TOWN OF AMENIA
TOWN BOARD

4988 Route 22, AMENIA, NY 12501
(845) 373-8860 www.ameniany.gov

RESOLUTION # 80 OF 2018

INTRODUCING PROPOSED LOCAL LAW NO. _x_ OF 2018 ENTITLED, A LOCAL LAW TO REPEAL LOCAL LAW NO. 1 of 1996 AND AMEND CHAPTER 80 OF THE TOWN CODE OF THE TOWN OF AMENIA

November 15, 2018

WHEREAS, on August 15, 1996 the Town of Amenia Town Board ("Town Board") enacted Local Law No. 1 of 1996 prohibiting unreasonably loud, disturbing and unnecessary noise (the "Noise Law"); and

WHEREAS, the Town Board desires to amend the Noise Law to ensure its ongoing compliance with New York State law and that it properly regulates unreasonably noises in the Town of Amenia; and

WHEREAS, the Town Board desires to repeal Local Law No. 1 of 1996 and amend the Town of Amenia Code by deleting Chapter 80 [Noise] in its entirety and replacing it with Local Law ___ of 2018 (the "Proposed Local Law"); and

WHEREAS, the Proposed Local Law is entitled "A Local Law to Repeal Local Law No. 1 of 1996 and Amend Chapter 80 of the Town Code of the Town of Amenia"; and

WHEREAS, the Proposed Local Law will be enacted pursuant to New York State Municipal Home Rule Law § 10; and

WHEREAS, each member of the Town Board has received the attached Proposed Local Law pursuant to this Resolution; and

WHEREAS, pursuant to the State Environmental Quality Review Act ("SEQRA") the passing of the Proposed Local Law is a Type 1 Action; and

WHEREAS, the Town Board is also introducing a separate but related local law, by separate resolution, entitled "A Local Law to Amend Local Law 2 of 2007, Chapter 121 of the Town Code of the Town of Amenia" (the "Proposed Zoning Amendment"); and

WHEREAS, pursuant to SEQRA, the Town Board has prepared a full Environmental Assessment Form ("EAF") covering both the Proposed Zoning Amendment and the Proposed Local Law discussed herein; and

WHEREAS, pursuant to the New York State General Municipal Law § 239-m(3)(a)(ii), the Town Board shall refer the Proposed Local Law and the Proposed Zoning Amendment to the Dutchess County Department of Planning and Development.

NOW, THEREFORE, BE IT RESOLVED by the Town Board, duly convened at a regular meeting, that, pursuant to New York Municipal Home Rule Law § 20, the Town Board hereby introduces the following Local Law to be known as Local Law ___ of 2018 entitled, "A Local Law To Repeal Local Law No. 1 of 1996 and Amend Chapter 80 of the Town Code of the Town of Amenia".

And, pursuant to New York State Municipal Home Rule Law § 20 each member of the Town Board has received a copy of the Proposed Local Law in the form annexed to this Resolution.

BE IT FURTHER RESOLVED, by the Town Board as follows:

1. **Purpose and Intent.** The purpose of this resolution is to introduce the Proposed Local Law No. ___ of 2018. The Proposed Local Law is to repeal Local Law No. 1 of 1996 and amend the Town of Amenia Code by deleting Chapter 80 [Noise] in its entirety and replacing it Local Law ___ of 2018 [Proposed Local Law].

2. **Effective Date.** This resolution shall become effective immediately. If enacted, the local law shall become effective immediately upon filing with the New York State Secretary of State.

3. **Public Hearing**. Pursuant to the Municipal Home Rule Law of the State of New York, it is necessary to hold a public hearing on this local law. Therefore, a public hearing shall be held in relation to said Proposed Local Law, at which interested parties and citizens shall have an opportunity to be heard. This hearing shall be held at the Town Hall on December 6, 2018, at 7:00 o'clock p.m., and notice of said hearing shall be published in the official newspaper of general circulation in the Town of Amenia by the Town Clerk and posted in Town Hall, at least ten (10) days before such hearing. This notice of said hearing shall also be posted on the Town's website at https://www.ameniany.gov under Town Board Public Hearing Notices. Such notice shall be in the form annexed to this Resolution.

