

**DRAFT TOWN OF MASSENA NOISE ORDINANCE**

**MAY 11<sup>TH</sup>, 2020**

§ \_\_\_\_-1 Declaration of policy; construction.

§ \_\_\_\_-2 Exemptions.

§ \_\_\_\_-3 Prohibited noises enumerated.

§ \_\_\_\_-4 Warning of violation; penalties for offenses.

§ \_\_\_\_-1 **Declaration of policy; construction.**

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 Massena and its inhabitants.

B. This chapter shall be liberally 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.

§ \_\_\_\_-2 **Exemptions.**

This chapter shall not apply to the operation or use of any organ, radio, bell, chimes or other instrument, apparatus or device by any church, synagogue or school or to emergency services.

§ \_\_\_\_ -3 **Prohibited noises enumerated.**

A. The creation of any unreasonably loud, disturbing and unnecessary noise is prohibited. Said noise shall be prohibited when it is of such character, intensity and duration or of any type or volume that a reasonable person would not tolerate under the circumstances and that is detrimental to the life, health or welfare of any individual or would cause or create a risk of public inconvenience, annoyance or alarm.

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

(1) 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 loud, unnecessary grating, grinding, rattling or other noise.

(b) Operate any vehicle in such a manner as to cause unnecessary and unreasonable noise by spinning or squealing the tires or revving the motor of such vehicle.

(c) Modify or cause 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 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.

(2) Discharge of exhaust: the discharge into the open air of the exhaust of any stationary internal-combustion engine, motor vehicle or boat engine or motor, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(3) Construction, demolition, excavation, and other uses of power equipment: the erection, including excavating, demolition, alteration, dredging, or repair of any building, land clearing,

land grading, river bed or road and utility construction and the operation of other power equipment outdoors other than between 7:00 a.m. and 10:00 p.m., Monday through Friday, and between 8:00 a.m. and 10:00 p.m., Saturday and Sunday, except in case of residential and agricultural projects and in an urgent necessity in the interest of public safety, upon approval of the Code Enforcement Officer.

(4) Noise near schools and other institutions: the creation of any excessive noise on any street adjacent to any school, institution of learning, church or court, while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital, church or court street.

(5) Refuse collecting equipment. No person shall operate refuse collecting equipment between the hours of 10:00 p.m. and 7:00 a.m.

(6) Sound reproduction. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound so as to produce unreasonable or unnecessary noise at any time, except for activities open to the public or for the public benefit and for which permission has been granted by the Town.

(7) Animals. No person shall keep, permit or maintain any animal under his or her control that causes unreasonable and prolonged noise by continued barking, howling or other animal noises, excluding farm animals maintained using sound agricultural practices.

(8) Shouting. No person shall shout, yell, call, whistle or sing on public streets or in public places in such a manner and for a period of time as to be unreasonable under the circumstances.

(9) Noise in the conduct of any business: the creation of unreasonable or unnecessary 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 excavating, blasting, grinding, breaking, crushing or processing of any substance (where permitted).

(10) The operation of restaurants, taverns, bars and discos.

(a) No restaurant, tavern, bar, nightclub, disco or other similar use, whether public or private, shall be conducted so that unreasonable or unnecessary music or other noise is caused by and/or emanates from said use.

(b) Any owner, operator or proprietor of such a business use or the owner, licensee or person in control of any private premises shall so limit the level of noise emanating from the premises.

(c) Further, it shall be the duty of any such person to disperse any assembly of persons loitering, drinking alcoholic beverages or otherwise engaging in lewd or disorderly conduct adjacent to or near the premises or to immediately notify the police of such conduct.

(11) Private residences. No noise from parties, entertainment, music or social gatherings of any kind, whether public or private, shall be such that noise caused by and/or emanating from said use can be heard between the hours of 11:00 p.m. and 7:00 a.m. the following day inside any residence, regardless of whether the windows of such residence are open, or at any other time if said noise is unnecessary or unreasonable under the circumstances.

(12) To operate, or to permit the continued operation of malfunctioning air-handling equipment, including but not limited to fans, compressors and heat pumps.

§ \_\_\_\_\_-4 **Warning of violation; penalties for offenses.**

A. In those cases of unreasonable noise, other than violations of § \_\_\_\_\_-3B(1), (2), (3) and (5), 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, the party shall be in violation of this chapter and which violation shall be punishable as provided herein.

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 § \_\_\_\_-3B(1), (2), (3), and (5).

D. Violations of the provisions of the Town of Massena Noise Ordinance shall be punishable by a fine not to exceed \$100.00 dollars for each offense.