

**VILLAGE PRESIDENT**  
Ray Danford

**VILLAGE CLERK**  
Jerry Menard

**VILLAGE TRUSTEES**  
Corby Valentine  
Steve Smith  
Tony Miller  
Rita Baker  
Seth Speiser  
Charlie Mattern

# VILLAGE OF FREEBURG

**FREEBURG MUNICIPAL CENTER**  
14 SOUTHGATE CENTER, FREEBURG, IL 62243  
PHONE: (618) 539-5545 • FAX: (618) 539-5590  
Web Site: www.freeburg.com

**VILLAGE ADMINISTRATOR**  
Dennis Herzing

**VILLAGE TREASURER**  
Bryan A. Vogel

**PUBLIC WORKS DIRECTOR**  
Ronald Dintelmann

**POLICE CHIEF**  
Melvin E. Woodruff, Jr.

**VILLAGE ATTORNEY**  
Stephen R. Wigginton

August 2, 2010

## NOTICE

### **MEETING OF LEGAL AND ORDINANCE COMMITTEES (Annexation; Building; Zoning; Subdivision) Speiser/Baker/Mattern**

A Legal and Ordinance Committee Meeting of the Village of Freeburg will be held at the Municipal Center, Executive Board Room, **Wednesday, August 4, 2010, at 4:30 p.m.**

### **LEGAL AND ORDINANCE COMMITTEE MEETING AGENDA**

I. Items to be Discussed:

- A. Old Business
  - 1. Approval of July 7, 2010 Minutes
  - 2. Status of Public Hazard Homes
  - 3. New class of business license
  - 4. Unionization
- B. New Business
  - 1. Resident request to provide estimated costs
- C. General Concerns
- D. Public Participation
- E. Adjourn

At said Legal and Ordinance Meeting, the Village Trustees may vote on whether or not to hold an Executive Session to discuss the selection of a person to fill a public office [5 ILCS, 120/2 - (c)(3)], litigation [5 ILCS, 120/2 - (c)(11)] personnel [5 ILCS, 120/2 - (c) (1) a.]; collective negotiating matters between the public body and its employees or their representatives [5 ILCS 120/2 (C)(2)]. or real estate transactions [5 ILCS, 120/2 - (c)(5)].



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Legal and Ordinance Committee Meeting  
(Annexation; Building; Zoning; Subdivision)  
(Speiser/Baker/Mattern)  
Wednesday, August 4, 2010 at 4:30 p.m.

VILLAGE ADMINISTRATOR  
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POLICE CHIEF  
Melvin E. Woodruff, Jr.

VILLAGE ATTORNEY  
Stephen R. Wigginton

The meeting of the Legal and Ordinance Committee was called to order at 4:30 p.m. by Chairman Seth Speiser on Wednesday, August 4, 2010, in the Freeburg Municipal Center. Members attending were Chairman Seth Speiser, Trustee Rita Baker, Trustee Charlie Mattern, Chief of Police Mel Woodruff, Village Administrator Dennis Herzing and Office Manager Julie Polson. Guest present: Janet Baechle.

## A. OLD BUSINESS:

1. Approval of July 7, 2010 Minutes: Trustee Rita Baker motioned to approve the July 7, 2010 minutes and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.

2. Status of Public Hazard Homes: A copy of the order entered in the St. Clair County Court on the Sheets' cases was included in the packet. The judge granted our request for additional attorney's fees and costs incurred since the last order. Dennis said Sheets can appeal these orders and has 30 days from the date of the court order to do so.

3. New class of business license: Dennis provided an ordinance revising the business license section of our code. He compared Maryville's code to ours and said it is almost the same. He said the first sentence under Section 110.02 (a) is not in our current code, "All businesses located in the village shall be required to register with the Village Clerk and to pay a non-refundable \$25 registration fee." The committee discussed this topic in length. Seth said he has received several complaints about the increased fee and Rita said she has not received any. Our business license renewals are effective May 1st and Rita asked that a copy of the ordinance be sent with the renewals. Dennis said our code currently states a new business license fee is prorated and further said that is not how it has been handled in the past. The committee agreed that they wanted the new license fees prorated on a quarterly basis. Upon approval of this ordinance, any new business applying for registration will be charged the \$25 fee.

