

A regular meeting of the Common Council was held in the Common Council Chambers of the municipal building, Peekskill, New York, on April 23, 2012, beginning at 9:57 p.m., with Mayor Mary F. Foster presiding, following the Pledge of Allegiance to the Flag.

Present were: Councilwomen Marybeth McGowan, Kathleen Talbot, Councilmen Donald Bennett, Darren Rigger, Andrew Torres, Deputy Mayor Drew Claxton and Mayor Mary F. Foster.

Also present were: Acting City Manager Brian Havranek, Corporation Counsel Bernis Nelson and City Clerk Pamela Beach.

A moment of silence was observed in honor of city employee John Fischer who passed away after being injured on the job.

READING OF THE MINUTES OF PREVIOUS MEETING

Councilwoman McGowan moved to dispense with the reading of the minutes of the Council meeting of March 26, 2012, and the April 9, 2012, Public Hearing and Council Meeting and to accept them as presented with one minor correction, Councilman Bennett seconded the motion, which carried unanimously by acclamation with the exception of Mayor Foster who abstained on the minutes of April 9, 2012, as she was not present at said meeting.

COMMUNICATIONS

None

DEPARTMENTS AND CITY MANAGER REPORTS

None

STATEMENTS BY CITIZENS DESIRING TO BE HEARD

Tim Ball, Fremont Avenue asked, what authority we have over the Chapel near St. Mary's; asked about a trolley parked in a residential area on Mortgage Hill; said he watched the Committee of Whole and the person you have in the marketing position; it was very embarrassing to watch; he felt he didn't know what he was doing.

Mayor Foster stated, that he was not a city employee; he is a volunteer who was presenting something to the council so we appreciate his efforts.

Robin Alpern, Union Ave. spoke about what she perceives as white supremacy; and people coming to council meetings for over 2 years with the same complaints over and over again.

Sandy Allen, resident of Dunbar Heights asked, when the last time any of the councilmember's came to Dunbar Heights, other than Election time; said a young woman from Dunbar Heights came in to see the Mayor and showed photos of her floor, you [the Mayor] called the Housing Authority and made sure they made it a priority to redo her entire floor; asked what takes preference tiles in someone's apartment or foot patrol for security.

Mayor Foster replied, that is just outright wrong.

Sandy Allen thanked Lieutenant Eric Johansen they have been coming down more often, but it's not enough. They can't sit down at Dunbar 24 hours because there are other places in the city. One more thing, the waiting list for Dunbar Heights is not a

waiting list. There is a young woman who filled out an application and 7 months later moved into Bohlmann Towers because she knows Leesther Brown; there is something wrong with the system, you have to get rid of Harold Phipps.

Jim Edler, Cortlandt Manor stated, there are monumental problems in Peekskill and much frustration. Reiterated his concern with leadership, racism and sense of justice.

Allison McClellan thanked the city for assisting with searching and finding her father who suffers from Alzheimer; asked the city to look into the city having their own canine unit.

Genetta Rodriguez, 142 Smith Street stated, it's good to hear that the Peekskill Police can do a good job, let's see if they can handle the drug situation at Dunbar Heights; asked who is paying and who employed the Executive Director, Harold Phipps.

Mayor Foster replied, the Housing Authority Board. We've been through this over and over.

Genetta Rodriguez stated, she feels it all goes back to the Mayor. She said she is waiting for documentation from HUD; asked about situation involving Mr. Christopher Burkett, who was allegedly accused of dealing drugs on or about 2011. Chief wrote a letter to the Executive Director Housing banning Mr. Burkett from visiting his elderly mother. He has not been found guilty but he is banned from seeing his mother. Felt it was a violation of his rights. Feels the Mayor's husband runs the city. She requested a complete list of names of who is on the Board of Ethics; said board member Judith Ehren is unethical.

Terri Kardosh, resident of Cortlandt Manor spoke in support of the resolution on the agenda concerning opposing the United States Supreme Court's Interpretation of the Constitution in Citizens United.

George Ondek resident of Society Hill II, spoke in support of the work being done by the Community Action program and the Youth Bureau; spoke about an article in the Northern Westchester Examiner about Peekskill scaring shoppers; asked how can you put yourself in an article that Peekskill scares shoppers.

Mayor Foster replied, I didn't put myself in an article, people take statements I make in a number of public hearings and put them where they'd like, but I was not interviewed for that article. The marketing person you are referring to, I assume, is the consultant.

George Ondek stated, that the consultant, Ms. Ortiz, brilliant young lady is not from Peekskill. It smacks a little bit of racism; there is no great crime in Peekskill. Garbage issue, when will you equalize it and make a garbage fee.

Darrell Davis, Chairman, Committee for Justice, spoke about e-mail received per a Freedom of information Request that was on Grant Thornton logo.

