

A LOCAL LAW NO. 2 OF 2010 OF THE VILLAGE OF SALTAIRE AMENDING CHAPTER 36 IN ITS ENTIRETY OF THE VILLAGE CODE OF THE VILLAGE OF SALTAIRE REGARDING NOISE IN THE VILLAGE OF SALTAIRE”.

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE INCORPORATED VILLAGE OF SALTAIRE AS FOLLOWS:

Section 1.0 Title, Enactment, Effective Date, Purpose.

- 1.1 Title of Local Law
- 1.2 Enactment.
- 1.3 Effective Date.
- 1.4 Purpose and Intent of Local Law.
- 2.0 General Provisions
- 2.1 Amendments to Chapter 36 in its entirety
- 3.0 Severability and Validity

Section 1.0 Title, Enactment, Effective Date and Purpose.

1.1. Title

This Local Law shall be entitled, "Local Law No. 2 of 2010: Amendments to Chapter 36 in its entirety of the Saltaire Village Code Regarding Noise”.

1.2. Enactment.

Pursuant to Section 10 of the Home Rule Law, the Village Law and the Village

Code of the Incorporated Village of Saltaire, the Incorporated Village of Saltaire,

County of Suffolk and State of New York, hereby enacts by this Local Law No. 2

of 2010, a Local Law of the Incorporated Village of Saltaire.

1.3. Effective Date.

This Local Law shall take effect on the filing of the approved Local Law with the Secretary of State of New York, which shall be within twenty (20) days after its approval by the Board of Trustees of the Incorporated Village of Saltaire.

1.4. Purpose and Intent of Local Law.

The purpose of this Local Law is to promote and protect the health, safety and welfare of the residents of and visitors to the Village of Saltaire; to preserve, protect and enhance the environment and aesthetic assets of the Village of Saltaire, including the environmentally sensitive areas within the boundaries of the Village; and to safeguard the value of public and private property within the Village of

Saltaire by adopting this amendment to Chapter 36 of the Saltaire Village Code regarding Noise in its entirety.

2.0 General Provisions.

2.1 Amendments to Chapter 36 in its entirety.

Chapter 36 is hereby amended to read:

Chapter 36

NOISE

- § 36-1. Findings; construal of provisions.**
- § 36-2. Definitions.**
- § 36-3. Air Conditioning Equipment & Devices.**
- § 36-4. Prohibited acts.**
- § 36-5. Exceptions.**
- § 36-6. Enforcement.**

[HISTORY: Adopted by the Board of Trustees of the Village of Saltaire 7-20-1991 as L.L. No. 2, 1991; Amended in its entirety on 3-24-01 by L.L. No. 5, 2001, Amended in its entirety on 4-10-2010 by L.L. No. 2 of 2010]

GENERAL REFERENCES

Peace and good order -- See Ch. 38.

§ 36-1. Findings; construal of provisions.

- A. It is hereby found and declared that excessive and unnecessary noise within the Village of Saltaire affects and is a menace to the public health, safety, welfare and comfort of the inhabitants of the Village of Saltaire and that it is the policy of the Village of Saltaire to prevent unreasonably loud, disturbing and unnecessary noise which interferes with or infringes upon the peace and quiet of other persons. It is further found and declared that the use and operation of Air Conditioning Equipment and Devices, which generate noise exceeding the limitations provided for in this Chapter 36 is in violation of the foregoing policy of the Village of Saltaire. It is further found that installation and use of Air Conditioning Equipment and Devices have proliferated in the village generating unacceptable noise levels

outside the perimeters of the parcel of land on which the Air Conditioning Equipment or Device is used disturbing the peace and quiet of the neighboring inhabitants in violation of the policy expressed in the preceding sentences; and pursuant to the police power granted by law to the Village it is found and declared that limitations on noise emanating from Air Conditioning Equipment and Devices are necessary as provided in this amended Chapter 36. It is further declared that this chapter is enacted and has been amended to reduce the noise level within the village and to preserve, protect and promote the public health, safety, welfare, convenience and peace and quiet within the Village.

- B. It is intended that this Chapter shall be liberally construed to effectuate the purposes described in these findings but is not intended to be construed so as to discourage the enjoyment by village residents of reasonable outdoor sports and outdoor activities.

