

## Chapter 97

### NOISE

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[HISTORY: Adopted by the Village Board of the Village of Deposit 6-2-1981 by L.L. No. 1-1981 (Ch. 29 of the 1965 Code). Amendments noted where applicable.]

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#### § 97-1. Title.

This chapter shall be known as the "Noise Control Law of the Village of Deposit."

#### § 97-2. Policy.

It is hereby declared to be the policy of the Village of Deposit 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 and the peace and quiet of the Village of Deposit and its inhabitants.

#### § 97-3. 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.

**UNNECESSARY NOISE** — Any excessive or unusually loud sound or any sound 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. Standards to be considered in determining whether unnecessary 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 man-made activity.
- D. The intensity of the background noise, if any.
- E. The proximity of the noise to sleeping facilities.
- F. The nature and the zoning district of the area from which the noise emanates.
- G. The time of the day or night the noise occurs.
- H. The time duration of the noise.
- I. Whether the sound source is temporary.
- J. Whether the noise is continuous or impulsive.
- K. The volume of the noise.

**§ 97-4. Procedural rules.**

The Board of Trustees 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.

**§ 97-5. 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.

**§ 97-6. 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 10:00 p.m. and 7:00 a.m. during any weekday and between the hours of 10:00 p.m. and 9:00 a.m. on any Sunday or holiday, except as otherwise hereinafter provided, within the limits of the Village of Deposit in such a manner as to disturb the peace, quiet and comfort of village residents or of any other reasonable person of normal sensitiveness, whether residing in the village or not.

- B. For the purposes of this section, a member of the Police Department of the Village of Deposit 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 or in control and the occupants of the particular premises are, jointly or severally, permitting such sound.

**§ 97-7. Specific acts prohibited.**

- A. The following acts are prohibited and declared to be a violation of this section, said enumeration not to be deemed exclusive:
  - (1) 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 residents or of any other reasonable person of normal sensitiveness, whether residing in the village or not.
  - (2) The playing of music or a sound reproduction device or the operation of any radio, television receiver or phonograph in such a manner and with such volume between the hours of 10:00 p.m. and 7:00 a.m. as to disturb the peace, quiet and comfort of the village residents or of any reasonable person of normal sensitiveness, whether residing in the village or not.
  - (3) The playing of music by any band or orchestra or a sound reproduction device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to disturb the sleep, comfort, repose, health or safety of village residents or of any other reasonable person of normal sensitiveness, whether residing in the village or not.
  - (4) The operation of a motor vehicle in such a manner as to cause unnecessary noise by spinning or squealing the tires of such vehicle so that it disturbs the peace, quiet and comfort of village residents or of any reasonable person of normal sensitiveness, whether residing in the village or not.
  - (5) The operating or permitting to be operated in a place of public entertainment, including but not limited to a restaurant, bar, cafe, discotheque or dance hall, a sound reproduction device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to disturb the sleep, comfort, repose, health or safety of village residents or of any other reasonable person of normal sensitiveness, whether residing in the village or not.
- B. For the purposes of this § 97-7, a member of the Police Department of the Village of Deposit shall be considered a reasonable person of normal sensitiveness, whether residing in the village or not.
- C. For the purposes of this § 97-7, it shall be presumed that the owner, tenant, person or persons in possession or control and the occupants of the particular premises are, jointly or severally, permitting such sound.

**§ 97-8. Exceptions.**

Nothing contained in this chapter shall be construed to prevent the production of music in connection with any military, civic or authorized parade, funeral procession or religious ceremony, nor to prevent any musical performance conducted by the consent of the Board of Trustees.

**§ 97-9. Suspension of provisions.**

The Board of Trustees is hereby authorized to suspend by resolution 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 of Trustees.

**§ 97-10. 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 exceeding \$250 or by imprisonment for a term not exceeding 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 24 hours the offense is continued.