Mayor Foster replied, there was one e-mail responded to from my work e-mail, interestingly all the other e-mails were responded to from my personal e-mail address.

Darrell Davis stated, you received a letter that you got from HUD back in June saying that you had to have another tenant election; spoke about a 4 page letter from Mr. Phipps saying that there is a big conspiracy led by Darrell Davis to get rid of Mr. Phipps.

Mayor Foster replied, at our next public meeting, I will bring the whole stack of e-mails that you are referring to and I will read each and every one of them. What we will do is we will end the distortion of what is going on at the podium; we'll do that in two weeks.

Darrell Davis stated, it was stated that Bill Florence doesn't receive any money from the City of Peekskill.

Mayor Foster replied, that's right we said he is not an employee of the City of Peekskill, he is not on the payroll.

Darrell Davis you said no, Drew Claxton sent an e-mail shortly after that saying he got a few checks from the insurance company; we foiled it, there are stacks of payments as recently as last month to Bill Florence.

Mayor stated, we've seen all that information.

Darrell Davis spoke, about the way the Housing Authority is running and the lack of respect for the tenants.

Edward Fried, resident of Cortlandt stated, he attended the Peekskill Housing Board meeting last Thursday night. It's an experience I recommend to each and every one of you; stated that he feels it's time for this council to end their support for Harold Phipps.

Leesther Brown, resident of Peekskill spoke about her removal from the Housing Authority; said she came to the meeting after hearing her name mentioned about helping someone get an apartment; she feels there are lies being told about Mr. Phipps.

Sherry Hinkson, resident of Mount Vernon, asked who pays for the legal representation in the lawsuit Thankachan vs. Peekskill Housing Authority.

Mayor Foster replied, the city pays for its own legal representation. The Housing Authority Board is supposed to pay for their legal representation.

Sherry Hinkson asked, are you saying that the housing authority board has insurance to pay. Are you saying that HUD paid for it?

Mayor Foster replied, I didn't say they had insurance, I said they are suppose to pay for their own representation.

Sherry Hinkson asked, does the taxpayer of Peekskill pay for that legal representation or are you saying that HUD pays for it?

Mayor Foster replied, I'm saying the Housing Authority Board is supposed to pay for it and the city taxpayers do not.

Sherry Hinkson stated, she is asking who paid for it.

Mayor Foster replied, to my knowledge the housing authority board paid for it. We didn't authorize any expenditure from the city for the Housing Authority board.

Sherry Hinkson asked, where does the money come from?

Mayor Foster replied, we don't run the Housing Authority Board, I don't know where their money comes from and we have been saying that every meeting ten times a meeting. It does not change the facts.

Sherry Hinkson asked, the Mayor why she sent an e-mail to HUD on February 24th, talking about the meeting that you all were going to have on March 14th and you said on the agenda there was a current search for an Executive Director; asked if money is missing from the Housing Authority that has resulted in some type of investigation?

Mayor Foster stated, we had a meeting, there is no missing money. There is no investigation to HUD's knowledge. I asked to have a meeting and a meeting was had and you can read the entire emails from start to finish.

Sherry Hinkson spoke about Darrell being banned from the Housing Authority again.

Mayor Foster replied, I am responsible for these meetings; he's not banned from these meetings.

John Donohue, Union Avenue stated, stayed because he wants to pay tribute to the entire body sitting up there; stated he came here to bear witness to the truth that we have a great community and we have a community that lives together and abides together.

NEW BUSINESS

Councilwoman McGowan offered the consent agenda, moving its adoption:

North Division Street Temporary Street Closings – Approved

WHEREAS, the Peekskill BID is planning a Cinco De Mayo celebration in the City of Peekskill on Saturday, May 5, 2012; and

WHEREAS, 12 Grapes Restaurant is planning a 1000th Live Music Performance Celebration on Sunday, May 6, 2012; and

WHEREAS, for Cinco De Mayo the following temporary street closures are requested, from 1:00PM to 11:00PM;

South Division Street between South Street and Park Street

North Division Street between Park Street and Main Street

Park Street between Division Street and Bank Street

Central Avenue between Division Street and Nelson Avenue (to beginning of driveway of the municipal parking lot);

WHEREAS, for the 12 Grape Restaurant Celebration the following temporary street closure is requested, from 3:00 PM to 10:30 PM;

North Division Street between Park Street and Main Street;

NOW, THEREFORE, BE IT

RESOLVED, that the Chief of Police is hereby authorized to close the streets requested on Saturday, May 5th from 1:00PM to 11:00PM and on Sunday, May 6th from 3 PM to 10:30 PM, in order to accommodate the two celebrations, subject to the Peekskill BID and the 12 Grapes Restaurant obtaining the necessary Carnival/Special Event permits and posting the requisite insurance therefore.

