

INTRODUCED BY MR. PURDUE  
SECONDED BY MR. O'ROURKE

LOCAL LAW #4 FOR THE YEAR 1988

COUNTY OF HAMILTON

A LOCAL LAW TO REGULATE AND PROHIBIT  
THE MAKING OF UNNECESSARY, LOUD AND  
DISTURBING NOISES WITHIN THE COUNTY OF HAMILTON.

BE IT ENACTED, by the Hamilton County Board of Super-  
visors as follows:

LEGISLATIVE INTENT: It is hereby found and declared  
that the creation and maintenance of unreasonably loud, disturbing  
and unnecessary noises within the county limits of the County of  
Hamilton is a condition which has existed for some time and that  
the extent and volume of such noises is continuing; that the  
creation and maintenance of such loud, disturbing and unnecessary  
noises which are unreasonable in their time, place and use are  
detrimental to the public health, comfort, convenience, safety  
and welfare of the inhabitants of the County of Hamilton; that the  
provisions and prohibitions hereinafter contained are enacted  
in the public interest and are for the purpose of securing and  
promoting the public health, comfort, convenience, safety,  
welfare, peace and quiet of the County of Hamilton and its  
inhabitants.

Section 1. Unnecessary Noises Prohibited: It shall  
be unlawful for a person to make, continue, or permit to be made  
or continued, any unreasonable loud, disturbing or unnecessary  
noises, which by its character, intensity, and duration either  
annoys, alarms, disturbs, or is otherwise detrimental to the  
health, comfort, repose, peace or safety of others within the

limits of the County of Hamilton, and as heard without measurement, or heard and measured in a manner prescribed in Section 2, Paragraph g. In proof of a violation of this local law, evidence of noise heard and measured in the manner prescribed in Section 2, Paragraph g, which is less than that required for a conviction by use of a test or measurement as set out in said section, may be offered to prove a violation of this local law as heard without measurement, such evidence shall be relevant but shall not be given prima facie effect. The time and location of the noise as well as the above-mentioned characteristics of noise shall be considered in reaching a decision under this local law.

It shall be unlawful for any person to operate or to allow to be operated any source of sound or any type of vehicle, including power model vehicles, machinery, motors, model airplanes or device or carry on any other activity in such manner as would be in violation of Section 2, Paragraph g, or other applicable sections contained herein.

Section 2. Noises Which Are in Violation of the Law:

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this law, but such enumeration shall not be deemed to be exclusive:

(a) The sounding of any horn or signalling device on any automobile, motorcycle, bus or other vehicle on any street or sounding of any such device for an unreasonable and unnecessary length of time.

(b) The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, high

fidelity set, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, high fidelity set, machine or device in such manner as to be plainly audible at a distance of fifty (50) feet from the building structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(c) The use of any automobile, motorcycle, or other vehicle so out of repair, so modified, so loaded or in such manner as to create loud and unnecessary noise, or such noise created by motorcycle or motorcycles as to produce discomfort and annoyance to a person of ordinary sensibilities.

(d) Yelling, shouting, hooting, whistling, or singing on the public highways or places so as to annoy, disturb, or affect the quiet, comfort or repose of neighboring inhabitants.

(e) The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, high fidelity set, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public highways.

(f) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show or sale, by the creation of noise.

(g) For the purposes of determining and classifying any noise as excessive or unusually loud as declared to be unlawful and prohibited by this local law, the following test measurements and requirements may be applied; provided, however, a violation of this local law may occur without the following measurements being made:

i. Noise occurring within the jurisdiction of the County of Hamilton shall be measured at a distance of at least twenty-five (25') feet from a noise source located within the public right-of-way, and if the noise source is located on private property or property other than the public right-of-way, at or beyond the property line of the property on which the noise source is located.

ii. All noise shall be measured on the "A" weighted scale on a sound level meter of standard design and quality and satisfying the requirements of the American National Standards Specification for Sound Level Meters, S1.4-1971. This publication is available from the American National Standards Institute Inc., 1430 Broadway, New York, New York, 10018.

Instrument response shall be fast for motor vehicle measurements and slow for all other measurements. The fast meter response means that the fast dynamic response of the sound level meter shall be used. The fast dynamic response shall comply with the meter dynamic characteristics of the American National Standards Specification for Sound Level Meters, S1.4-1971.

The slow meter response means the slow dynamic response of the sound level meter shall be used. The slow dynamic response shall comply with the meter dynamic characteristics of the American National Standards Specification for Sound Level Meters, S1.4-1971.

iii. A noise measured or registered as provided herein from any source at a level which is equal to or in excess of db (A) established for the time period and zones listed in this section is hereby declared to be excessive, unusually loud and unlawful and in violation of this local law.

