

**LOCAL LAW #2 OF 2005
NOISE LAW
ADOPTED JULY 14, 2005**

Section 1. Title. This law shall be known and may be cited as the "Village of Horseheads Noise Law."

Section 2. Purpose. The purpose of this law is to preserve the public health, peace, welfare and good order by suppressing the making, creation or maintenance of excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use and which are detrimental to the environment. It is also the purpose of this law to allow all residents of the Village to coexist harmoniously in a manner which is mutually respectful of the interests, rights and obligations of all persons.

Section 3. Definitions. Unless the context otherwise clearly indicates, the words and phrases used in this law are defined as follows:

DAYTIME HOURS -- The hours between 7:30 a.m. and 10:00 p.m., local time, on any day.

EMERGENCY WORK -- Work made necessary to restore property to a safe condition following a public calamity or work necessary to protect persons or property from an imminent exposure to danger.

IMPULSIVE SOUND -- A sound of short duration, usually less than one second, and of high intensity, with an abrupt onset and rapid decay.

MOTOR VEHICLES -- Includes but is not limited to automobiles, trucks, buses, mopeds, minibikes, go-carts, snowmobiles, all-terrain vehicles or the like, and any other vehicles as defined by the Vehicle and Traffic Law of the State of New York, as it may be amended from time to time.

NIGHTTIME HOURS -- The hours between 10:00 p.m., local time, on any day and 7:30 a.m. on the following day.

PERSON -- Includes the singular and plural and also any individual; any property owner and/or lessee; any firm; a corporation; a political subdivision; a government agency, including any agency of the Village of Horseheads; an association or an organization, including but not limited to officers, directors, employees, agents and/or independent contractors thereof; or any legal entity whatsoever.

SOUND-AMPLIFYING EQUIPMENT -- Any machine or device for the amplification of the human voice, instrumental music or any other sound. "Sound-amplifying equipment" shall not include standard automobile radios or tape recorders when used and heard only by the

occupants of the vehicle in which such automobile radio or tape recorder is installed. As used in this law, "sound-amplifying equipment" shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes or authorized fire horns or other authorized emergency alarms.

UNREASONABLE NOISE - A level of sound that is injurious or annoying or disturbing to be heard.

VILLAGE - The Village of Horseheads, New York.

Section 4. Unreasonable noise prohibited.

- A. No person shall intentionally cause public inconvenience, annoyance or alarm or recklessly create a risk thereof by making unreasonable noise or by causing unreasonable noise to be made.

- B. For the purpose of implementing and enforcing the standard set forth in Subsection A of this section, "unreasonable noise" shall mean any sound created or caused to be created by any person or an animal, machine, instrument or item owned, operated by, or under such person's control which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of the public or which causes injury to animal life or damages to property or business. Factors to be considered in determining whether unreasonable noise exists in a given situation include but are not limited to any or all of the following:
 - (1) The intensity of the noise.
 - (2) Whether the nature of the noise is usual or unusual.
 - (3) Whether the origin of the noise is associated with nature or human-made activity.
 - (4) The intensity of the background noise, if any.
 - (5) The proximity of the noise to sleeping facilities.
 - (6) The nature and the zoning district of the area within which the noise emanates and of the area within 500 feet of the source of the sound.
 - (7) The time of the day or night the noise occurs.
 - (8) The time duration of the noise.
 - (9) Whether the sound source is temporary.
 - (10) Whether the noise is continuous or impulsive.
 - (11) The volume of the noise.
 - (12) The existence of complaints concerning the noise from persons living or working in different places or premises who are affected by the noise.

- C. This section shall not be interpreted to prevent the issuance of permits pursuant to Section 14 that will authorize particular sound sources.

ARTICLE II, Special Noise Sources

Section 5. Purpose of Article.

The provisions of this Article II complement and supplement the other provisions of this law and shall be interpreted and applied in accordance with and in addition to and not in lieu of those other provisions. The provisions of this article shall not be interpreted to prevent the issuance of permits pursuant to Section 14 that will authorize particular sound sources.