Dylan's Wine Cellar – Use of City Parking Lot – Approved

WHEREAS, Dylan's Wine Cellar will be celebrating their One Year Anniversary on Saturday, April 28, 2012; and

WHEREAS, as part of the celebration, Dylan's Wine Cellar is requesting the use of the Water Street commuter parking lot between the hours of 3 p.m. and 7 p.m.;

NOW, THEREFORE, BE IT

RESOLVED, that the Chief of Police is hereby authorized to close a portion of the Water Street commuter parking lot on Saturday, April 28th, from 3 p.m. to 7 p.m., for Dylan's Wine Cellar's Anniversary Celebration.

Councilman Bennett seconded the motion, which carried unanimously by acclamation.

Councilman Bennett offered the following resolution, moving its adoption:

Amending Taxi Regulations – Approved

WHEREAS, the Chief of Police has made certain recommendations to the Common Council to amend Part 283 of the Regulations of the City of Peekskill entitled “Taxicabs” in order to encourage the safe and orderly use and operation of taxicabs within the City of Peekskill, to encourage compliance with those regulations and to facilitate enforcement of these regulations

NOW, THEREFORE, BE IT

RESOLVED, that the following amendments to Part 283 of the Regulations of the City of Peekskill entitled “Taxicabs” be and the same shall be effective immediately upon adoption of this resolution and be it further

RESOLVED that Section 283-3(C) – Taxicab license required, and Section 283-21(C) – Penalties for offenses of Part 283 of the Regulations of the City of Peekskill entitled “Taxicabs” shall now read as follows:

283-3 Taxicab license required

C. No licensed taxicab owner or principal of such owner shall permit a driver who does not hold a valid taxicab driver’s license issued by the Chief of Police, to pick up passengers within the City limits. ~~A person who violates this provision shall be deemed guilty of an unclassified Class A misdemeanor and upon conviction thereof, shall be fined in the amount of not less than five hundred dollars (\$500.00) and of not more than one thousand dollars (\$1,000.00). Each and every day such misdemeanor is committed shall be considered a separate offense and shall be punishable as such.~~ The Chief of Police may suspend or revoke a taxicab license for repeated violation of this section.

283-21 Penalties for offenses.

C. Any taxicab owner or principal of such owner who permits a driver who does not hold a valid taxicab driver’s license issued by the Chief of Police, to pick up passengers within the City limits, shall be deemed guilty of ~~an unclassified~~ a Class A misdemeanor and upon conviction thereof, shall be fined in the amount of ~~not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00)~~ two thousand dollars (\$2,000.00).

Councilman Torres seconded the motion, which carried unanimously by acclamation.

Councilman Torres offered the following resolution, moving its adoption:

Bid Award/Summer Camp Bus Rental – Approved

WHEREAS, each year the Peekskill Parks & Recreation Department rents buses in order to provide transportation to the resident children attending the Peekskill Day Camp and Peekskill Teen Travel Camp; and

WHEREAS, sealed bids for the Recreation Department’s Summer Camp Bus Rental, bid number 2012-05, were opened and read at the Office of the City Clerk on Thursday, March 22, 2012 at 11:00 am; and

WHEREAS, Mile Square Transportation, Inc., 15 Worth Street, Yonkers, New York 10703 was the lowest responsible bidder for “Item A. Teen Travel Camp” in the amount of \$10,092.00 for the City’s summer Teen Travel Camp bus rental needs; and

WHEREAS, Royal Coach, Line, Inc., 1010 Nepperhan Ave., Yonkers, NY 10703 was the lowest responsible bidder for “Item B. Day Camp” in the amount of \$40,200.00 for the City’s summer Day Camp bus rental needs; and

WHEREAS, a mutual agreement has been made between the City of Peekskill, Mile Square Transportation, Inc., and Royal Coach Line, Inc., to meet the bussing needs of the 2012 Summer Day Camp and Teen Travel Camp for the total combined bid price of \$50,272.00; and

WHEREAS, funds in the amount of \$50,272.00 exist in the General Fund Budget for the 2012 Summer Camp Bus Rental;

NOW, THEREFORE, BE IT

RESOLVED, that the City Manager, or his authorized designee, is hereby authorized to enter into agreement with Mile Square Transportation, Inc., 15 Worth Street, Yonkers, New York 10703, for their 2012 Teen Travel Camp Bus Rental needs in the amount of \$10,092.00 and with Royal Coach Line, Inc., 1010 Nepperhan Ave., Yonkers, NY 10703, for their 2012 Day Camp Bus Rental needs in the amount of \$40,200.00.

Councilman Bennett seconded the motion, which carried unanimously by acclamation.