§ 36-2. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

- AIR CONDITIONING EQUIPMENT -- All equipment, including but not limited to fans, blowers, compressors and electronics, used in a device or appliance intended for the purpose of extracting heat from the air and controlling the humidity and temperature inside of a dwelling at a certain level typically below that of the outside ambient air, which shall be deemed to include but not limited to Central Air Conditioning Equipment and Through-the-Wall-or-Window Air Conditioning Equipment, as defined in the this Chapter.
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- CENTRAL AIR CONDITIONING EQUIPMENT – Air conditioning equipment that is installed on the ground, platform or deck outside or underneath of the building structure that controls the air inside of the structure through piping or duct work.
- COMMERCIAL SERVICE EQUIPMENT -- All engine- or motor-powered equipment intended for infrequent service work in inhabited areas, typically requiring commercial or skilled operators. “Commercial service equipment” shall be deemed to include but not be limited to chain saws, log chippers, power washers and air blowers.
- CONSTRUCTION DEVICE -- Any powered device or other equipment designed and intended for use in construction. “Construction devices” shall be deemed to include but not be limited to air compressors, bulldozers, power saws, planers, generators, and hammers.
- DEVICES - All machinery, fans, equipment or similar mechanically or electrically powered devices, including but not limited to those Devices used in the operation of pools and hot-tubs, not otherwise defined in this Chapter.

- EMERGENCY WORK -- The work or activity that is necessary to prevent or recover from an emergency, including but not limited to work to the repair of electric, gas, water and telephone services.
- HOMEOWNER'S LIGHT RESIDENTIAL EQUIPMENT -- All engine- or motor-powered garden or maintenance tools intended for repetitive use in residential areas, typically capable of being used by a homeowner. "Homeowner's light residential equipment" shall be deemed to include but not be limited to lawn mowers, garden tools (except air blowers, which by definition of this Chapter are deemed Commercial Service Equipment), power saws and power drills.
- THROUGH-THE-WALL-OR-WINDOW AIR CONDITIONING EQUIPMENT –Air Conditioning Equipment that is installed through a window or wall of a structure and is supported by the wall or window of the structure and which directly forces conditioned air through the opening in the wall or window.

§ 36-3. Air Conditioning Equipment and Devices

- A. The operation of previously installed Air Conditioning Equipment or Devices, or the installation and operation of Air Conditioning Equipment or any Device subsequent to the date of amendment of this Chapter 36 shall be unlawful on any property in Saltaire if said equipment exceeds the noise standards promulgated by this Chapter.
- B. Any Central Air Conditioning Equipment or Through-the-Wall-or-Window Air Conditioning Equipment with a manufacture's listing of greater than 8,500 BTUs or and Device now installed or hereafter intended to be installed on any residential parcel shall be caused to be sound attenuated so as to eliminate noise exceeding the standards promulgated in this Chapter. The sound attenuation barrier for Central Air Conditioning Equipment or Devices shall minimally consist of solid walls made of wood or substitute material approved by the Building Inspector of at least one inch in thickness on all four sides of the Central Air Conditioning Equipment or Device extending from the ground or deck upon which the Central Air Conditioning Equipment or Device is installed to an elevation of at least one foot but no more than two feet higher than the top of the Central Air Conditioning Equipment or Device.
- C. The installation of Central Air Conditioning Equipment or a Device and their associated sound attenuation structures shall be in compliance with the setback requirements of Chapter 55-10 of this Code.
- D. Every owner of a parcel on which Air Conditioning Equipment or a Device is installed has the continued obligation to comply with noise limitation standards and the sound attenuation requirements provided for in this Chapter. The issuance of a

building permit or other permission granted by the Building Inspector shall not be deemed to be a finding by the Building Inspector that sound attenuation measures taken by the applicant shall sufficiently attenuate sound in compliance with this Chapter or that the location of the sound attenuation walls or the placement of any other sound attenuation material will allow the necessary air circulation for the Air Conditioning Equipment or Device being attenuated. Every owner of a parcel on which Air Conditioning Equipment or a Device is installed shall be continuously obligated to assure that no noise in violation of this Chapter shall emanate from his, her or its Air Conditioning Equipment or Device and shall cease operation of the Air Conditioning Equipment or Device until such owner installs sound attenuation facilities sufficient to attenuate noise from the Air Conditioning Equipment or Device to satisfy the provisions of this Chapter. Each and every day that any operation of an Air Conditioning Equipment or a Device is in violation of the provisions of this Chapter shall constitute a separate violation of this Chapter.

§ 36-4. Prohibited acts.