*Trustee Rita Baker motioned to recommend to the full Board the Ordinance Amending the Revised Code of the Village of Freeburg, St. Clair County, Illinois, (General Business Regulations) for approval and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.*

4. Unionization: A copy of Attorney Wigginton's memo was previously placed in the trustee's mailboxes and Dennis said it will be discussed at the next board meeting on August 16, 2010.



The Plan Commission did not recommend approval of the ordinance requiring certain building materials in the B-1, B-2 and I-1 zoning districts. Dennis suggested we invite some of the Plan Commission members to the next Legal/Ordinance committee meeting so the material requirements can be discussed. Dennis thinks the Plan Commission members were concerned about how this requirement would affect areas of the Comprehensive Plan. He will contact the members.

**B. NEW BUSINESS:**

1. Resident request to provide estimated costs: Larry Mueller asked that the Village consider providing an estimate of costs during the home construction process. Seth said he can see Larry Mueller's point and said some other municipalities charge a set fee for utilities. Dennis said Jane explains the costs when someone comes in. Dennis said he would like to see a price range given out, i.e. anywhere from \$500 to \$2,000. Julie suggested a handout be given out at the time utility work is requested and also said if the resident wants a more detailed estimate, we can put a request in for John/Ron or one of the public works' employees go out and write one up.

Chief Woodruff was present at the meeting to discuss the proposed noise ordinance. Mel provided copies of our current code that addresses disturbing the peace and also a copy of the sample noise ordinance. Mel said our current code does not allow our police officers to issue a citation unless we have a citizen sign a complaint. Mel said the proposed ordinance does not have anything different in it from our code other than it gives the police officer the ability to issue a citation. He thinks the proposed ordinance is too specific but said if the committee decides to do this, he would like to see the language from the last page added. Specifically, Mel would like to see the language that gives the officer the power to write the citation and also when the act continues or repeated more than 1/2 hour after issuance of the notice. Mel said if the committee does adopt the changes, he would like to see a letter to the Fire Department board advising them of the change. He also said he would still talk to the offending party first before the party would be served with a citation. He would also like the attorney's opinion on this because it will be hard to win in court without a victim. Chairman Speiser asked that this item be left on the agenda.

**C. GENERAL CONCERNS:** None.

**D. PUBLIC PARTICIPATION:** Janet asked about charging a late fee for businesses that don't obtain their licenses in a timely manner and Dennis said our current code does not provide for that.

**E. ADJOURN:** *Trustee Rita Baker motioned to adjourn the meeting at 5:28 p.m. and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.*



Julie Polson  
Office Manager



VILLAGE PRESIDENT  
Ray Danford

VILLAGE CLERK  
Jerry Menard

VILLAGE TRUSTEES  
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Steve Smith  
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Seth Speiser  
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Web Site: [www.freeburg.com](http://www.freeburg.com)  
Legal and Ordinance Committee Meeting  
(Annexation; Building; Zoning; Subdivision)  
(Speiser/Baker/Mattern)  
Wednesday, July 7, 2010 at 4:30 p.m.

VILLAGE ADMINISTRATOR  
Dennis Herzing

VILLAGE TREASURER  
Bryan A. Vogel

PUBLIC WORKS DIRECTOR  
Ronald Dintelmann

POLICE CHIEF  
Melvin E. Woodruff, Jr.

VILLAGE ATTORNEY  
Stephen R. Wigginton

The meeting of the Legal and Ordinance Committee was called to order at 4:32 p.m. by Chairman Seth Speiser on Wednesday, July 2, 2010, in the Freeburg Municipal Center. Members attending were Chairman Seth Speiser, Trustee Rita Baker, Village Administrator Dennis Herzing and Office Manager Julie Polson. Guest present: Janet Baechle.