Councilwoman McGowan offered the following resolution, moving its adoption:

Appointment to Historic Preservation Advisory Board – Approved

WHEREAS, a vacancy exists on the Historic Preservation Advisory Board; and **WHEREAS**, the authority and responsibility to make appointments to boards and commissions rests with the Common Council pursuant to the City Charter and other applicable law; and

WHEREAS, the Common Council desires to make such appointments as it deems in the interest of the City to fill existing and impending vacancies;

NOW, THEREFORE, BE IT

RESOLVED, that the following named person is hereby appointed to the Historic Preservation Advisory Board:

Historic Preservation Advisory Board

Edward Jenkins
20 Villa Drive
Peekskill, N.Y.

Term Expires

April 23, 2015

Councilman Torres seconded the motion, which carried unanimously by acclamation.

Councilwoman Talbot offered the following resolution, moving its adoption:

Opposing the United States Supreme Court's Interpretation of the Constitution in Citizens United – Approved

WHEREAS, In 2010 the United States Supreme Court issued its decision in *Citizens United v. Federal Election Commission*, holding that independent spending on elections by corporations and other groups could not be limited by government regulations; and

WHEREAS, this decision rolled back the legal restrictions on corporate spending in the electoral process, allowing for unlimited corporate spending to influence elections, candidate selection, and policy decisions; and

WHEREAS, in reaching its decision, a majority of the Supreme Court, relying on prior decisions, interpreted the First Amendment of the Constitution to afford corporations the same free speech protections as natural persons; and

WHEREAS, in his eloquent dissent, Justice John Paul Stevens rightly recognized that "corporations have no consciences, no beliefs, no feelings, no thoughts, no desires. Corporations help structure and facilitate the activities of human beings, to be sure, and their 'personhood' often serves as a useful legal fiction. But they are not themselves members of 'We the People' by whom and for whom our Constitution was established"; and

WHEREAS, the Court's decision in *Citizens United* severely hampers the ability of federal and state governments to enact reasonable campaign finance reforms and regulations regarding corporate political activity; and

WHEREAS, corporations should not be afforded the entirety of protections or "rights" of natural persons, such that the expenditure of corporate money to influence the electoral process is a form of constitutionally protected speech; and

WHEREAS, several proposed amendments to the Constitution have been introduced in Congress that would allow governments to regulate the raising and spending of money by corporations to influence elections;

NOW, THEREFORE, BE IT

RESOLVED, that the Common Council of the City of Peekskill opposes the Supreme Court's interpretation of the Constitution in *Citizens United* regarding the constitutional rights of corporations, and be it further

RESOLVED, that the Common Council of the City of Peekskill supports amending the Constitution to provide that corporations are not entitled to the entirety of protections or "rights" of natural persons, specifically so that the expenditure of corporate money to influence the electoral process is no longer a form of constitutionally protected speech, and calls on Congress to begin the process of amending the Constitution.

Councilman Torres seconded the motion, which carried unanimously by acclamation.

Councilman Bennett offered the following resolution, moving its adoption:

Instituting a Moratorium on the Issuance of Licenses, Permits and Approvals for Collateral Loan Brokers and Collateral Loan Broker Establishments – Approved

BE IT RESOLVED, by the Common Council of the City of Peekskill that this Common Council will hold a public hearing at 7:30 P.M. or as soon as such Hearing may be called thereafter, on the 14th day of May, 2012, in the Council Chambers at City Hall, 840 Main Street, Peekskill, New York, on the proposed Local Law entitled:

LOCAL LAW NO. ____ OF 2012

**A LOCAL LAW INSTITUTING A MORATORIUM
ON THE ISSUANCE OF LICENSES, PERMITS AND APPROVALS
FOR COLLATERAL LOAN BROKERS AND
COLLATERAL LOAN BROKER ESTABLISHMENTS**

and, be it further

RESOLVED, that the City Clerk give due notice of this public hearing in accordance with the City Code and the provisions of the Municipal Home Rule Law of the State of New York.

**CITY OF PEEKSKILL
INTRODUCTORY LOCAL LAW No. __ OF 2012**

**A LOCAL LAW INSTITUTING A MORATORIUM
ON THE ISSUANCE OF LICENSES, PERMITS AND APPROVALS
FOR COLLATERAL LOAN BROKERS AND
COLLATERAL LOAN BROKER ESTABLISHMENTS**

BE IT ENACTED by the Common Council of the City of Peekskill, Westchester County, New York as follows:

SECTION 1: PURPOSE

The purpose of this Local Law is to protect the public health, safety and welfare of the residents of the City of Peekskill and to maintain the status quo as to the issuance of any licenses, permits and approvals for collateral loan brokers, also referred to as ‘pawnbrokers’, and collateral loan establishments, also referred to as ‘pawnshops’, as further identified below, for a period of six (6) months while the Common Council analyzes and determines potential appropriate revisions and amendments to the City of Peekskill Zoning Code.

