

**Special Meeting**  
Geneva Town Board  
3750 County Road #6  
Geneva, NY 14456  
**June 22, 2009**

PRESENT: Supervisor Mary E. Luckern  
Councilman Anthony Capozzi  
Councilman Richard Larsen  
Councilman Edward Smaldone  
Councilman Michael Vassello  
Attorney for the Town: Jeff Graff

Recording Secretary: Lorrie S. Naegele, Geneva Town Clerk.

Others Present: John Russo, Zoning Board Chairman; Mike Guyon, MRB Engineer; William McAdoo, Code Enforcement Officer; No Finger Lakes Times Reporter.

**CALL TO ORDER:** Supervisor Luckern called the meeting to order at 7:03 P.M.

1) **CONTRACT WITH RAY WAGNER, CPA, P.C.** (ADDENDUM #1) Motion to accept the Contract with Ray Wagner with the amount to be between \$4,250 and \$5,250 made by Councilman Capozzi second by Councilman Larsen.

**Discussion:** The last state audit was done in 1999.  
Motion unanimously approved.

2) **ACCEPT REVIEW OF MODIFIED WATER DISTRICT # 12 PROGRAM:** Motion to accept made by Councilman Capozzi second by Councilman Larsen.

**Discussion:** Water District # 12 will be scaled back to go from County Road # 6 to Healey Road. Stu Brown is the grant writer for the town and he is working on the project and will have more information for the board by the July Monthly Meeting.  
Motion unanimously approved.

3) **NOISE ORDINANCE DRAFT FROM TOWN ATTORNEY DATED JUNE 18, 2009:**

*FILING LOCAL LAW*

New York State Department of State  
41 State Street, Albany, NY 12231

**#2 DRAFT revised June 18, 2009**

(Use this form to file a 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  
**Town of Geneva**  
Town

Local Law No. \_\_\_\_ of the year **2009**.

**A local law "Adopting Noise Regulations"**  
(Insert Title)

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

County

City

**Town** of **Geneva**

as follows:

Village

Section 1: The Code of the Town of Geneva is hereby adopted with the addition of a new Chapter 106 to read as follows:

**Chapter 106**  
**Noise Regulations**

**106-1. TITLE:** This chapter shall be known as “Noise Regulations of the Town of Geneva”

**106-2. PURPOSE:**

In order to maintain peace, good order and safety for the people residing in and who are visitors to the Town this ordinance is intended to prevent unreasonably loud or disturbing noises which are of a character, intensity or duration as to be detrimental to the peace, welfare or good order of the people.

**106-3. DEFINITIONS:**

A. “Loud or unreasonably disturbing noise” shall be defined as the following:

- a) Electronically reproduced noises which are sufficiently loud to be heard by a person of ordinary hearing on real property adjoining the real property from which the offending noise emanates. Examples of such electronically reproduced noises shall include, but not be limited to, emanations from radio, television, tape player, CD player, MP3 player, electronic amplification system, bull horn or vehicle horn or warning device.
- b) Noises produced by motor vehicles which equal or exceed the noise limits provided in Vehicle and Traffic Law § 386 and motor boats which exceed the noise limits contained in Navigation Law § 44 whether or not such noise emanates from within the Town of Geneva or from beyond the Town of Geneva municipal boundary.
- c) Any other excessive or unusually loud sound or any sound which either annoys, disturbs, injures, endangers or interferes with sleep, comfort, repose, health, or safety of a reasonable person of normal sensitivities or which causes injury to animal life or damage to property or business.

B. Night time hours shall be the hours between 10:00 PM and 7:00 AM.

C. Day time hours shall be the hours between 7:00 AM and 10:00 PM.

**106-4. NOISE DURING NIGHT TIME HOURS:**

During night time hours there shall be no loud or unreasonably disturbing noises emanating from the public right of way or from a privately owned property lasting more than 30 seconds which can be

heard on adjoining property which is used as a residence whether or not in a residential zone and whether or not the offending noise emanates from a stationary source or from a moving vehicle or person or persons.

#### **106-5. NOISE DURING DAY TIME HOURS:**

During day time hours there shall be no loud or unreasonably disturbing noises emanating from the public right of way or from a privately owned property lasting more than 10 minutes which can be heard on an adjoining property which is used as a residence whether or not in a residential zone and whether or not the offending noise emanates from a stationary source or from a moving vehicle or person or persons.