<u>Zone</u>	<u>Map Color</u>	<u>L max</u>	<u>6 a.m. to next 11 p.m.</u>	<u>L max</u>	<u>11 p.m. to next 6 a.m.</u>
Hamlet	Brown		65 db (A)		60 db (A)
Moderate Intensity Use	Red		60 db (A)		55 db (A)
Low Intensity Use	Orange		50 db (A)		50 db (A)
Rural Use	Yellow		50 db (A)		50 db (A)
Resource Management	Green		50 db (A)		50 db (A)

iv. For the purposes of this local law, the aforementioned zones shall be defined as the same terms are defined in Subsection 3 of Section 805 of the Executive Law of the State of New York. The aforementioned zone areas within Hamilton County shall be the same as those delineated on the most current Aidronack Park Land Use and Development Plan Map in affect at the time of measurement. When a noise source can be measured from more than one zone, the permissible sound level of the more restrictive zone shall govern.

(h) Between the hours of 6:00 a.m. and 11:00 p.m. the noise level permitted in Section 2g may be increased by (5) db (A) for a period not to exceed fifteen minutes in any hour.

(i) Construction projects, including demolition, shall be subject to the maximum permissible noise level specified for hamlet areas for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authorities, or if no time limitation is imposed then for a reasonable period of time for the completion of the project.

Section 3. Variances: Purpose of this section is to provide variances from this local law in cases where the strict application thereof would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and objectives of this local law.

(a) Any variance to this local law may be granted by any Town Board or Village Board for any noise source generated within its own town or village limits and in accordance with the standards and procedures set forth herein. In granting a variance the Town Board or Village Board may impose conditions to protect the best interests of the inhabitants of the premises, surrounding property owners and occupants, the immediate neighborhood, and the town/village as a whole.

(b) Variances may be instituted by filing an application with the Town Clerk or Village Clerk using forms supplied by the Town Board or Village Board, which shall include all information to be considered by the Town Board or Village Board necessary to make its findings herein.

(c) Any variance of the provisions of this local law may be granted only in the event that at least one of the

following circumstances are specifically found to exist by the Town Board or Village Board and is so stated in the Town Board's or Village Board's findings.

i. That the strict application of said provisions of this local law would result in a specified unnecessary hardship to the applicant which arises because of exceptional or extraordinary circumstances to which the applicant is subject, and which do not generally apply to other property owners or occupants in similar circumstances, or other circumstances over which the applicant has no control.

ii. That the property in question cannot yield a reasonable financial return if used in a manner consistent with the provisions of this local law.

iii. That the variance would not be materially detrimental to the purposes of this local law, or to the owners or occupants of property in the district in which the property is located, and that the variance requested is the minimum variance which would alleviate the specific unnecessary hardship found by the Board to affect the applicant.

iv. That additional time is necessary for the applicant to alter or modify his activity, operation or premises to comply with this local law.

v. The applicant's activity, operation or noise source will be of a temporary duration and cannot be done in a manner that would comply with this local law.

vi. That no other reasonable alternative is available to the applicant.

(d) Within thirty days after the receipt by the Town Board or Village Board of a complete application for a variance, the Town Board or Village Board shall give notice by public advertisement in the official newspaper of a public hearing to be held on the application not less than ten days nor more than thirty days after such notice. Within thirty days after the completion of the public hearing, the Town Board or Village Board shall grant, grant with conditions, or deny the variance for which the application has been made. The decision of the Town Board or Village Board shall be in writing and shall contain each of the findings specified in paragraph "c" and the factual basis for each finding from the record of the Hearing which shall support the decision of the Town Board.

Section 4. Exemptions: The following are exempt from the sound level limits set forth above:

(a) Domestic power tools, lawn mowers, chain saws, agricultural and logging equipment between the hours of 6:00 a.m. and 11:00 p.m.

(b) Noises resulting from any authorized emergency vehicles when responding to an emergency.

(c) Safety signals and alarm devices, storm warning sirens, or horns, and the authorized testing of such equipment.

(d) Noises made during a community sponsored parade, concert or other activity, or for which a permit has been granted by the Town or Village. Community sponsored shall mean any sanctioned Town Board or Village Board activity.

(e) Any noises resulting from activities for a temporary duration for which a variance has been granted pursuant to this local law and which conforms to the conditions and limits set forth therein.

(f) Noises from non-amplified church bells and chimes.

(g) Installation and maintenance of public and private utilities.

Section 5. Violations and Penalties: Any person who violates any of the provisions of this law shall be guilty of a violation and shall be punished as follows: upon conviction for the first offense, by a fine of not more than \$100.00, or by imprisonment for not more than five days, or both; upon conviction for each and every violation thereafter, by a fine of not more than \$200.00 and not less than \$100.00, or by imprisonment for not more than fifteen days, or both; each day that a violation is permitted to exist shall constitute a separate offense.

