

## LOCAL LAW NO. 4 OF 2022

### A LOCAL LAW ADDING A NEW CHAPTER ENTITLED "NOISE LOCAL LAW" TO THE TOWN CODE OF THE TOWN OF WINDHAM

Be it enacted by the Town of Windham in the County of Greene, as follows:

#### ARTICLE I: TITLE

This chapter shall be known as the "Noise Local Law of the Town of Windham."

#### ARTICLE II – LEGISLATIVE INTENT

The Town Board of the Town of Windham has determined that it is in the best interest of the Town to establish and impose restrictions upon the creation of excessive, unreasonable, unnecessary or unusually loud noise within the limits of the Town of Windham. It is the intention of the Town Board of the Town of Windham that these restrictions shall further secure and promote the public health, comfort, convenience, safety, welfare, prosperity and peace and quiet of the Town of Windham and its residents.

The standards to be considered in determining whether unreasonable noise exists in a given situation include, but are not limited to, the following:

- A. The volume of the noise.
- B. The intensity of the noise.
- C. Whether the nature of the noise is usual or unusual.
- D. Whether the origin of the noise is usual or unusual.
- E. The volume and intensity of the background noise, if any.
- F. The proximity of the noise to sleeping facilities.
- G. The time of the day or night the noise occurs.
- H. The time and duration of the noise.
- I. Whether the sound source is temporary.
- J. Whether the noise is continuous or impulsive.

#### ARTICLE III – DEFINITIONS

**Emergency** — Any work or action necessary to 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.

**Motor Vehicle** - Any vehicle operated or driven upon the public highway which is propelled by an engine or motor.

**Sound Device** - Any apparatus or device for the making, reproduction or amplification of the human voice or other sounds, including but not limited to television and radio receiving sets; portable audio

equipment such as tape players, radios, and compact disc players; phonographs; musical instruments; loudspeakers; sound amplifiers; motor vehicle audio sound systems including tape players, radios and compact disc players; and other machines and devices for the production or reproduction of sound.

**Unreasonable 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 reasonable person of normal sensitivities or which causes injury to animal life or damage to property or business. Any noise which occurs continually for more than 15 minutes or intermittently for more than 30 minutes with a sound level reading above 75 dBA as measured from the property line boundary shall be considered prima facie evidence of an unreasonable noise.

## **ARTICLE IV – PROHIBITED ACTS**

### **Section 1 – Prohibited Acts**

- A. No person shall make, continue or cause or permit to be made, verbally or mechanically, any unreasonable noise disturbance between the hours of 10 p.m. and 7:00 a.m.
- B. It shall not be a defense hereto that the person does not reside at the property. Nonresident owners shall take all reasonable steps to prevent a violation hereof, including but not limited to placing signs prohibiting trespassing, posting regulations or orders, seeking the removal of the parties making the noise and authorizing the Town to investigate and enforce this chapter and any other related ordinance or local law.
- C. Any of the following acts occurring between the hours of 10 p.m. and 7:00 a.m. are declared to be prima facie evidence of a violation of this Law. This enumeration shall not be deemed exclusive.
  - 1) Any domesticated animal or bird that frequently or for continued duration makes or creates unreasonable noise which is audible at the property line and which occurs continually for more than 15 minutes or intermittently for more than 30 minutes.
  - 2) Operation of a motor vehicle, motorcycle, snowmobile or all-terrain vehicle in such a manner that creates unreasonable noise in excess of normal sounds of operation. This shall include, but not limited to, the squealing or screeching of tires because of rapid acceleration, braking or excessive speed around corners, or unreasonable noise associated with the discharge of exhaust.
  - 3) Unreasonable noise from a burglar alarm or other alarm system of any building or motor vehicle which is continuous and exceeds 15 minutes in duration.
  - 4) Unreasonable noise from any sound device in such a manner that can heard over any property line or which creates a disturbance or nuisance to neighbors.
  - 5) Unreasonable noise associated with any construction activity, or created by mechanisms or devices used in repair and maintenance of real property, including but not limited to lawn

mowers, power tools, string trimmers, chain saws, snow removal equipment, and dumpster removal or emptying.

- 6) Unreasonable noise generated from the use of any fireworks, or any other form of pyrotechnic or explosive devices, not being employed as part of a lawfully permitted fireworks display.

## **Section 2 – Exemptions**

The requirements, prohibitions and terms of this chapter shall not apply to the following:

- A. Sounds emitted for the purpose of alerting people of an emergency or emitted by first responders during the course of responding to an emergency.
- B. Sounds generated by construction equipment or power tools used to prepare for or respond to a natural disaster or weather emergency.
- C. Sounds created by bells or chimes of a church, synagogue or other house of worship, when a part of a religious observance or service.
- D. Sounds from agricultural equipment when operated in an agricultural district designated by Greene County pursuant to Article 25-AA of the NYS Agriculture & Markets Law.
- E. Sounds created by routine operation of snow-making and snow grooming equipment, or grounds maintenance equipment associated with commercial recreation uses.
- F. Sounds generated from the use of any fireworks by an individual for personal enjoyment within 24 hours of Independence Day (July 4) or New Year's Day (January 1).
- G. Sounds associated with gatherings or special events for which a noise permit has been granted by the Town Board under Section 3 of this chapter.

## **Section 3 - Authority to Issue Noise Permits**

- A. The Town Board of the Town of Windham shall have the authority to issue noise permits and/or suspend any of the provisions of this chapter upon such conditions and for such time as it shall deem fit to best serve the public health, safety, and welfare and preserve the quality of life in the Town of Windham.
- B. Any person may file an application for a noise permit with the Town Clerk for relief from any of the provisions of this chapter. The application shall consist of a letter signed by the applicant and shall contain the following information:
  - (1) The name, address and phone number of the applicant;
  - (2) The nature, location, duration and intensity of the noise source for which such application is made;
  - (3) The reason for which the noise permit is requested, including any hardship that will result to the applicant or the public if the permit is not granted;

- (4) A description of any noise control measures to be taken by the applicant to minimize noise and the impact occurring therefrom; and
  - (5) The names and addresses of all owners of land within 500 feet of the property line. The applicant in like manner shall give notice of the application by certified mail, return receipt requested, to all property owners within 500 feet of the property line;
- C. Upon prior reasonable public notice, the Town Board may elect to hold a hearing on the noise permit application. The Town Board, upon reviewing all input from the hearing and obtaining any additional data or information as deemed necessary, shall then approve, approve with conditions, or disapprove the application by resolution.
- D. If approved, a \$100 permit fee shall be paid by the applicant. The permit fee may be waived by the Town Board at its discretion for just cause.

#### **Section 4 - Penalties and Offenses**

Any person or organization committing an offense against any provisions of this chapter shall, upon conviction, be guilty of a violation pursuant to the laws of the State of New York punishable by a fine not exceeding \$250.00 for the first offense, and \$375.00 for the second offense. For the third and each subsequent offense, each violation shall be punishable by a fine up to the maximum sum of \$500.00. The continuation of an offense for each day (24 hours) shall be deemed a distinct and separate offense.

#### **Section 5 - Enforcement**

The provisions of this chapter shall be enforced by the Code Enforcement Officer of the Town of Windham and any police agency with local jurisdictional authority, who shall have the power to order any person to cease and desist from activity that is a violation, issue warnings, and issue appearance tickets and to bring complaints before the Justice Court of the Town of Windham for violation of this law.

#### **ARTICLE V - EFFECTIVE DATE**

This Local Law shall take effect the date it is filed with the Secretary of State.