## A. OLD BUSINESS:

1. Approval of June 2, 2010 Minutes: Trustee Rita Baker motioned to approve the June 2, 2010 minutes and Trustee Seth Speiser seconded the motion. All voting aye, motion carried.

2. Status of Public Hazard Homes: Dennis said the Shetts' cases are still in appeal over the issue of the Village trying to recoup the attorney fees. Dennis is going to sit down with Phil to discuss the recently adopted Nuisance Abatement Code and see if we can address the property on West Phillips.

4. New class of business license: The committee decided not to pursue the new class of business license but are in agreement to raise the business license fee from \$10.00 to \$25.00 with a \$10 late fee. They asked Dennis to revise the business license code. He said he has examples from other municipalities and also commented it will be called a business registration in order to have all business in Freeburg obtain a license. He will put in ordinance form for the next committee meeting.

5. Unionization: Dennis does not have any updates at this time.

## B. NEW BUSINESS:

1. IL Dept. of Financial and Professional Regulations regarding roofing contractors: Dennis explained we have a statement on the building permit application which states when the applicant signs off, they will comply with the statute on having a licensed roofing contractor. Dennis said this takes us out of the enforcement of this issue. Item can be taken off the agenda.

C. **GENERAL CONCERNS:** None.

D. **PUBLIC PARTICIPATION:** Janet asked if the business registration will apply to every business and Dennis said yes.

E. **ADJOURN:** Trustee Rita Baker motioned to adjourn the meeting at 4:41 p.m. and Trustee Seth Speiser seconded the motion. All voting aye, the motion carried.

Julie Polson  
Office Manager



Legal and Ordinance Committee Meeting  
Wednesday, July 7, 2010  
Page 1 of 1





**WEILMUNSTER & WIGGINTON, P.C.**

ATTORNEYS AT LAW

wwlaw1.com

J. BRIAN MANION\*  
E-Mail: jbm@wwlaw1.com

\*Licensed in Illinois & Missouri

July 13, 2010

Mr. Dennis Herzing  
Village Administrator  
Village of Freeburg  
Freeburg Municipal Center  
14 Southgate Center  
Freeburg, IL 62243

RECEIVED

JUL 15 2010

**Re: Village of Freeburg v. C and S, Ltd., a Limited Partnership, Phil Sheets, et al.**  
**Case No: 07-MR-93 (409 West Washington, Freeburg, Illinois)**  
**Case No: 07-MR-94 (2 South Monroe, Freeburg, Illinois)**

Dear Dennis:

Enclosed please find copies of the Orders entered this date in the above matters. Judge Gleeson granted our request for additional attorney's fees and costs incurred since the entry of the last order. These Orders are final and appealable. Sheets will have thirty (30) days to file his Notice of Appeal. I will keep you advised of any additional information I receive in these matters.

Sincerely,

WEILMUNSTER & WIGGINTON

By:   
J. Brian Manion

JBM:kh  
Enclosures

IN THE CIRCUIT COURT  
TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

VILLAGE OF FREEBURG,  
A Municipal Corporation,

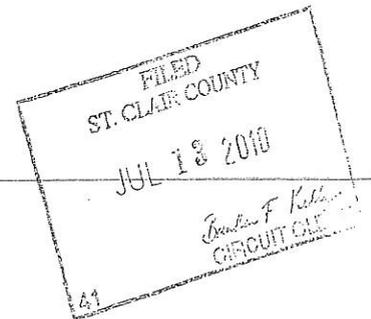
Plaintiff,

v.

C and S, Ltd., a Limited Partnership,  
PHIL SHEETS, and SHEETS  
ENTERPRISES, LTD., a Limited  
Partnership, Successor in Interest of  
C & S, Ltd., a Limited Partnership,

Defendants.

No. 07-MR-94



ORDER

This matter, coming before the Court on Plaintiff's Motion for Additional Attorney's Fees and Costs and to Voluntarily Dismiss on July 13, 2010, and the Court being fully advised of the premises and having jurisdiction of the subject matter;

THIS COURT FINDS AS FOLLOWS:

1. That Sheets Enterprises, Ltd. was the owner of certain property located at 2 South Monroe, Freeburg, St. Clair County, Illinois.
2. That on November 29, 2006, Sheets Enterprises, Ltd., through its general partner, Phil Sheets, was served with a fifteen (15) day Demolition Notice pursuant to 65 ILCS 5/11-31-1(a) by certified mail, return receipt requested and regular U.S. Mail.
3. That plaintiff filed its Petition for Demolition on April 2, 2007.