- A. The following acts, among others, are declared to be loud, disturbing, injurious, unnecessary and unlawful noises, in violation of this Chapter, but this enumeration shall not be deemed to be exclusive, namely:
- (1) Continuous unnecessary and unreasonable yelling, shouting, hooting, whistling, singing or performing music on the public walks or from private property at any time, which noise is plainly audible and capable of disturbing the quiet, comfort or repose of a person or persons of normal sensitivities in the vicinity.
 - (2) The use or operation of or permitting to be played, used or operated any radio, receiving set, musical instrument, phonograph, television set or other machine or device for the production or reproduction of sound in such manner as to be capable of disturbing the peace, quiet and comfort of neighboring inhabitants and the use, operation or playing of any radio, phonograph or other electronic or mechanical audio device on any public walk or beach at any time, except through an earphone or other personal listening device audible only to the user.
 - (3) Sounding horns or other vehicular noises produced excessively or unnecessarily.
 - (4) The making of any other unnecessary noise that violates the standards of this Chapter including noise disturbing to other reasonable persons of normal sensitivities.

- (5) The keeping or harboring of a dog or other animals which makes frequent or prolonged sounds that create unusual or un-renewable noise capable of being heard beyond a residential real property boundary.
 - (6) (i) The operation of Air Conditioning Equipment or a Device that create unreasonable noise that is excessive or offensive and that is capable of being disturbing to a reasonable person or persons of normal sensitivities.
 - (ii) The following proofs are deemed to *be prima-facie* evidence of a violation of this Chapter, but this enumeration shall not be deemed exclusive.
 - (a) the sworn testimony of a neighboring inhabitant of having heard within the village disturbing noise from an Air Conditioning Equipment or a Device installed on another parcel.
 - (b) The sworn testimony of a Saltire Security officer or of any reasonable person of normal sensitivities, of having heard disturbing noise generated by Air Conditioning Equipment or Device outside of the perimeters of the parcel on which the complained of equipment is installed, shall *be prima-facie* evidence of a violation of this Chapter and that the owner of the parcel of land containing the Air Conditioning Equipment or Device complained of causes or permits the operation of the same to cause public inconvenience and annoyance, and is recklessly creating a risk thereof; by causing or permitting to be made excessive or offensive unreasonable noise which is capable of being disturbing to a reasonable person of normal sensitivity.
- B. No person or persons owning, leasing or controlling the operation of any sources of noise shall permit the establishment of a condition of unnecessary noise, as herein previously described.

§ 36-5. Exceptions.

The provisions of Section 36-4 shall apply to the use or occupancy of any lot or structure thereon and to noise produced thereby, except for the following:

- A. The intermittent or occasional use of Homeowner's Light Residential Equipment or Devices (i) between the hours 9:00 am. through 5:00 p.m. on weekdays and from 10:00 am through 4:00 p.m. on weekends and holidays and during the period from 5:00 p.m. on the Friday preceding Memorial Day through September 15 of each year, (ii) from 7:30 am. to 5:00 p.m. on weekdays and 10:00 a.m. through 5:00 p.m. on weekends and holidays during all other periods, or (iii) as may be permitted by

the Village Building Inspector as part of approved emergency work, provided that said Equipment or Device and its use comply with the other provisions hereof; and said Equipment or Device is being used in a normal manner.

- B. Construction activities, including the use of Commercial Service Equipment or Construction Devices provided that such activities comply with the provisions of Section 18-12 (A), (B) and (G) of this Code, and the associated use of Construction Devices or Commercial Service Equipment and the noise produced thereby, and provided that such activities and such Equipment and their use comply with the other provisions hereof.
- C. Noise from church bells or chimes used in conjunction with religious or education purposes.
- D. The emission of sound for the purpose of alerting persons to the existence of an emergency and the passage of vehicles for that purpose.
- E. Temporary uses or activities not inconsistent with the policies expressed in Section 36-1 of this chapter as may be granted by written permit issued by the Village Board or its delegate.
- F. Official public celebrations.

§ 36-6. Enforcement.

- A. In determining whether unnecessary noise violative of this Chapter exists in a given situation, one or more of the following factors, among others, may be considered:
 - (1) The intensity of the noise.
 - (2) Whether the nature of the noise is usual, unusual or whether the origin of the noise is associated with natural or man-made activity.
 - (3) Whether the noise is disturbing to a reasonable person of normal sensitivities.
 - (4) The proximity of the noise to sleeping quarters.
 - (5) The time of the day or night the noise occurs on neighboring residential property.
 - (6) The duration of the noise.
 - (7) Whether the sound source of the noise is temporary.

- (8) Whether the noise is continuous or impulsive.
 - (9) The presence of discrete tones.
 - (10) Whether alternative methods are available to achieve the objectives of the sound-producing activity.
- B. The Board of Trustees shall monitor compliance with this Chapter and, from time to time, adopt rules and regulations for the enforcement of the provisions of this Chapter.

3.0 Severability and Validity

3.1 In the event that any portion or section of this Local Law may be determined to be invalid, the remaining portions and sections of this Local Law shall remain in full force and effect.