Section 6. Radios, television sets and similar sound-amplifying devices.

It shall be unlawful for any person anywhere in the Village to use or to operate any radio or receiving set, musical instrument, phonograph, television set, any other machine or device for the producing or reproducing of sound or any other sound-amplifying equipment in a loud, annoying or offensive manner such that noise from the device interferes with the comfort, repose, health or safety of members of the public within any building or, outside of a building, at a distance of 25 feet or more from the source of such sound or interferes with the conversation of members of the public who are 25 feet or more from the source of such sound.

Section 7. Parties and other social events.

- A. It shall be unlawful for any person in charge of a party or other social event that occurs on any private or public property to allow that party or event to produce noise in a loud, annoying or offensive manner such that noise from the party interferes with the comfort, repose, health or safety of members of the public within any building or, outside of a building, at a distance of 25 feet or more from the source of such sound.

- B. For the purposes of this section, a "person in charge of a party or other social event":
 - 1) That occurs on any public property shall include the person or persons who obtained permission to utilize that property for that event.

 - 2) That occurs on private property shall include the person who owns the premises involved and any adult person who lives in or on the premises involved in such party or social event.

 - 3) Shall include the person who is listed on a permit granted pursuant to Article III of this law with respect to such event.

Section 8. Hawkers and peddlers. It shall be unlawful for any person to advertise, promote or sell anything by outcry within any area of the Village zoned for residential uses. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar licensed public entertainment events for which a lawful permit has been

issued and is in force.

Section 9. Machinery. It shall be unlawful for any person to operate or repair any machinery, motor vehicle, construction equipment or other equipment, pump, fan, air-conditioning apparatus or similar mechanical device or to engage in any commercial or industrial activity in any manner so as to create unreasonable noise as defined and described in Sections 3 and 4 of this law. In making such determination with respect to the matters governed by this subsection, additional factors to be considered shall include:

- A. The necessity of the work being done.
- B. The ability of the creator of the noise to minimize or reduce the amount of noise created or to otherwise minimize its adverse effects.

The operation of gasoline, electric or diesel power equipment or machinery in residential zones outdoors or covered structures with large openings, such as a carport or a garage with the garage door open, between the hours of 9:30 p.m. - 7:00 a.m. the following day, and on weekends between 9:30 p.m. - 8:00 a.m. the following day are declared to be prima facie evidence of violation of this law.

Section 10. Construction during nighttime hours.

- A. Except for the purposes specified in Subsection B, during nighttime hours it shall be unlawful for any person within a residential zone or within 500 feet of a residential zone to operate construction equipment (including but not limited to any pile driver, steam shovel, pneumatic hammer, derrick or steam or electric hoist) or perform any outside construction or repair work so as to create unreasonable noise as defined and described in Sections 3 and 4 of this law. Any designated official of the Village may give a verbal warning that the violation exists and of the penalties that may result if the violation continues.
- B. This section shall not be deemed to prohibit:
 - 1) Emergency work.
 - 2) Work of a domestic nature on buildings, structures or projects being undertaken by a person(s) residing in such premises; provided that, if any domestic power tool, including but not limited to mechanically powered saws, sanders, grinders and lawn and garden tools used outdoors, is operated during the nighttime hours, no person shall operate such machinery so as to cause noise within a residential building or across a residential real property boundary where such noise interferes with the comfort, repose, health or safety of members of the public

within any building or, outside of a building, at 25 feet or more from the source of the sound.

Section 11. Applicability of Section. Section 10 shall be applied in addition to Section 4.

Section 12. Continuing noise. It shall be unlawful for any person to make or continue or cause to be made or continued any loud, unnecessary or unusual noise or sound that shall continue for more than three cumulative minutes in any sixty-minute period and which shall exceed the permitted noise levels specified in this law. Any designated official of the Village may issue a verbal warning that the violation exists and of the penalties that may ensue.