4. The pleadings reveal that this action has been vigorously defended. The parties have appeared before the Court numerous times on various motions, many of which were defendants' motions seeking to avoid enforcement of 65 ILCS 5/11-31-1(a).

5. That during the pendency of this matter, Sheets Enterprises, Ltd. voluntarily demolished the structure, which was the subject of the Petition for Demolition, shortly before this matter was scheduled for trial.

6. The remedial action with respect to the property was due, in whole or in part, to the efforts of plaintiff to enforce the provisions of 65 ILCS 5/11-31-1(a).

~~7. The Court in its Order entered on August 11, 2008, awarded the plaintiff attorney's fees and costs in the amount of \$8,047.15 incurred between January 19, 2007 and April 21, 2008, and found that all of said fees and costs were reasonable and necessary for the enforcement of 65 ILCS 5/11-31-1(a).~~

8. The Court finds that the plaintiff has incurred additional attorney's fees and costs totaling \$4,116.00 between June 5, 2008 and January 11, 2010, all of said fees and costs being reasonable and necessary for the enforcement of 65 ILCS 5/11-31-1(a).

IT IS THEREFORE ORDERED as follows:

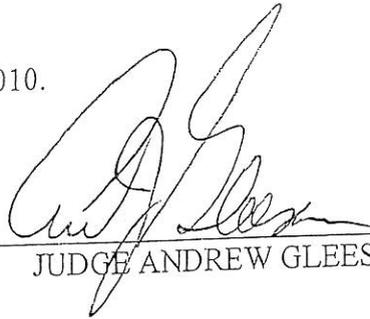
A. Plaintiff's Motion for Additional Attorney's Fees and Costs is Granted.

Plaintiff is awarded and Defendant, SHEETS ENTERPRISES, LTD., is ordered to pay Plaintiff's attorney's fees and costs in the amount of \$12,163.15.

B. Plaintiff's Motion to Voluntarily Dismiss its Petition for Demolition is granted and Plaintiff's Petition for Demolition is hereby dismissed with prejudice.

C. The Court shall retain jurisdiction for the purpose of foreclosing Plaintiff's  
lien.

ENTERED THIS 13<sup>th</sup> day of July, 2010.

A handwritten signature in black ink, appearing to read "Andrew Gleeson", is written over a horizontal line.

JUDGE ANDREW GLEESON

IN THE CIRCUIT COURT  
TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

VILLAGE OF FREEBURG,  
A Municipal Corporation,

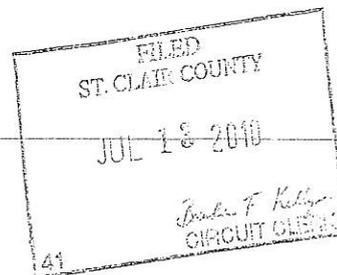
Plaintiff,

v.

C and S, Ltd., a Limited Partnership,  
PHIL SHEETS, and SHEETS  
ENTERPRISES, LTD., a Limited  
Partnership, Successor in Interest of  
C & S, Ltd., a Limited Partnership,

Defendants.

No. 07-MR-93



ORDER

This matter, coming before the Court on Plaintiff's Motion for Additional Attorney's Fees and Costs and to Voluntarily Dismiss on July 13, 2010, and the Court being fully advised of the premises and having jurisdiction of the subject matter;

THIS COURT FINDS AS FOLLOWS:

1. That Sheets Enterprises, Ltd. was the owner of certain property located at 409 West Washington, Freeburg, St. Clair County, Illinois.
2. That on November 29, 2006, Sheets Enterprises, Ltd., through its general partner, Phil Sheets, was served with a fifteen (15) day Demolition Notice pursuant to 65 ILCS 5/11-31-1(a) by certified mail, return receipt requested and regular U.S. Mail.
3. That plaintiff filed its Petition for Demolition on April 2, 2007.

