

**VILLAGE OF ESSEX JUNCTION
MUNICIPAL CODE**

**CHAPTER 7.
NOISE ORDINANCE**

SECTION 1. AUTHORITY:

This ordinance is adopted under authority of 24 VSA 2291 (14) and 24 VSA chapter 59.

SECTION 2. PURPOSE:

This ordinance is enacted to protect, preserve and promote the health, safety, welfare, peace and quiet for the citizens of the Village of Essex Junction through the reduction, control and prevention of noise. The intent of this ordinance is to establish standards which will eliminate and reduce unnecessary noises which are physically harmful or otherwise detrimental to the enjoyment of life, property and maintenance of business. This ordinance shall not apply to commercial or industrial land uses regulated under the Land Development Code (Section 718).

SECTION 3. DEFINITIONS:

(a) "Plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

SECTION 4:

The following acts are declared to be loud, objectionable, and unnecessary noises, are therefore a public nuisance, and are prohibited by this ordinance:

(a) Defect in vehicle or operation of vehicle. The operation of an automobile or motorcycle which creates squealing, squealing of tires, loud and unnecessary grating, grinding, exploding-type, rattling or other noises.

(b) Horns, Signaling Devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle except as a danger warning; the creation, by means of other signaling device, of unreasonably loud or harsh sound; and the sounding of any such device for unnecessary and/or unreasonable periods of time.

(c) Radios, Phonographs, etc. The using, operating, or permitting to be played, used or operated, of any radio or television receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sounds in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or chamber in which such a machine or device is operated and who are voluntary listeners thereto.

(d) Exhaust. The discharge into the open air of the exhaust of any steam engine, internal combustion engine, or

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motor vehicle except through a muffler or other device, which will effectively prevent loud or explosive noises therefrom.

(e) Dogs, cats and other animals. The keeping of any dog, cat or other animal which shall become a nuisance to another person in the vicinity where such dog, cat or other animal is kept, by frequent or continued barking, howling, yelping or screaming.

(f) Vocal disturbances. Yelling, shouting, whistling, singing or making any other loud vocal disturbance so as to disturb, destroy, or endanger the peace of persons in the immediate vicinity of the noise or disturbance. This section shall not be construed to prohibit a vocal disturbance, whether or not it is electronically amplified, by spectators or participants in an athletic event or assembly sponsored by a public or private school.

(g) Noises emanating from the excavation, demolition, alteration or repair of buildings, structures, property between the hours of 9 PM and 7 AM.

(h) Noise in General. Any noise which is deemed objectionable because of volume, frequency, or beat and is not muffled or otherwise controlled.

SECTION 5:

The creation of, permitting or operation of any of the above sets, instruments, devices or vehicles causing said noise in such a manner as to be plainly audible at a distance of 50 feet from a building, structure, land or vehicle from which noise emanates shall be prima facie evidence of a nuisance and a violation of this ordinance.

SECTION 6. EXCEPTIONS:

(a) Any person or organization that has obtained a noise waiver from the Village Trustees (i.e. parade, block party, etc.).

(b) Any vehicle owned by and operated by government or a utility in the performance of its duties.

(c) Noise associated with routine snow removal activities where customary practices and equipment are used.

(d) Any government or utility emergency repair. Any construction activity, other than government or utility emergency repairs, that has obtained approval of the Village Trustees to occur between the hours of 9 PM and 7AM that is deemed in the best interest of the public health, safety and welfare.

(e) Any siren or other warning device used for public safety, including railroad signals.

(f) Noise associated with a bona fide response to an emergency situation that poses a threat to the public health, safety or welfare.

SECTION 7: ENFORCEMENT:

Any person who violates a provision of this ordinance shall be subject to a civil penalty of up to \$500 per day for each day that such violation continues. Police Officers of the Town of Essex shall be authorized to act as Issuing Municipal Officials to issue and pursue before the Traffic and Municipal Ordinance Bureau a municipal complaint.

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An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee:

First offense - \$25	Third offense \$100
Second offense \$50	Fourth - and subsequent offenses \$200

Offenses shall be counted on a calendar year basis.

An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

First offense - \$50	Third offense \$200
Second offense \$100	Fourth - and subsequent offenses \$400

Offenses shall be counted on calendar year basis.

In addition to the enforcement procedures available before the Traffic and Municipal Ordinance Bureau, the Village Manager is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

Adopted by the Board of Trustees November 14, 2000.