VILLAGE OF EDMORE NOISE CONTROL ORDINANCE

ORDINANCE NO. 260-95

AN ORDINANCE TO AMEND SECTIONS I, II, III and IV OF ORDINANCE NO 260-95 IN WHICH IS TO.ENHANCE THE GENERAL PEACE AND THE QUALITY OF LIFE IN THE VILLAGE OF EDMORE BY CURTAILING CERTAIN ACTIVITIES TO THE EXTENT THAT THESE ACTIVITIES PRODUCE ANNOYING AND UNWELCOME NOISE POLLUTION TO THE VILLAGE RESIDENTS AND OTHERS.

THE VILLAGE OF EDMORE ORDAINS:

*AMENDMENT OF SECTION I OF ORDINANCE NO 260-95 AND IS HEREBY AMENDED AND RESTATED IN ITS ENTIRETY AS FOLLOWS:*

Section I. PROHIBITED NOISE

1. It is unlawful for any person to make, continue, or cause to be made or continued, any loud or unnecessary noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others between the hours of 9:00 p.m. and 7:00 a.m.
2. The following acts are declared to be loud, disturbing and unnecessary noises in violation of this Ordinance. However, this enumeration is not exclusive. Additional loud, unnecessary, annoying, disturbing, injuring, or endangering noises are also violation, of this Ordinance.
	1. Using, operating, or permitting the use or operation of, any radio, musical instrument sound amplification equipment or other device which produces or reproduces sound so as to disturb the peace and comfort of others, or with a sound volume that is louder than necessary for convenient hearing by voluntary listeners.
	2. Operating any automobile engine or motor without a fully functional muffler and/or other fully functional sound deadening devices, as required by state law.
	3. Operating any engine or motor, so as to produce excessive noise by wantonly "revving", "racing" or "gunning" the engine or motor for purposes which are inconsistent with the necessary operation, testing or repair of that engine or motor.
	4. Allowing or encouraging excessive dog barking, as specified in the Village Dog Ordinance, Ordinance No. 213.

5. Operating any pile driver, jack hammer, drill, saw, derrick, bulldozer, steam shovel, back hoe, crane, other construction or demolition equipment, or other appliance, the use of which is attended by loud noise, between the hours of 9:00p.m. and 7:00 a.m. except as may be needed in emergencies such as to provide for public health and safety, or as may be permitted by an approved variance.

Section II. DETECTION OF VIOLATIONS

1. Noise shall be deemed to be a violation of this ordinance if it is plainly audible at a distance of twenty five feet (25) from its source by involuntary listeners, unless permitted by the exclusion or variance criteria set forth herein.
2. It is not required that a law enforcement officer, other authorized officer of the Village or other complainant be able to understand or make out any specific words or phrases

which may be included in the noise for a violation to exist. Moreover, it is not required that complainants be able to identify a particular voice, nor the original cause or type of any noise for a violation to exist.

*AMENDMENT OF SECTION III OF ORDINANCE NO 260-95 IS HEREBY AMENDED AND RESTATED IN ITS ENTIRETY AS FOLLOWS:*

Section III.PERMITS AND EXCEPTIONS

1. Specific permits and exceptions to this ordinance may be granted by the Edmore Village Manager who shall prepare and make available official application forms for that purpose. Exceptions may only be granted for the following reasons:
	1. To allow the use of equipment on a construction or demolition project during hours when such would otherwise be prohibited so as to perform needed work on, or to properly secure, a work site before the expected onset of inclement weather.
	2. To allow amplified or unamplified music and speech on streets and other public areas which are made purposefully in conjunction with an organized carnival, circus, festival, parad\_e or nonprofit human service charity drive. A similar variance may be made for speech and music made as part of a legal holiday celebration or sale event sponsored by licensed merchants in a commercial zoning district. Variance for these purposes may be issued so long as the music or speech does not pose a traffic or safety hazard; is completely inaudible two hundred fifty (250) feet from its source; and is completely curtailed between the hours of 9:00 p.m. and 7:00 a.m.
2. There shall be no fee to obtain an exception or permit under this ordinance. The Village Manager may direct applicants to adhere to other reasonable and prudent conditions for an exception. A permit may be revoked at any time by the Village manager or a law enforcement officer if the terms are not adhered to or if the exception poses a previously unforeseen and dire disruption of the general peace or threat to public safety.
3. Nothing in this ordinance is to be construed as limiting the abilities of authorized law enforcement public safety or public works personnel from making loud noise as may be required in the performance of their official duties.
4. Nothing is this ordinance is to be construed as curtailing the ability of industrial businesses in and around the Village of Edmore from sounding a siren at their industrial plant, as may be necessary for the efficient and timely operations of that plant.