Section 6. Criminal Liability of an Individual for Corporate Conduct: A person is criminally liable for conduct constituting an offense which he performs or causes to be performed in the name of or in behalf of a corporation to the same extent as if such conduct were performed in his own name or behalf.

Section 7. Effect on Statutes and Other Laws: Nothing in this local law shall restrict any right which any person may have under any statute including but not limited to the Environmental Conservation Law, Vehicle and Traffic Law, Labor Law and the Industrial Code, or common law to seek enforcement of any noise control requirements or to seek any other relief.

Section 8. Additional Remedy: As an additional remedy the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof which

causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health, or peace of the residents in the area shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Section 9. Severability: It is the intention of the County Board of Supervisors that each separated provision of this law shall be deemed independent of all other provisions herein, and it is the further intention of the County Board of Supervisors that if any provision of this law be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

Section 10. Definitions: For the purposes of this local law, the following definitions will apply:

(a) A-Weighted Sound Pressure Level - the sound pressure level as measured on an ANSI sound level meter using the A-Weighted network. It is the approximate noise level as heard by the human ear, measured in decibels, and denoted as db (A).

(b) Ambient noise level - the sound pressure level of all encompassing noise associated with a given environment, being usually a composite of sounds from many sources and excluding the specific noise under investigation; the A-Weighted, sound pressure level exceeded 90 percent of the time ( $L_{90}$ ).

(c) Construction - Any site preparation, assembly, erection, substantial repairs, alterations, or similar action, for or of public or private rights-of-way, structures, utilities, or similar property.

(d) Decibel - logarithmic unit of measure used in describing the relative intensity of sound; denoted as db.

(e) Demolition - any dismantlings, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

(f) Domestic Power Tools - power tools used for the purpose of completing hobby projects, home improvements projects, and any other projects which are not used or sold for profit.

(g) Emergency Vehicles - authorized publicly or privately owned ambulances, or motor vehicles belonging to a fire or police department, or to any federal, state, parish or municipal agency provided said vehicles are in use as emergency vehicles by one authorized to use said vehicles for that purpose.

(h) Impulsive Sound - sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

(i)  $L_{\max}$  - the maximum A-Weighted sound level allowed.

(j) Motor Vehicle - any two or more wheeled vehicle or machine, propelled or drawn by mechanical power and used on the public roads and highways in the transportation of passengers or property; or any combination thereof, which is required to be licensed but does not include vehicles, locomotives or cars operated exclusively on rail or rails.

(k) Noise - any sound which exceeds the maximum permissible sound levels by land use categories as given in Section 2, Paragraph g.

(l) Person - any individual, association, partnership, corporation, joint venture, or any entity, public or private in nature.

(m) Plainly audible sound - any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited, to understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.

(n) Power equipment - any machine, tool, or similar device driven or operated by a motor.

(o) Powered Model Vehicle - any self-propelled airborne, waterborne, or landborne model plane, model vessel or model vehicle which is not designed to carry persons, including but not limited to, any model airplane, boat, car, or rocket.

(p) Property Boundary - imaginary line at the ground surface and its vertical extension which separates the immovable property owned or inhabited by one person from that owned or inhabited by another person.

(q) Public Right-of-Way - any street, avenue, boulevard, highway, sidewalk, alley or similar place normally accessible to the public which is owned or controlled by a governmental entity.

(r) Sound amplifying equipment - any equipment, machine, or device used for the sound amplification of the human voice, music, or any other sound.

(s) Sound level means the quantity in decibels measured by a sound level meter satisfying the requirements of American National Standards Specification for Sound Level Meters S1.4-1971. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018. Sound level is the frequency-weighted sound pressure level obtained with the standardized dynamic characteristic "fast" or "slow" and weighting A, B or C; unless indicated otherwise, the A-weighting is understood.

(t) Sound level meter - an instrument for measuring sound, including a microphone, amplifier, output meter, and weighting network that is sensitive to pressure fluctuations.

(u) Sound pressure level shall mean 20 times the logarithm to the base ten of the ratio of the root means squared pressure of a sound to a reference pressure of 20 micropascals. The unit applied to this measure shall be the decibel (db).

Section 11. Effective Date: This local law shall take effect immediately after its adoption and filing in the Office of the Secretary of State of the State of New York as provided by the Municipal Home Rule Law.

Adopted by the following Roll Call Vote:

	AYES	NAYS
Arietta	X	
Benson	X	
Hope	X	
Indian Lake	X	
Inlet	X	
Lake Pleasant	X	
Long Lake	X	
Morehouse	X	
Wells	X	