Section 13. Horns and alarms. This law shall not apply to fire horns or other alarms authorized by the Horseheads Fire Department, Town and Country Fire Department, or Horseheads Police Department and operated in accord with that authorization, or to emergency warning devices, sirens, alarms or other devices being used in connection with the operation of emergency vehicles when performing emergency work and in the performance of public duties.

ARTICLE III, Other Provisions

Section 14. Permit procedures for certain activities.

- A. Where a sound source is planned, installed or intended to be installed or modified by any person in a manner that such source will create or is likely to create unreasonable noise or otherwise fail to comply with the provisions of this law, such person must secure a permit pursuant to subsection 'D' of this section.
- B. Where any person uses or plans to use any sound-amplifying equipment in such a way that such equipment is or will be heard outside of any building between 9:00 p.m. of any day and 7:30 a.m. to the next day, such person must secure a permit pursuant to subsection 'D' of this section.
- C. Where any person uses or plans to use a public-address system that will make sound outside of a building, such person must secure a permit pursuant to subsection 'D' of this section.
- D. Applications shall be submitted at least 72 hours in advance of an event. The application for the permit shall provide the following information:
 - 1) The reasons for such usage, including a demonstration why it is desirable or necessary that the sound source involved be authorized by a permit pursuant to this section.

- 2) Plans and specifications of the use.
 - 3) Noise-abatement and noise-control methods to be used with respect to the sound source involved.
 - 4) The period of time during which the permit shall apply.
 - 5) The name of the person(s) who is responsible for ensuring that the activity complies with any permit issued for it pursuant to this section.
 - 6) If the event is not a community-wide or public event, evidence that notification of the application for the permit has been given to each person reasonably expected to be affected by the noise, the content of such notification and the manner in which such notification has been given. The notification shall state that any person objecting to the granting of such permit may contact the appropriate Village department to whom the application is being made to express his/her opposition to the granting of the permit.
- E. The application shall be made to the Director of Public Works in connection with construction work on public rights-of-way or in parks; to the Code Enforcement Officer for all other construction projects; and to the Village Manager for any other events. The issuance of permits shall be discretionary and shall be issued only where the responsible official determines that such permit is reasonable and necessary and will allow an activity that is consistent with the general purposes of this law, as stated in Section 2. When determining if a permit should be issued, factors the official shall consider shall include but not be limited to the volume of the noise, proximity of the noise to sleeping facilities, time of day or night the noise shall occur, time duration of the noise, and the impact of the noise on persons living or working in different places or premises who are affected by the noise. Any permit granted shall state that the permit only applies to this law, and that NYS Penal Law Section 240.20, Subdivision 2, Disorderly Conduct, provides that "a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof, ... he makes unreasonable noise."
- F. In order to further the purposes of this law and to facilitate its implementation and enforcement, the Director of Public Works, the Code Enforcement Officer and the Village Manager shall have authority to impose such conditions as they determine are reasonable and necessary on permits they issue pursuant to this section. Such conditions may govern factors which include but are not limited to the time, date, duration and location the involved sound source may be utilized.
- G. The Director of Public Works, the Code Enforcement Officer and the Village Manager shall provide the Chief of Police with a copy of any permit issued pursuant to this section.

- H. The applicant shall pay a non-refundable application fee at the time of making the application. Such fee shall be \$25.00 for permits involving one day and \$100.00 in all other instances.

Section 15. Penalties for offenses.

- A. Violation of this law shall be punishable by fine or imprisonment or both as prescribed by Chapter 1, Article II, General Penalty of the Village Code. Each separate violation shall constitute a separate additional offense.
- B. For purposes of this law, for any offense that takes place on private property, if the person or persons directly responsible for the activity that violates any provision of this law cannot be determined, then all residents of the property on which the activity takes place shall be presumed to be responsible for the violation.

Section 16. Severability. In the event any clause, sentence, section or other part of this local law is declared to be invalid, such invalidity shall not effect the remainder of this law.

Section 17. Effective Date. This local law shall take effect as provided by law.