

(Use this form to file local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  
City of Vienna  
Town  
Village

Local Law No. 2 of the year 1997.

A local law "A LOCAL LAW TO GOVERN NOISE IN THE TOWN OF VIENNA"  
*(Insert Title)*

Be it enacted by the Vienna Town Board of the  
*(Name of Legislative Body)*

County  
City of Vienna  
**Town**  
Village

**LOCAL LAW NO. 2 OF THE YEAR 1997  
A LOCAL LAW TO GOVERN "NOISE" IN THE TOWN OF VIENNA**

**BY COUNCILMAN LAURENCE MONTROSS:**

**WHEREAS**, it has been recommended that the Town of Vienna ordinance pertaining to load speakers and sound cars be updated to reflect the needs of the community and to make it easier to enforce all types of noise violations in the community, and

**WHEREAS**, the proposed local law seeks to impose a more common sense approach to the issue of addressing noise violations within the community, now, therefore,

**BE IT ENACTED**, by the Town Board of the Town of Vienna, New York, that it does hereby authorize the enactment of Local Law No. 2 of 1997, entitled "A Local Law to govern "Noise" in the Town of Vienna," to read as follows:

**"A LOCAL LAW TO GEVERN "NOISE"  
IN THE TOWN OF VIENNA"**

**Section 1: PURPOSE**

It is the purpose of this local law to preserve the public health, peace, welfare and good order of the Town by suppressing the making, creation or maintenance of excessive, unnecessary, or unusually loud noise which are prolonged and/or of such character and intensity as being detrimental and/or disturbing to the health and welfare of the community, its citizens and neighborhoods.

**Section 2: DEFINITIONS**

As used in this local law, the following terms shall have the meanings indicated.

- A. **AUDIO DEVICE:** A machine capable of playing, reproducing, and/or amplifying music and/or speech, including, but not limited, a radio, tape player, phonograph, compact disc player, hi-fi-, television, or other machine or device capable of producing a sound.
- B. **DEVICE:** A machine or mechanism which by its operation of use produces or is capable of producing sound or noise.
- C. **PERSON:** An individual, firm, partnership, corporation, voluntary organization/association, incorporated association, and any principal or employee thereof.

**Section 3: LOUD AND UNNECESSARY NOISE UNLAWFUL**

- A. It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary and/or unusual noise, or any noise, which endangers the health, safety, and welfare of the community; or which annoys, disturbs, injures

or endangers the peace, quiet and comfort of any persons within the Town of Vienna.

- B. No person may use, operate or permit to be played, used, or operated any audio device in a manner so as to disturb the peace, quiet and comfort of any persons in the vicinity. The operation of any audio device between the hours of 11:00 pm and 7:00 am in such a manner as to be plainly audible at a distance of 50 feet or more from the building, structure, device or vehicle in which it is located, and which disturbs the peace, quiet and comfort of any person, shall be prima facia evidence of a violation of this section. A person who causes the production of said sound through the operation of the machines or devices enumerated herein may be deemed to be a violation of this law.

#### **Section 4: PRESUMPTIONS**

- A. Where the source of the prohibited noise is a noise producing or noise reproducing device, and where such device is present in or being transported through a public street, highway area or access area, or is present on any private property, the person or persons in possession of the device shall be presumed to have permitted the noise violation of the Local Law in the absence of evidence to the contrary.
- B. Where the source of the prohibited noise is located in a building or other structure, the owner, occupant, resident, manager or other person in possession of the premises shall, if present, be presumed to have permitted the noise in violation of this Local Law in the absence of evidence to the contrary.

#### **Section 5: EXCEPTIONS**

Nothing in this local law shall be construed to prevent the following:

- A. The production of music in connection with any military or civic parade, funeral procession or religious service or school activities or functions.
- B. Use of any organ, bells, chimes or any other similar device by any church, synagogue or school on or within its own premises in connection with religious rights or ceremonies of such church or synagogue or in connection with a school education program.
- C. Sounds created by any governmental agency by the use of public warning devices, including but not limited to, police and fire vehicles.
- D. Sounds connected with sporting events of any public or private school, burglar alarms or other warning devices when properly installed on publicly or privately owned property, providing the cause for such alarm or warning device the sound is investigated and turned off within a reasonable period of time.

E. Emergency construction work upon permission of the Town Supervisor, which is necessary for the benefit of the community.

**Section 6: VIOLATIONS/PENALTIES**

Any person alone or in concert with others who shall violate any provisions of this Local Law shall be guilty of a violation and upon conviction thereof shall be subject to a fine of not more than \$250.00, or by imprisonment not exceeding fifteen (15) days, or both.

**Section 7: SEVERABILITY**

The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

**Section 8: REPEALER**

All local laws or ordinances or parts of Local Laws or ordinances in conflict with any part of this Local Law are hereby repealed.

**Section 9: EFFECTIVE DATE**

This Local Law shall take effect immediately upon filing in the Office of the New York Secretary of State.

Seconded by Councilman David Hopkins.

All IN FAVOR & CARRIED.

<u>OFFICE/NAME</u>	<u>VOTE RECORD</u>
Supervisor, Calvin C. Collins	AYE
Deputy Supervisor, Norman Leach	AYE
Councilman Laurence Montross	AYE
Councilman David Hopkins	AYE
Councilman Jack Stoltz	AYE

IN TESTIMONY HEREOF, I have hereunto set my hand and affixed the seal of Town of Vienna this June 4, 1997.

Ann B. Whitney,  
Town Clerk, Town of Vienna