BE IT FURTHER RESOLVED, by the Town Board, that the Town Clerk shall cause the Proposed Local Law and related EAF to be referred to the Dutchess County Department of Planning and Development pursuant to the New York State General Municipal Law § 239-m.

Motion made by Perotti; seconded by Somogyi

The foregoing resolution was voted upon with all councilwomen/councilmen voting as follows:

Supervisor Perotti	Yes
Councilwoman Doyle	Absent
Councilman Morris	Absent
Councilman Gutierrez	Yes
Councilwoman Somogyi	Yes

DATED: Amenia, New York
November 15, 2018

Dawn Marie Klingner

DAWN MARIE KLINGNER, TOWN CLERK

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Town Board of the Town of Amenia will hold a public hearing at the Town Hall, 4988 Route 22, Amenia, New York on December 6, 2018, 2018 at 7:00 o'clock p.m., on proposed Local Law No. _x___ of 2018, entitled, "A Local Law to Amend Local Law No. 2 of 2007, Chapter 121 of the Town Code of the Town of Amenia" (the "Proposed Zoning Amendment"). The purpose of the Proposed Zoning Amendment is to amend Town of Amenia Zoning Law Sections 121-40(C) [Environmental Performance Standards, Noise], 121-47 [Timber Harvesting] and 121-30(F) [Setbacks for Accessory Structures and Uses].

TAKE FURTHER NOTICE, that copies of the aforesaid Proposed Zoning Amendment will be available for examination at the Town of Amenia Town Hall, 4988 Route 22, Amenia, New York, during normal business hours on all business days between the date of this notice and the date of the public hearing;

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Amenia, New York
November 15, 2018

DAWN MARIE KLINGNER, TOWN CLERK

A LOCAL LAW TO REPEAL LOCAL LAW NO. 1 of 1996 AND AMEND CHAPTER 80 OF THE TOWN CODE OF THE TOWN OF AMENIA

BE IT ENACTED by the Town Board of the Town of Amenia as follows:

Section 1. Title of Local Law.
This Local Law shall be entitled "A Local Law to Repeal Local Law No. 1 of 1996 and Amend Chapter 80 of the Town Code of the Town of Amenia."

Section 2. Authorization.
This Local Law to repeal Local Law No. 1 of 1996 and amend the Town Code of the Town of Amenia is enacted pursuant to the authorization established in the New York State Municipal Home Rule Law Section 10.

Section 3. Repeal of Local Law No. 1 of 1996.

The Town Board of the Town of Amenia hereby repeals Local Law No. 1 of 1996 of the Town of Amenia in its entirety.

Section 4. Amendment.
The Town Board of the Town of Amenia hereby amends the Town of Amenia Code by deleting Chapter 80 [Noise] in its entirety and replacing it with the following:

Chapter 80. NOISE

§ 80-1. Declaration of Policy.

A. It is hereby declared to be the policy of the Town to prevent excessive, unnecessary or unusually loud noises. It is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of preserving, protecting and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the Town of Amenia and its inhabitants. It is the public policy of the Town that every person is entitled to ambient noise levels that are not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the making, creation or maintenance of excessive or unreasonable noises within the Town affects and is a menace to public health comfort, convenience, safety, welfare and the prosperity of the people of the Town.

B. This Chapter shall be construed so as to effectuate the purposes described in this Section. Nothing herein shall be construed to abridge the emergency powers of any Town 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.

§ 80-2. Definitions

Construction - Any activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, premises, parks, utility lanes or other property, including but not limited to related activities such as land clearing, grading, earthmoving, excavating, blasting, filling and landscaping, but not including agriculture.

Continuous Sound – Any sound that is not impulse sound.
Emergency - Any occurrence or circumstances involving actual or imminent physical or property damage which demands immediate action.

Impulsive Sound – Sound characterized by either a single pressure peak or a single burst (multiple pressure peaks) having a duration of less than one second.

Motor Vehicle – Shall include any automobile, motorcycle, truck, recreational vehicle, all-terrain vehicle or snowmobile.

Sound Reproductive Device – Any device that is designed to be used or is actually used for the production or reproduction of sound, including but not limited to any amplified musical instrument, radio, television, tape recorder, phonograph, loudspeaker, public-address system or any other sound-amplifying device.