#### **106-6. NOISE SPECIFICALLY PROHIBITED DURING NIGHTTIME HOURS:**

During night time hours, noises emanating from the following noise sources shall be absolutely prohibited:

- A. Lawn mowers, leaf blowers, power saws, power drills, power planers, power shapers, other hand-held power equipment, snow mobiles, all terrain vehicles, tractors, powered construction equipment and waste haulers.
- B. Noises produced within a radius of 500 feet from there to operate equipment or perform any outside construction or repair work on buildings, structures or projects to operate any pile driver, pneumatic hammer, derrick or other construction type device except to perform emergency work between the hours of 10:00 PM of one day and 7:00 am of the next day in such a manner which either annoys, disturbs or endangers the comfort, repose, health, peace or safety of one or more individuals of normal sensitivity.
- C. Dogs engaging in loud howling or habitual barking or conducting itself in such a manner so as to disturb the public peace.

#### **106-7. STANDARDS FOR DECIBEL READINGS:**

Acceptable standards of decibel readings for ambient noise with in the Town of Geneva taking into consideration surrounding circumstances.

##### **A. DEFINITIONS:**

Ambient Noise: Background average noise level within an area, exclusive of an extraneous sounds.

Residential Zones: R-1, R-2 - residentially zoned land used primarily for sleeping purposes by residents.

Commercial Zones: B-1, B-2 – hours of operation where people are likely to communicate with one another by speech, all public lands.

Industrial/Agricultural: Land intended for farming and heavy commercial or industrial use.

Continuous Sound: Any sound that is not impulsive.

DBA: The abbreviation for a weighted sound level in decibels.

Fast Response: The characteristic of a sound level meter which allows for accurate measurement of impulsive sounds such as a horn blasts, explosive sounds, firearm discharges or passing motor vehicles.

Impulsive Sounds: Characterized by excursions of the sound pressure which exceed the ambient by six or more decibels, but the last two seconds or less.

Industrial/Agricultural Operation: Production, fabrication and storage of man-made goods, the production, transformation and storage of energy in all forms, and farm equipment used in farming operations.

Maximum Sound Level: Recorded or noted maximum RMS(room-mean-square) sound pressure level noted using an instrument which meets requirements. Maximum impulsive sound shall be measured using the fast response setting. Maximum continuous sound level shall be measured using the slow response setting.

Real Property Boundary: Imaginary line exterior to any structure along the ground surface which separates the real property owned by one person from that owned by another person and vertical extension of such a line.

Receiving Land: The property line of the real property where the sound is being heard and where appropriate level restrictions apply. The case of any apartment, townhouse or condominium the point of measurement is within the affected unit.

Sound Level: The quantity in decibels, measured using an instrument (ANSI SI. 4-1983) sound level is the frequency weighted sound pressure level obtained with fast or slow response.

Sound Level Meter: An instrument designed to detect and measure sound pressure levels and display this information in decibels, either in analog or digital form (ANSI SI.4-1983, Type 1 or 2).

## B. STANDARDS:

Maximum permissible sound levels by receiving land. Any noise source that produces sound in excess of those levels, is measured within the boundary of the receiving land shall constitute a violation.

### TABLE I:

#### A. Continuous Sound: Slow response meter level.

Land Uses	Maximum Sound in DB(A)	
	<u>Day</u>	<u>Night</u>
Residential	75	65
Commercial	85	75
Industrial/Agricultural	100	90

#### B. Impulsive Sound – fast response meter level.

Land Uses	Maximum Sound in DB(B)	
	<u>Day</u>	<u>Night</u>
Residential	90	85
Commercial	90	90
Agricultural/Industrial	100	100

With impulsive noise, the following adjustment levels shall apply:

- 3 -10 repetitions per hour deduct 1 DB
- 11 -20 repetitions per hour deduct 2 DB

21- 60 repetitions per hour deduct 3 DB  
Over 60 repetitions per hour deduct 4 DB

C. Ambient (background noise) level for receiving land exceeds the standards.  
The following maximum sound levels shall apply:

1. Any continuous sound which exceeds the ambient by 10 DB or more.
2. Any impulsive sound which exceeds the ambient by 20 DB or more.

