. A fine of not less than \$300 nor more than \$350 for the second violation. A fine of not less than \$350 nor more than \$400 for the third violation and subsequent violations within 12 months.]

Should there be a third violation or subsequent violations within 12 months both the violator(s) and owner of record of the property will be fined.

If an enforcement agency must return within 12 hours of the notice of warning of a violation an appearance ticket will be issued. The violation will be entered in the NPPD log. The owner will be phoned of the violation. If the owner is not reachable then the notice of violation will be presented in person by an officer or phoned within 5 business days.

If an officer must return a second time within 12 hours, an appearance ticket will be issued. The violation will be entered in the NPPD log. The owner will be phoned of the violation. If the owner is not reachable then the notice of violation will be presented in person by an officer or phoned within 5 business days.

A third violation within 12 hours will result in a criminal summons issued by the Village Code Enforcement Officer at the direction of the NPPD to both the responsible party and/or adult(s) and the owner of record of the property.

Any person who repeats to violate a notice of warning within 12 hours shall be guilty of an offense, punishable by a fine to be set each year by the Village Board.[of not less than \$250 nor more than \$300 for the first violation. A fine of not less than \$300 nor more than \$350 for a second violation within 12 hours. A fine of not less than \$350 nor more than \$400 for a third violation and subsequent violations within 12 hours]. For a third violation or subsequent violations within 12 hours both the violator(s) and owner of record of the property will be fined.

The village may also seek injunctive relief to prevent continued violation of this chapter.

143-8. Severability

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the

remainder of this chapter but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the litigation in which such judgment shall have been rendered.