Unreasonable Noise

A. Means 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 sensibilities, or which causes injury to animal life or damage to property or business.

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

   1. The intensity of the noise;
   2. Whether the nature of the noise is usual or unusual;
   3. Whether the origin of the noise is natural or unnatural;
   4. The intensity of the background noise;
   5. The proximity of the noise to sleeping facilities;
   6. The nature and the zoning district of the area within which the noise emanates;
   7. The time of the day or night the noise occurs;
   8. The duration of the noise;
   9. Whether the sound source is temporary;
   10. Whether the noise is continuous or intermittent; and/or
   11. Whether alternate methods are available to achieve the objectives of the sound producing activity.

C. Unreasonable noise emanating from private property shall be measured or determined at the adjoining property line or, in the case of a multiple residence, within the adjoining or adjacent apartment or hallway. Unreasonable noise emanating from public property shall be measured or determined at a distance of 50 feet or more from the sound source, at the adjoining property line or, in the case of a multiple residence, within the adjoining or adjacent apartment or hallway, whichever is closer.

§ 80-3. Unreasonable Noise Prohibited

No person shall make, continue or cause or permit to be made any unreasonable noise. The following acts set forth in Section 80-4 herein are declared to be prima facie evidence of a violation of this Chapter 80 and are prohibited, but said enumeration shall not be deemed to be exclusive.

§ 80-4. Specific Acts Declared Prima Facie Evidence of Unreasonable Noise

A. The following acts and the causing thereof are declared to be loud, disturbing and unreasonable noises in violation of this chapter, but the enumeration herein shall not be deemed to be exclusive:

1. Horns and signaling devices.

   a. the sounding of any horn or other signal device on any automobile, motorcycle, bus or other vehicle while stationary that creates any unreasonable noise, 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; or

   b. the creation by means of any such signal device of any unreasonably loud or harsh sound or the sounding of any such device for an unnecessary period of time in such a manner as to create unreasonable noise.

2. Noisy vehicles. No person shall:

   a. Use an automobile, motorcycle or other vehicle so out of repair, so loaded or in such a manner as to create unreasonable noise from loud, unnecessary grating, grinding, rattling or other noise;

   b. 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

   c. Unreasonable noise created by modifying or causing to be modified the muffler, exhaust system or other noise-control device of 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 the manufacture. The noise control devices of any vehicle operated in the town 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 device has been so modified or has not been maintained.

3. Recreational vehicles, including snowmobiles. No person shall operate or permit to be operated any motor-powered recreational vehicle not licensed for operation on public streets pursuant to the Vehicle and Traffic Law in such a manner as to create unreasonable noise.

4. Discharge of exhaust. No person shall cause or permit the discharge into the open air of the exhaust of any device, including but not limited to any steam engine, diesel engine, internal combustion engine or turbine engine, so as to create unreasonable noise.

5. Construction, demolition and excavation. The creation of unreasonable noise resulting from the erection, including excavation, demolition, alteration or repair of any building other than on weekdays between 8:00 a.m. and sunset, except in case of an urgent necessity in the interest of public safety. Unreasonable noise resulting from these activities are expressly prohibited from occurring on weekends or holidays.

6. Noise near school and other institutions. The creation of any unreasonable noise on any street or property adjacent to any school, institution of learning, church or court, while the same is in session, or adjacent to any hospital, provided that conspicuous signs are displayed in such street or on such property indicating that the same is a school, hospital, church or court street.

7. Loading and unloading. The creation of any unreasonable noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

8. Hawking and peddling. The creation of any unreasonable noise in connection with shouting and crying of peddlers, hawkers and vendors.

9. Drums, loudspeakers and similar devices. The creation of any unreasonable noise in connection with the use of a drum, loudspeaker, instrument or any other sound reproductive device for the purpose of attracting public attention by the creation of noise, except where authorized by special permit to be issued by the Town Board, who shall make reasonable rules and regulations therefor.

10. Sound reproduction. The creation of any unreasonable noise in connection with any person operating, playing or permitting the operation or playing of any sound reproduction device, including but not limited to a radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound as to produce unreasonable noise, except for activities open to the public or for the public benefit and for which a specific permit has been granted by the town.