SECTION 2: LEGISLATIVE FINDINGS

The City of Peekskill Common Council does hereby find that appropriate measures must be taken to secure a temporary reasonable halt on the issuance of licenses, permits and approvals for collateral loan brokers and collateral loan broker establishments in the City to protect the public interest while the Common Council is undergoing a review and potential revision to the City Zoning Code, including the necessary compliance with the analysis and procedures mandated by the State Environmental Quality Review Act (“SEQRA”).

Without a temporary halt on issuance of licenses, permits and approvals for collateral loan brokers and collateral loan broker establishments, there is the potential that collateral loan broker establishment uses could be located anywhere within the City; though it is the belief of the City that collateral loan brokers are presently prohibited under the City’s Zoning Code, and require a license to operate an establishment which is at the discretion of the Mayor. The potential for the unrestricted location of these uses would have materially adverse and irreversible impacts to the City.

The City of Peekskill desires to maintain the *status quo* by prohibiting any action issuing any license, permit and/or approval for collateral loan brokers and collateral loan broker establishments by the City Mayor, Common Council, Planning Commission, Zoning Board of Appeals, Historic and Landmarks Preservation Board, or any City official, including, but not limited to the City Building Inspector. The Common Council is in need of time to perform the necessary review and analysis in connection with its review of the City’s Zoning Code provisions. This analysis and study includes, but is not limited to, studies concerning the propriety of certain types of development in various zones. By maintaining the *status quo* on such licenses, permits and approvals in the City until such time as appropriate consideration and potential amendments to the City Code are adopted, the Common Council can provide for the planned orderly growth and development of the City.

SECTION 3: MORATORIUM IMPOSED; APPLICABILITY

For a period of time of six (6) months following the effective date of the adoption of this Local Law no licenses, permits, approvals or conditional approvals for collateral loan brokers and collateral loan broker establishments may be issued or granted, nor any denials, decisions or interpretations issued, by the City Mayor, Common Council, Planning Commission, Zoning Board of Appeals, Historic and Landmarks Preservation Board, or any City official, including, but not limited to the City Building Inspector.

This Local Law shall be binding on the Common Council, Planning Commission, Zoning Board of Appeals, Historic and Landmarks Preservation Board, all City officials and employees, and any applicant or real property owner in the City desiring a license, permit or approval in the City of Peekskill.

During the period of the moratorium, the Common Council shall endeavor to complete all reasonable and necessary review, study, analysis and, if warranted, revisions to the City of Peekskill Code. During the period of the moratorium, no applications will be accepted, nor licenses, permits or approvals issued, which would authorize a collateral loan broker or collateral loan broker establishment.

SECTION 4: TERM

This moratorium shall be in effect for a period of six (6) consecutive months from its effective date.

This Local Law shall be subject to renewal for a cumulative period of up to an additional six (6) months, if necessary, by Resolution(s) of the Common Council.

SECTION 5: EFFECT ON OTHER LAWS

To the extent that any law, ordinance, rule or regulation, or parts thereof, are in conflict with the provisions of this Local Law, including all provisions of Article 3 of the New York State General City Law concerning special use permit, site plan, building permit and certificate of occupancy procedure and requirements, this Local Law shall control.

SECTION 6: WAIVER

Owing to the limited scope and duration of this moratorium, there is no provision being made in this Local Law for any waivers to its applicability. However, the Common Council may, but is not obligated to, promulgate regulations by a Resolution of the Board authorizing a hardship waiver process to this moratorium.

SECTION 7: SEVERABILITY

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 be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

SECTION 8: EFFECTIVE DATE

This Local Law shall take effect immediately upon its filing with the Secretary of State in accordance with New York Municipal Home Rule Law.

Councilman Rigger seconded the motion, which carried unanimously by acclamation.

Deputy Mayor Claxton offered the following resolution, moving its adoption:

Repeal Chapter 213 Business Hours, Entertainment Establishments and to Amend Chapter 391 Entitled "Noise" – Approved

WHEREAS, on March 19, 2012, a proposed Local Law was placed on the desks of the members of the Common Council to repeal Chapter 213 of the Code of the City of Peekskill entitled "Business Hours Entertainment Establishments" and to amend Chapter 391 of the Code of the City of Peekskill entitled "Noise", and;

WHEREAS, on April 9, 2012, a public hearing was held on said Local Law in the Common Council meeting room, City Hall, Peekskill, NY after due publication of said notice of Public Hearing,

WHEREAS, said Local Law has been on the desks of the members of the Common Council in its final form for at least seven (7) days, exclusive of Sundays.

