

## **VILLAGE OF ASHAROKEN**

### **LOCAL LAW NO. # 3 -2023**

#### **A LOCAL LAW AMENDING CHAPTER 86 OF THE CODE OF THE VILLAGE OF ASHAROKEN ENTITLED “NOISE”**

**BE IT ENACTED** by the Board of Trustees of the Village of Asharoken as follows:

##### **Section One. Legislative Intent.**

The Board of Trustees finds that it serves the public health, safety and general welfare of the Village of Asharoken and that it is in the best interests of the Village of Asharoken to amend Chapter 86 of the Code of the Village of Asharoken entitled “Noise” to minimize to the fullest extent possible unreasonably loud and disturbing noises.

##### **Section Two. Repeal of existing Chapter 86 of the Code of the Village of Asharoken.**

The existing Chapter 86 of the Code of the Village of Asharoken, entitled “Noise” is hereby repealed in its entirety.

##### **Section Three. Adoption of new Chapter 86 of the Code of the Village of Asharoken.**

A new Chapter 86 of the Code of the Village of Asharoken, entitled “Noise”, is hereby adopted to provide as follows.

### **CHAPTER 86**

#### **NOISE**

##### **86-1. Title**

This Chapter shall be known and may be cited as “ Noise Code of theVillage of Asharoken”

##### **86-2. Legislative Intent**

Loud, unnatural or unusual noises which are intermittent or prolonged are detrimental to the public health, comfort, safety and welfare and constitute a disturbance to the peace of the residents of the Village of Asharoken. The provisions hereinafter set forth and enacted are for the purpose of securing and promoting public health, comfort, safety and peace of the Village of Ashraoken and its residents.

### **86-3. Definitions**

#### **COMMERCIAL LANDSCAPER**

An individual, corporation, limited liability company, partnership or other entity performing landscaping, as defined herein, either as principal, independent contractor, or through an agent or employee, for a fee, charge, or other compensation, to or for the benefit of any owner, tenant, or occupant of any lot, plot, or parcel of land.

#### **EMERGENCY**

Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

#### **HOLIDAYS**

New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day, Juneteenth, Fourth of July, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day.

#### **LANDSCAPING**

The maintaining of and/or providing care of lawns, including but not limited to mowing, cutting, trimming, the gathering, raking, blowing, and/or removal of leaves, grass or lawn clippings and/or other debris.

#### **NOISE DISTURBANCE**

Any noise which annoys or disturbs a reasonable person of normal sensitivities. The following factors shall be considered in determining if any noise annoys or disturbs a reasonable person of normal sensitivities: the volume of the noise; the time of day or night the noise occurs; the duration of the noise; the proximity to a neighboring property that the noise occurs.

#### **PERSON**

Any individual, association, partnership, limited liability company or corporation.

#### **TREE SERVICES**

The planting, pruning, trimming, removal of trees and stump grinding.

#### **VILLAGE**

The Incorporated Village of Asharoken.

### **84-4. Noise disturbance prohibited.**

No person shall make, continue, allow, permit, cause or maintain any noise disturbance by any means within the Village.

#### 84-5. Specific Prohibitions

The following noise and the causing thereof are declared to be a noise disturbance as a matter of law in violation of this chapter:

1. Noise from a dog or other pet or animal that is continuous for more than 15 minutes.
2. Noise from a burglar alarm or other alarm system of any building, motor vehicle or boat which is continuous for more than 15 minutes.
3. Noise from the playing, using, operating or permitting to be played, used, or operated any radio, television or musical instrument which is heard across a real property boundary.
4. Noise from the construction (including excavation), demolition, alteration or repair of any building or structure which is heard across a real property boundary, other than between the hours of 8 a.m. and 5 p.m. on weekdays (Monday through Friday), except in cases of emergency in the interest of health and safety, and then only if permission is granted in writing by Superintendent of Building, Mayor or Deputy Mayor for the period of the emergency. Weekdays shall not include legal holidays.
5. Noise from the operation of tractors and other earth-moving machines which is heard across a real property boundary, other than between the hours of 8 a.m. and 5 p.m. on weekdays (Monday through Friday), in cases of emergency in the interest of health and safety, and then only if permission is granted in writing by Superintendent of Building, Mayor or Deputy Mayor for the period of the emergency. Weekdays shall not include legal holidays.
6. Noise from the operation of any loudspeaker or any other device for the production, amplification, intensification or reproduction of sound which is heard across a real property boundary.
7. Noise from landscaping performed by other than a commercial landscaper which is heard across a real property boundary, other than between the hours of 8 a.m. and 6 p.m. on Weekdays (Monday through Friday), 9 a.m. to 5 p.m. on Saturday and 10 a.m. to 3 p.m. on Sunday. Weekdays, Saturday and Sunday shall not include legal holidays.
8. Noise from landscaping performed by a commercial landscaper which is heard across a real property boundary, other than between the hours of 8 a.m. and 6 p.m. on weekdays (Monday through Friday) and 9 a.m. to 2 p.m. on Saturday. Weekdays and Saturday shall not include legal holidays.
9. Noise from tree services which is heard across a real property boundary, other than between the hours of 8 a.m. and 5 p.m. on weekdays (Monday through Friday), except in cases of emergency in the interest of health and safety, and then only if permission is

granted in writing by the Mayor or Deputy Mayor for the period of the emergency. Weekdays shall not include legal holidays.

#### **84-6. Exceptions.**

- A. Noise from the legal use of firearms and explosives when the same are used pursuant to a permit issued by the Board of Trustees of the Village and such permits as may be required by other governmental authorities having jurisdiction of the use of firearms and explosives is deemed not to be a noise disturbance.
- B. Noise from a snow blower being used to clear snow is deemed not to be a noise disturbance.

#### **84-7. Enforcement and penalties.**

A. It shall be the duty of the Asharoken Police Department to enforce the provisions of this chapter.

B. Any person or entity, or their agents or representatives, who violates any section of this chapter shall be deemed guilty of a violation and, upon conviction thereof, shall be punished by a fine not to exceed \$500 for the first violation, and by a fine not less than \$500.00 nor more than \$750.00 for a second violation, and by a fine not less than \$750.00 nor more than \$1,000 for a third or succeeding violations.

#### **Section Four. Severability.**

If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

#### **Section Five. Effective Date.**

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