4. The pleadings reveal that this action has been vigorously defended. The parties have appeared before the Court numerous times on various motions, many of which were defendants' motions seeking to avoid enforcement of 65 ILCS 5/11-31-1(a).

5. That during the pendency of this matter, Sheets Enterprises, Ltd. sold the subject property and the subsequent purchaser submitted a rehabilitation plan which was approved by plaintiff.

6. The remedial action with respect to the property was due, in whole or in part, to the efforts of plaintiff to enforce the provisions of 65 ILCS 5/11-31-1(a).

7. The Court in its Order entered on August 11, 2008, awarded the plaintiff attorney's fees and costs in the amount of \$3,685.95 incurred between January 19, 2007 and April 21, 2008, and found that all of said fees and costs were reasonable and necessary for the enforcement of 65 ILCS 5/11-31-1(a).

8. The Court finds that the plaintiff has incurred additional attorney's fees and costs totaling \$2,535.50 between June 5, 2008 and January 11, 2010, all of said fees and costs being reasonable and necessary for the enforcement of 65 ILCS 5/11-31-1(a).

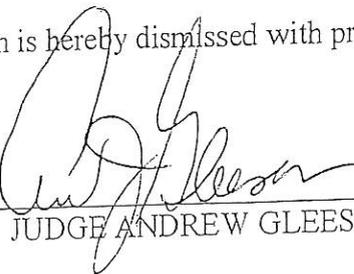
IT IS THEREFORE ORDERED as follows:

A. Plaintiff's Motion for Additional Attorney's Fees and Costs is Granted.

Plaintiff is awarded and Defendant, SHEETS ENTERPRISES, LTD., is ordered to pay Plaintiff's attorney's fees and costs in the amount of \$6,221.45.

B. Plaintiff's Motion to Voluntarily Dismiss its Petition for Demolition is granted and Plaintiff's Petition for Demolition is hereby dismissed with prejudice.

ENTERED THIS 13<sup>th</sup> day of July, 2010.



JUDGE ANDREW GLEESON

Dear Village Of Freeburg,

Please consider handing out estimated costs at the time of getting the permit.

Unexpected costs during the home construction process can be difficult to manage. This charge was much larger than expected.

Thank you,

Larry Mueller

RECEIVED

JUN 30 2010



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE XI, CHAPTER 110, OF THE REVISED CODE OF THE VILLAGE OF FREEBURG, ST. CLAIR COUNTY, ILLINOIS (GENERAL BUSINESS REGULATIONS)

WHEREAS the President and Board of Trustees of the Village of Freeburg, County of St. Clair, State of Illinois, desire to effect changes to its existing code,

BE IT ORDAINED BY THE VILLAGE PRESIDENT AND VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF FREEBURG, ST. CLAIR COUNTY, ILLINOIS THAT:

1. Chapter 110, Section 110.02 shall be revised to read as follows:

**§ 110.02 PERSONS SUBJECT TO LICENSE.**

- A. **All businesses located in the village shall be required to register with the Village Clerk and to pay a non-refundable \$25 registration fee.**
- B. It shall be the responsibility of the business to keep information current at all times.
- C. Whenever a license or permit is required in this code or in any municipal ordinance for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person, firm or corporation shall be subject to the requirement if by himself or itself, or through an agent, employee or partner, he, she or it is held forth as being engaged in the business, activity or occupation, or if he, she or it solicits patronage therefor actively or passively; or if he, she or it performs or attempts to perform any part of a business, activity or occupation in the municipality.