D. The above conditions listed in C shall not apply to noise emanating from agricultural or industrial operations.

**106-8. EXCEPTIONS:**

- A. There shall be excepted from compliance with this ordinance all vehicles and machinery used in conducting an actual farm operation within the Town of Geneva, vehicles used for delivery of produce, equipment or inventory Traveling on State Highways or County Roads traveling through the Town of Geneva. Vehicles and equipment operated by the Town of Geneva employees or contractors of the Town in the course of conducting Town business and vehicles and equipment operated by employees of the State of New York, contractors of the State of New York in the course of conducting state business such as snow removal. A business located in a Business Zone (B1 or B2), a business located in other zones except when subject to a special use permit, industrial or manufacturing operations when located in an Industrial Zone (A-1) and farming operations.
- B. Any person, firm, corporation or party that properly files an operating permit with the Town may be exempt from the provisions for the time period specified in the permit.

**106-9. ENFORCEMENT:**

- A. Any person, firm, partnership, corporation or other party who violates any provision of this chapter shall be guilty of a violation and subject to a fine of not less than \$50 nor more than \$100 for the first offense. Any subsequent violation of the provisions of this chapter shall be a violation and, upon conviction, such person shall be subject to the penalties prescribed in Chapter 1, General Provisions, Article III. The imposition of any such penalty for the violation of this chapter shall not excuse such violation nor permit the continuance thereof. The application of the above penalty or penalties for a violation of the provisions of this chapter shall not be held to prevent the removal of conditions prohibited by this chapter by such legal means as may be proper.
- B. This chapter shall be administered and enforced by the Ontario County Sheriff's Department, the New York State Police or any law enforcement agency.

Section 2. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 3. This local law shall take effect immediately upon filing with the Secretary of State.

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Motion to have the Town Attorney write a revised DRAFT #3 made by Councilman Smaldone second by Councilman Larsen.

**Discussion:** The board voted for keeping section 106-7. STANDARDS FOR DECIBEL READINGS:

	<u>Aye</u>	<u>Nay</u>
Mary Luckern	<u>X</u>	_____
Michael Vassello	<u>X</u>	_____
Richard Larsen	<u>X</u>	_____
Anthony Capozzi	_____	<u>X</u>
Edward Smaldone	<u>X</u>	_____

Motion Passed.

The Board voted on removing 106-3. DEFINITIONS-C: Daytime hours shall be the hours between 7:00 AM and 10:00 PM.; 106-5. NOISE DURING DAY TIME HOURS:

	<u>Aye</u>	<u>Nay</u>
Mary Luckern	<u>X</u>	_____
Michael Vassello	<u>X</u>	_____
Richard Larsen	<u>X</u>	_____
Anthony Capozzi	_____	<u>X</u>
Edward Smaldone	<u>X</u>	_____

Motion Passed.

The Town Attorney stated that from what the Board has requested he would take out sections 106-4, 106-5 and 106-6 because now the Town will have decibel readings. Also, the nighttime hours would change from 10:00 PM - 7:00 AM to 10:00 PM - 6:00 AM.

Motion unanimously approved.

**4) CARTER ROAD ZONING:** Motion to further review zoning made by Councilman Vassello second by Councilman Smaldone.

**Discussion:** Mike Guyon, Engineer from MRB, displayed three alternative maps for the rezoning on Carter Road. Daniel Hackett, from Castle Road, also had some concerns with how the rezoning would affect the Castle Brook Subdivision. Mike Guyon stated that the SEQR was done for the Castle Brook Project. The Town Attorney stated that when the Woodlands came in and they had to do their SEQRS, Castle Brook being a project on the books, was probably taken into consideration when their SEQRS were done. John Russo stated, "The Planning Board hadn't heard from Castle Brook in so long that the Planning Board thought it was a dead issue; rumor was that it was a dead issue." "When the Conifer project was considered I do not think that the Castle Brook project was considered at all." The Town preliminarily approved the Castle Brook project. Supervisor Luckern asked Mike Guyon, Daniel Hackett and Councilman Capozzi to work on another alternative map and bring it back to the Town Board to be reviewed.

Nick Amatulli from Rosewood Dr.: Asked the Town Board to rethink about the daytime noise due to the fact that he lives right next to the Geneva Community Center and can envision a lot of activities going on in the daytime hours that would affect the residents of Rosewood Drive.

Motion unanimously approved.

**5) ADJOURN:** Motion to adjourn made by Councilman Vassello second by Councilman Smaldone.

**Discussion:** None

Motion unanimously approved.

Time: 8:45 PM

RESPECTFULLY SUBMITTED