11. Animals. No person shall keep, permit or maintain any animal under his control that causes unreasonable noise which may result from continued barking, howling or other animal noises.

12. Shouting. No person shall shout, yell, call, hoot, whistle or sing on public streets or in public places in such a manner and for a period of time as to create unreasonable noise under the circumstances.

13. Noise from tools, machinery and heavy equipment in the construction, repair or alteration of property. The creation of any unreasonable noise in connection with the use of domestic or industrial tools, machinery and equipment of any kind in construction, repair or alteration of property, resulting in loud grinding, hammering, sawing and similar noise other than on weekdays between 8:00 am and sunset, except in the case of urgent necessity in the interest of public safety. Unreasonable noise resulting from these activities are expressly prohibited from occurring on weekends or holidays.

14. Noise from the processing of wood or trees. No person shall operate or permit to be operated any domestic or industrial tools, machinery and equipment for the processing or splitting of wood or trees, for commercial or residential purposes, so as to create unreasonable noise across a residential property boundary, except between the hours of 8:00 am and sunset.

15. Noise in the conduct of any business. The creation of unreasonable 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 excavation, blasting, grinding, breaking, crushing or processing of any substance (where permitted).

16. Fraternities and sororities, dormitories, private clubs, meeting halls and private residences. The creation of any unreasonable noise in connection with parties, entertainment, music or social gatherings of any kind, whether public or private, any day between the hours of 9:00 p.m. and 7:00 a.m. inside or outside any residence, regardless of whether the windows of such residence are open, or at any other time if said noise is unreasonable noise.

17. Impulsive Sound Levels. No person shall cause, operate, or permit to be operated any impulsive sound levels for commercial, recreational or personal purposes between sunset and 8:00 am the following day. Unreasonable noise resulting from these activities are expressly prohibited from occurring on weekends and holidays.

§ 80-5 Exceptions

The provisions of this chapter shall not apply to:

A. Sound and vibration emitted for the purpose of alerting people in an emergency.
B. Sound and vibration emitted in the performance of correcting an emergency.
C. Sounds created by church bells or chimes, when a part of a religious observance or service.
D. Sounds created by any government agency by the use of public warning devices.
E. Sound from agricultural equipment when operated in an agricultural zone.
F. Sound from snow blowers, snow throwers, and snow plows when operated with a muffler for the purpose of snow removal.
G. Sound from a burglar alarm of any building or residence, provided such burglar alarm shall terminate its operation within five minutes after it has been activated.
H. Sound generated by municipality-sponsored concerts and events designed to promote the health, safety or welfare of the citizens of the Town.

§ 80-6. Warning of Violation.

A. In those cases of unreasonable noise, other than violations of Town Code § 76-2 [Loitering], the person or persons responsible shall be advised of any conduct prohibited herein by the police or any town officer authorized to enforce the provisions of this chapter. After such warning, if any party shall continue or repeat said conduct or similar conduct, he shall be in violation of this chapter.
B. It shall be sufficient if said warning is oral and/or in person or over the telephone.

C. No such warning shall be required in any case of a violation of Town Code § 76-2 [Loitering].

D. § 80-7. Penalties for Offenses.

If any party shall knowingly violate the provision of this chapter or engage in conduct in violation of this chapter, he shall be punished by a fine not to exceed $250 or by imprisonment for not more than 15 days, or both. Each incidence of any violation of a provision herein shall constitute a separate offense.

§ 80-8. Enforcement.

A. The noise control requirements established by this chapter shall be administered and enforced jointly by Town Code Enforcement Officer and/or any peace officer, police officer or law enforcement agency that has jurisdiction in the Town of Amenia.

B. Violation of any provision of this chapter shall be cause for an Information and Summons to be issued in accordance with the New York State Criminal Procedure Law.

C. Any violation of this Chapter may be enforced through the Town of Amenia Zoning Code's Environmental Performance Standards and the enforcement mechanisms set forth in Zoning Code Section 121-57, including but not limited to a taxpayer action.

Section 5. Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any individual, firm or corporation, or circumstance, shall be held by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 6. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.