2. Chapter 110, Section 110.05 shall be revised to read as follows:

**§ 110.05 FEES.** In the absence of provisions to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefore is made to the Village Clerk in the amounts prescribed by the corporate authorities. When an applicant has not engaged in the business or activity until after the expiration of the current license year, the license fee shall be prorated by quarters and the fee paid for each quarter or fraction thereof during which the business or activity has been or will be conducted. Except as otherwise provided, all license and permit fees shall become a part

of the corporate fund. In no event shall any rebate or refund be made of any license or permit fee, or part thereof, by reason of death or departure of the licensee or permittee; nor shall any rebate or refund be made by reason of non-use of the license or discontinuance of the operation or conduct of the licensed establishment, business or activity. The annual license fee shall be **\$25 per annum**. (Former Code, § 7-1-5)

3. Chapter 110, is hereby amended to add Section 110.99 to read as follows:

**§ 110.99 PENALTY.**

Any person found operating an unlicensed and unregistered business in the village shall, upon conviction, be fined no more than \$750.

This ordinance shall be in full force and effect immediately after its passage and publication as prescribed by law.

PASSED BY THE VILLAGE BOARD OF THE VILLAGE OF FREEBURG, ILLINOIS, ST. CLAIR COUNTY, AND APPROVED BY THE VILLAGE PRESIDENT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

AYES	NAYS	ABSENT
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Vote Recorded by:

\_\_\_\_\_  
Jerry Menard, Village Clerk

Approved by the Village President of the Village of Freeburg, St. Clair County, Illinois,

this \_\_\_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_  
Raymond Danford, Village President

Approved as to form: \_\_\_\_\_  
Stephen R. Wigginton, Village Attorney

\_\_\_\_\_

**§ 132.03 DISTURBING CHURCH SERVICES.**

No person shall, in this village, disturb or disquiet any congregation or assembly met for religious worship, by making any noise, by rude and indecent behavior, by profane or obscene discourse, or in any other manner within or near their place of worship.

(Former Code, § 27-2-2) Penalty, see § 10.99

**§ 132.04 DISTURBING ASSEMBLIES.**

No person shall, in the village, disturb any school or any other lawful assembly of people or any funeral assembly or procession by rude or indecent behavior or otherwise.

(Former Code, § 27-2-3) Penalty, see § 10.99

**§ 132.05 DISTURBING THE PEACE.**

No person shall disturb the good order of society, the peace of any private family, or of any congregation within the village by any noise or amusement, by vulgar or profane language, or by any disorderly or immoral conduct.

(Former Code, § 27-2-5) Penalty, see § 10.99

**§ 132.06 ADMISSION FEES, FRAUDULENTLY AVOIDING PAYMENT OF.**

It shall be unlawful for any person fraudulently to enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert, or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

(Former Code, § 27-2-6) Penalty, see § 10.99

**§ 132.07 DISORDERLY ASSEMBLY.**

A person is guilty of disorderly assembly when he or she knowingly fails to obey a lawful order of dispersal by a person known by him or her to be a peace officer under circumstances where three or more persons are committing acts of disorderly conduct in the immediate vicinity, which acts are likely to cause substantial harm or serious inconvenience, annoyance, or alarm.

(Former Code, § 27-2-8) Penalty, see § 10.99



# Noise Ordinance

~~1431. 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. § 1432. Declaration of policy. It is hereby declared to be the policy of the Board of Trustees to prevent unreasonably loud, disturbing and unnecessary noise and to reduce noise level within the Village so as to preserve, protect and promote the public health within the Village of New Paltz by the inhabitants and transients thereof. The Board of Trustees finds that every person is entitled to have maintained noise levels which are not detrimental to life, health and the enjoyment of property, and that excessive and unnecessary noise within the Village of New Paltz affects and is a menace to public health, safety, welfare and the comfort of the people of the Village. This chapter shall be liberally construed so as to effectuate the purposes described in this section. [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.]

§ ~~1433~~. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

EMERGENCY - Public calamity or the exposure of any person or property to imminent danger.

NOISE - Any sounds of such level and duration as to be or tend to be injurious to human health or welfare or that would unreasonably interfere with the enjoyment of life or property.

PERSON - Any individual, partnership, company, public or private corporation, association, firm, organization or any other legal entity whatsoever.

PROPERTY LINE - Either the imaginary line, including its vertical extension, that separates one parcel of real estate from another or the vertical and horizontal boundaries of a dwelling unit that is one in a multiple dwelling unit building.