NOW, THEREFORE, BE IT

RESOLVED, that said Local Law be and the same is hereby adopted and shall be known as Local Law № 5 for the year 2012 in the City of Peekskill.

LOCAL LAW NO. 5 OF 2012

A LOCAL LAW

TO REPEAL CHAPTER 213 ENTITLED “BUSINESS HOURS, ENTERTAINMENT ESTABLISHMENTS” OF THE CODE OF THE CITY OF PEEKSKILL AND TO AMEND CHAPTER 391 OF THE CODE OF THE CITY OF PEEKSKILL ENTITLED “NOISE”

BE IT ENACTED by the Common Council of the City of Peekskill as follows:

Section 1. Article I of Chapter 213, *Business Hours, Entertainment Establishments*, of the City Code is hereby repealed in its entirety, as follows:

Section 2. Chapter 391, *Noise*, of the City Code is hereby amended as follows:

Chapter 391. NOISE

§ 391-1. Legislative intent.

The City of Peekskill recognizes that excessive noise is detrimental to the public health, safety and welfare and is inimical to the residential character of substantial areas of the City. Pursuant to the authority set forth in New York State law, the creation of any unreasonably intrusive, unreasonably loud, disturbing or unnecessary noise is hereby prohibited. It is the intent of this Code to create opportunities for quiet enjoyment within the City.

§ 391-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

HOLIDAYS

Those days recognized as holidays by New York State.

INDOOR SOUND

Sound or noise originating or emanating from within a building or structure.

OUTDOOR SOUND

Sound or noise originating or emanating from outside a building or structure.

REPETITIVE SOUND

A nonconstant sound which recurs with some degree of regularity.

SOUND OR NOISE

Indoor Sound and Outdoor Sound.

SOUND PRODUCTION DEVICE

Any device that is used for the creation, production, or amplification of sound.

UNREASONABLY INTRUSIVE

Any constant sound occurring for a period greater than two minutes or any repetitive sound, either of which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities under the circumstances.

ZONING DISTRICT

Any zone as defined in Chapter 575, Zoning, of the Code of the City of Peekskill.

§ 391-3. Sound-levels

A. No person shall operate or permit to be operated in the City of Peekskill any sound source that produces a sound level exceeding the limitations of this chapter. The sound level determination or measurement shall be conducted either from the property line of the impacted dwelling or structure or, in the case of multifamily housing, the dwelling unit of the parcel in which such noise is received, except where otherwise specified.

B. The permissible and nonpermissible sound levels established by this chapter, are as follows, except for specific activities or noise sources which are subject to and governed by Sections 391-4, 391-5, and 391-6 hereof:

(1) Residential delivery/service. On properties within any residential zoning district, deliveries of home heating oil, other deliveries and pickup of residential garbage shall not be regulated by this chapter except for specific activities or noise sources that are subject to and governed by §§ 391-4, 391-5, and 391-6 hereof.

(2) Activities in residential zones which are audible in residential zones. Indoor Sound and Outdoor Sound produced by activities on properties within any residential zoning district shall not be audible at any location upon any other property within any residential zoning district between the hours of 10 p.m. and 8 a.m. all days. At all other times, Indoor Sound and Outdoor Sound produced by activities on properties within any residential zoning district shall not be unreasonably intrusive to any other property within any residential zoning district.

(3) Activities in nonresidential zones which are audible in nonresidential zones. Indoor Sound and Outdoor Sound produced by activities on properties within any nonresidential zoning district shall not be audible at any location upon any other property in a nonresidential zoning district during the following hours, respectively:

(a) Prohibited Indoor Sound:

between the hours of 10 p.m. and 12:00 a.m. on Sundays through Wednesdays other than the Wednesday before Thanksgiving Day and December 31;

between the hours of 12 a.m. and 8 a.m. on Mondays through Thursdays other than January 1 and Thanksgiving Day; and

between the hours of 1 a.m. and 8 a.m. on Fridays through Sundays, January 1, and Thanksgiving Day.

(b) Prohibited Outdoor Sound:

all hours on Mondays through Wednesdays;

between the hours of 10 p.m. and 12 a.m. on Thursdays through Saturdays;

between the hours of 12 a.m. and 12 p.m. on Thursdays through Sundays;

between the hours of 5 p.m. and 12 a.m. on Sundays.

At all other times, Indoor Sound and Outdoor Sound produced by activities on properties within any nonresidential zoning district shall not be unreasonably intrusive to any other property within any nonresidential zoning district.