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.

RESIDENTIAL DISTRICT - Any zoning district in which one family detached dwellings or one family and multifamily dwellings are permitted principal uses.

SOUND DEVICE OR APPARATUS - Any apparatus or device for the making, reproduction or amplification of the human voice or other sounds.

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.

§ ~~1434~~. Unreasonable noise prohibited.

The creation of any unreasonable noise is prohibited. Unreasonable noise shall be any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities.

§ ~~1435~~. Unreasonable noises enumerated. The following acts and the causing thereof are declared to be unreasonable noises in violation of this chapter, but the enumeration herein shall not be deemed to be exclusive: Horns and signaling devices. The sounding of any horn or other signal device on any automobile, motorcycle, bus or any other vehicle while stationary, except as a danger signal when an

approaching vehicle is apparently out of control or, if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended, the creation by means of any such signal device of any unreasonable loud or harsh sound or the sounding of any such device for an unnecessary period of time. Noisy vehicles. No person shall: Use an automobile, motorcycle or other vehicle so out of repair, so loaded or in such a manner as to create loud, unreasonable grating, grinding, rattling or other noise; Operate any vehicle in such a manner as to cause unreasonable noise by spinning or squealing the tires or revving the motor of such vehicle; or Modify or cause to be modified the muffler, exhaust system or other noisecontrol device or any vehicle in a manner that will increase the noise emitted by such vehicle above that emitted by the vehicle when newly manufactured, regardless of the date of manufacture. The noisecontrol devices of any vehicle operated in the Village of New Paltz shall be maintained and in good working order. No person shall operate or permit to be operated a vehicle where the muffler, exhaust system or other noise control has been so modified or has not been maintained.

Discharge of exhaust. The discharge into the open air of the exhaust of any steam engine, stationary internalcombustion engine, motor vehicle or boat engine or motor, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

Construction, demolition and excavation. The erection (including excavating), demolition, alteration or repair of any building other than between 7:00 a.m. and 9:00 p.m. except in case of an urgent necessity in the interest of public safety and then only with a permit from the Village of New Paltz Building Inspector, which permit may be renewed for a period of three days or less while the emergency continues.

Noise near schools or other institutions. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court, while the same is in session, which unreasonably interferes with the workings of such institutions.

Drums, loudspeakers and similar devices. The use of a drum, loudspeaker or any other soundproducing instrument or device for the purpose of attracting public attention by the creation of noise, except where authorized by special permit to be issued by the Board of Trustees.

Sound reproduction. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound so as to produce unreasonable noise at any time, except for activities open to the public or for the public benefit and for which permission has been granted by the Board of Trustees of the Village of New Paltz. Said sound reproduction shall be per se unreasonable if produced:

- In such a manner as to create noise that can be heard inside any residence located across any real property boundary lot line from the source of the noise, where all exterior doors and windows are closed;
- In such a manner that can be heard 50 feet from such device, when operated in or on a motor vehicle on a public highway or in a boat on public waters or by a person on public or private property; or
- In such a manner as to create noise when

operated by any passenger on a common carrier.

Shouting. No person shall shout, yell, call, hoot, whistle or sing on public streets, or in public places, in such a manner and for such a period of time as to be unreasonable under the circumstances. Noise *or extending property lines* from tools, machinery and heavy equipment in the construction, repair or alteration of property. The use of domestic or industrial tools, machinery and equipment of any kind on construction, repair or alteration of property and resulting in loud grinding, hammering, sawing and similar noise shall be prohibited between the hours of 9:00 p.m. and 7:00 a.m. the following day, if said noise can be heard inside any residence, where all exterior doors and windows of the residence are closed, or at any other time if said noise is unreasonable under the circumstances. Noise in the conduct of any business. The creation of noise in the operation, conduct and/or maintenance of any business, factory, plant yard or manufacturing establishment (except as otherwise provided in this chapter), including but not limited to excavating, blasting, grinding, breaking, crushing or processing of any substance (where permitted), shall be prohibited between the hours of 8:00 p.m. and 8:00 a.m. the following day, if said noise can be heard inside any residence, other than in the building where the premises are located, where all exterior doors and windows of the residence are closed, or at any other time if said noise is unreasonable under the circumstances. The operation of restaurants, taverns, bars and discotheques. No restaurant, tavern, bar, nightclub, discotheques or other similar businesses, whether public or private, shall be operated so that music or other sounds caused by and/or emanating from said use can be heard inside any residence other than in the building where the premises are located, where all exterior doors and windows of the residence are closed if said noise is unreasonable under the circumstances. The owner, operator, proprietor or person in control of such a business use shall so limit the level of noise emanating from premises. It shall be the duty of the owner, operator, proprietor or person in control to disperse any assembly of persons loitering, drinking alcoholic beverages or otherwise engaging in loud or disorderly conduct adjacent to or near the premises or to immediately notify the New Paltz Police Department or any other police agency of such conduct.

Fraternalities and sororities, private clubs, meeting halls and private residences. No noise from parties, entertainment, music or social gatherings of any kind, whether public or private, shall be such that noise caused by and/or emanating from said use can be heard inside any residence, where all exterior doors and windows of the residence are closed. The keeping of any animal, bird or other fowl which, by making frequent or long continuous noise, disturbs the comfort and repose of a reasonable person of normal sensibilities in a residential area. The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, crates and containers in such a manner as to create noise for an unreasonable extent and duration. Sounds created by lawn motors, leaf blowers or similar portable equipment or devices before the hours of 8:00 a.m. and after 8:00

p.m. The operation in the Residential and Gateway Zoning Districts of the Village 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 cans after 8:00 p.m. and before 7:00 a.m.

~~§ 1436.~~ Exceptions. The following activities shall be exempt from the provisions of this chapter: Operation of lawnmowers, manual and power tools and household appliances between the hours of 8:00 a.m. and 8:00 p.m. Emergency work or emergency operations. Bells, chimes or carillons of religious facilities or houses of worship between the hours of 8:00 a.m. and 8:00 p.m. Noise of aircraft or flight operations. Sounds created by any government agency or its agents or by use of an emergency warning device or authorized emergency vehicle. Sounds created by public utilities in carrying out the operation of their franchises. 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. Construction work, including excavation, demolition, erection, alteration or repair of buildings or real property pursuant to a building permit issued by the Building Inspector between the hours of 7:00 a.m. and 9:00 p.m. on Monday through Friday and 9:00 a.m. and 6:00 p.m. on Saturday and Sunday.

~~§ 1437.~~ 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. ~~§ 1438.~~

Penalties for offenses; enforcement. [~~Amended 6162004 by L.L. No.~~

~~32004~~] Fines. The first violation of this chapter shall be <sup>a warning and</sup> punished by <sup>a fine of not</sup> ~~a fine of not~~ <sup>more than</sup> ~~less than~~ \$100. <sup>50</sup> The second violation of this chapter, within 12 months after the first violation, shall be punished by a fine of not less than \$200. ~~500~~ Further violations within 12 months after the last violation shall be punished by a fine of ~~\$300.~~ <sup>150 and/or arrest.</sup>

Each such act which either continues or is repeated more than 1/2 hour after issuance of written notice of violation of this chapter shall be a separate offense and shall be prosecuted as a separate offense. If the violation occurs on the premises of rental property which is nonresident owner, then the owner must also be notified in writing that the violation has occurred within 24 hours of said violation. Persons responsible. If the person or persons responsible for an activity which violates this chapter cannot be determined, the person in lawful custody and/or control of the premises, including but not limited to the owner, lessee or occupant of the property on which the activity is located, shall be deemed responsible for the violation. Arrest. If the person or persons responsible for an activity which violates this chapter can be determined, any person or persons who violate this chapter may be arrested without warrant, provided that the violation occurs in the presence or view of any officer authorized to serve criminal process.

*Met  
Sesselbach  
plus*

*Met  
Give office  
power to  
issue  
citation*