(4) Activities in the C-2 Central Commercial District and in the WF-2 Waterfront District which are audible in residential zones. Indoor Sound and Outdoor Sound produced by activities on properties within the C-2 Central Commercial District and the

WF-2 Waterfront District shall not be audible at any location upon any property in a residential zoning district during the following hours, respectively:

(a) Prohibited Indoor Sound:

between the hours of 10 p.m. and 12:00 a.m. on Sundays through Wednesdays other than the Wednesday before Thanksgiving Day and December 31;

between the hours of 12 a.m. and 8 a.m. on Mondays through Thursdays other than January 1 and Thanksgiving Day; and

between the hours of 1 a.m. and 8 a.m. on Fridays through Sundays, January 1, and Thanksgiving Day.

(c) Prohibited Outdoor Sound:

all hours on Mondays through Wednesdays;

between the hours of 10 p.m. and 12 a.m. on Thursdays through Saturdays;

between the hours of 12 a.m. and 12 p.m. on Thursdays through Sundays;

between the hours of 5 p.m. and 12 a.m. on Sundays.

At all other times, Indoor Sound and Outdoor Sound produced by activities on properties within the C-2 Central Commercial District and the WF-2 Waterfront District shall not be unreasonably intrusive to any property within any residential zoning district.

(5) Activities in nonresidential zones, other than the C-2 Central Commercial District and the WF-2 Waterfront District, which are audible in residential zones. Indoor Sound and Outdoor Sound produced by activities on properties in any nonresidential zoning district, other than the C-2 Central Commercial District and the WF-2 Waterfront District, shall not be audible at any location upon any property in any residential district during the following hours, respectively:

(a) Prohibited Indoor Sound:

10 p.m. to 8 a.m. all days

(b) Prohibited Outdoor Sound:

all hours on Mondays through Wednesdays;

between the hours of 10 p.m. and 12 a.m. on Thursdays through Saturdays;

between the hours of 12 a.m. and 12 p.m. on Thursdays through Sundays; and

between the hours of 5 p.m. and 12 a.m. on Sundays.

At all other times, Indoor Sound and Outdoor Sound produced by activities on properties within any nonresidential zoning district, other than the C-2 Central Commercial District and the WF-2 Waterfront District, shall not be unreasonably intrusive to any property within any residential zoning district:

(6) State, county and City maintenance operations, street cleaning, refuse removal and governmental functions shall be exempt from regulation under this chapter. Commercial street sweeping, parking lot maintenance and repair shall be exempt during the hours of 6:00 a.m. to 11:00 p.m.

§ 391-4. Prohibited acts.

The following acts, among others, are declared to be unreasonably intrusive, loud, disturbing and unnecessary noises in violation of this chapter, but the enumeration herein shall not be deemed to be exclusive:

- A. Sound production devices. Sound production devices shall not face other than into the property on which they are located. Nothing in this subsection is intended to prohibit incidental sounds emanating from public sporting events or public entertainment events.
- B. Animals. The owner of any animal which barks, whines, howls or makes any other noise continuously for a period of 10 minutes or more at a volume which can be heard anywhere beyond the owner's premises shall be guilty of violating this chapter. For the purpose of this subsection, "continuously" shall mean constant, with few, if any, brief periods of silence.
- C. Honking of horns. The honking of horns on motor vehicles, for other than emergency purposes, is hereby prohibited between the hours of 8:00 p.m. and 12:00 a.m. and between the hours of 12:00 a.m. and 8:00 a.m. on Mondays through Saturdays and between the hours of 8:00 p.m. and 12:00 a.m. and between 12:00 a.m. and 9:00 a.m. on Sundays and holidays.
- D. Running engines. The continuous running or idling of diesel- or gas-powered engines on vehicles parked within the City is hereby prohibited between the hours of 10:00 p.m. and 6:30 a.m. For purposes of this subsection the term "continuous" shall mean for a period greater than three minutes.
- E. Unreasonably intrusive sound. The making, creation or maintenance of any unreasonably intrusive sound is prohibited.
- F. Repetitive sounds. Repetitive sounds which are unreasonably intrusive are hereby prohibited.

§ 391-5. Permitted and regulated noises.

The following specifically enumerated activities are regulated as follows:

- A. Air-conditioning and air-handling equipment. No person shall operate or permit to be operated an air-conditioning or air-handling device on any property within a residential district or adjacent to a residential district that produces a sound level which is unreasonably intrusive.
- B. Construction activities. No person shall undertake or permit ~~Any~~ building or construction activity which produces sound, including but not limited to the delivery or transfer of construction materials, supplies and equipment and the clearing and removal of trees or other site preparation work, which sound is audible upon any other property in the City, except only as follows:
 - (1) Permitted Monday through Friday, except holidays, during the hours of ~~7:30~~ 8:00 a.m. to 8:00 p.m.
 - (2) Permitted Saturdays, except holidays, during the hours of 9:00 a.m. to 5:00 p.m.
- C. Domestic tools and equipment; vehicle repair. No person shall operate or permit to be operated any hand tool or power tool or equipment, including but not limited to saws, hammers, sanders, drills, grinders, lawn or garden tools, mowers, tractors, chain saws, leaf blowers or gatherers or similar devices or wood chippers of any kind, or cause or permit vehicle repair or engine tune up activities so as to create noise in excess of the following limits-and hours. This prohibition includes equipment used by lawn-care or landscape services:
 - (1) Noise from domestic tools and equipment and from vehicle repair in residential districts shall be permitted during the hours of 8:00 a.m. to 8 p.m. Monday through

Saturday, except holidays, and during the hours of 9:00 a.m. to 8 p.m. Sunday and holidays. At all other times, such noise shall not be audible at any location upon any other property within any residential zoning district.

- (2) Use of snowblowers, chain saws and other domestic tools and equipment are exempted from these limits when they are being used to clear driveways, streets or walkways during and within 24 hours after snowfalls, rainstorms, ice storms, windstorms or similar emergencies.

D. Jackhammers, rockhammers, and blasting in residential zoning districts.

Jackhammers, rockhammers, and blasting equipment shall not be operated in residential zoning districts at any hours other than between 9:00 a.m. and 3 p.m. Mondays through Saturdays, except for municipal or utility emergencies.

§ 391-6. Motor vehicles.

A. General.

- (1) Noise emanating from the operation of motor vehicles on public highways is regulated by the New York State Vehicle and Traffic Law. The maximum noise levels set forth in the Vehicle and Traffic Law for the operation of motor vehicles on public highways, as they may be amended from time to time, are hereby designated to be the maximum permissible noise levels for the operation of motor vehicles on all other property in the City of Peekskill.
- (2) Noise emanating from motor vehicles other than from their operation, including but not limited to the noise of radios, is regulated by this chapter and must not be audible more than 15 feet from the vehicle from which the noise emanates.

B. Car alarms. The Common Council hereby also finds that the repeated noise and emanations resulting from unnecessary vehicle alarms/theft alarms is also in derogation of the quality of life in the City of Peekskill and are regulated as follows:

- (1) Any motor vehicle which emanates an alarm, whether by siren, bell, horn or other artificial sound, where such alarm is not caused by an obvious attempted entry into the vehicle, and where such alarm continues for a period longer than three minutes, shall be in violation of this section and shall be subject to the penalties set forth in § 391-6B(2) below.
- (2) Any motor vehicle which emanates an alarm pursuant to this section shall be subject to penalties as follows:
 - (a) For the first and second such alarm, a warning shall be issued by the police officer responding to said alarm.
 - (b) For the third offense by the same vehicle (as determined by reference to the license plate registration numbers on said vehicle), a fine of not less than \$50 nor more than \$100 shall be imposed.
 - (c) For the fourth and all subsequent offenses, a fine of not less than \$75 nor more than \$100 shall be imposed.

§ 391-7. Exemptions.

- A.** Nothing in this chapter shall be construed to prevent the production of music in connection with any military or civic parade for which a permit has been issued by the Common Council, funeral procession or religious service.
- B.** This chapter shall not be construed to prohibit the use of any organ, bell, chimes or any other similar instrument or device by any church, synagogue or school on or within its own premises in connection with religious rites or ceremonies of such church or synagogue or in connection with a school education program.

C. Sounds created by any governmental agency by the use of public warning devices are exempted from the limitations of this chapter.

§ 391-8. Penalties for offenses.

A. Both the owner of any property, business or instrumentality exceeding permissible noise levels and its operator or tenant shall be deemed violators of this chapter.

B. Except as provided in § 391-6B(2), any person violating any of the provisions of this chapter shall be punishable as follows:

(1) For the first conviction: a fine not exceeding \$250 or imprisonment not exceeding five days, or both.

(2) For the second offense within one year of the first conviction: a fine of not less than \$100 nor more than \$250 or imprisonment not exceeding 10 days, or both.

(3) For the third offense and all subsequent offenses within one year of the first conviction: a fine of not less than \$150 nor more than \$250 or imprisonment not exceeding 15 days, or both.

§ 391-9. Severability.

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

§ 391-10. Amendments.

This chapter or any provision thereof may be amended solely by the Common Council acting by local law.

Section 3. This Local Law shall take effect immediately upon filing in the office of the Secretary of State.

Councilman Bennett seconded the motion, which carried unanimously by acclamation.

There being no further business to come before the council, Mayor Foster moved to adjourn the meeting, which carried unanimously by acclamation. Meeting adjourned at 10:23 p.m.

Respectfully submitted,

Pamela Beach
City Clerk