Section IV ENFORCEMENT PROCEDURE AND OPTIONS

*AMENDMENT OF SECTION IV OF ORDINANCE NO 260-95. ADDITION OF SECTION 4 SUBSECTION F IS HEREBY AMENDED AND RESTATED IN ITS ENTIRETY AS FOLLOWS:*

1. Appearance Ticket - A law enforcement officer or other authorized officer of the Village of Edmore, will whenever possible direct an alleged violator to cease and desist from creating or continuing a violation of this ordinance. If timely, sustained and satisfactory compliance is not obtained, a law enforcement officer may issue an appearance ticket to the alleged violator. The appearance ticket shall have the same effect as a court summons requiring alleged violators to appear in court and show cause why they should not be fined pursuant to this ordinance.
2. Summons - A law enforcement officer or other authorized officer of the Village of Edmore may petition a court of competent jurisdiction via a sworn complaint to issue a summons requiring alleged violators of this ordinance to appear in court and show cause why they should not be fined and/or jailed pursuant to this ordinance.
3. Injunction - A law enforcement officer or other authorized officer of the Village of Edmore may petition a court of competent jurisdiction via **a** sworn complaint to issue an injunction requiring alleged violators of this ordinance to immediately cease and desist from producing or reproducing such violating noise as specified in the petition.
4. Search and/or Seizure Warrant - In cases of severe or repeated violations, or if the violator cannot be readily contacted, the court may be petitioned by a law enforcement officer or other authorized officer of the Village of Edmore to issue a warrant directing a law enforcement officer to enter private premises for the purpose of turning off and or confiscating any audio equipment or other device used to produce or reproduce the violating noise.
5. Basis of Compliant - The appearance ticket or sworn complaint by a law enforcement officer, other authorized officer of the Village of Edmore, or other complainant shall petition a court of competent jurisdiction for said summons, injunction and/or warrant on the basis that either of the following conditions exist:
	1. An alleged violator has been directed to cease and desist from violating this

ordinance, but failed to do so in a timely, sustained and satisfactory manner.

* 1. An alleged violator cannot be located or is otherwise unavailable and a court ordered injunction or warrant is needed to end the violation.
1. Parental Responsibility, Assisting Violation- Any parent, guardian or other person having the care or custody of any minor who permits, suffers, allows, or encourages such minor to violate the provisions of this ordinance, or any other person of the age eighteen (18) or over to violate the provisions of the ordinance is guilty of a misdemeanor.

Section V. FINES AND PENALTIES

*AMENDMENT OF SECTION V OF ORDINANCE NO 260-95. ADDITION OF SECTION 4 SUBSECTION F IS HEREBY AMENDED AND RESTATED IN ITS ENTIRETY AS FOLLOWS:*

1. Any person found in violation of this ordinance by a court of competent jurisdiction shall be punished by a fine of not more than $250.00 for each offense. Each day that a violation exists shall be considered a separate offense. Exact penalties for each offense shall be decided by a court of competent jurisdiction in response to a sworn complaint by an authorized officer of the Village of Edmore.
2. Any person who fails to comply with the court's order shall be found in contempt of court and shall be fined any additional $250.00 fine. Any fines yet unpaid ten (10) days after a court ruling finding contempt will be added to the property taxes of the violator.
3. Court costs - Any person found in violation of this ordinance by a court of competent jurisdiction shall be ordered by that court to reimburse the Village of Edmore for all court costs incurred in obtaining compliance with this ordinance within thirty days of a court's order in favor of the complaint. Failing that, these costs will be added to the property taxes of the violator.

Section VI. REPEAL OF CONFLICTING ORDINANCES

A. Other ordinances - Any part of any other ordinance which is inconsistent with, or otherwise in conflict with this ordinance, ordinance number 260-95, is hereby repealed on the effective date of this ordinance.

Section VII. SEVERABILITY

A. If any section, paragraph, clause, or provision of this ordinance is held, for any reason, to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining parts of this ordinance.

Section VIlI. EFFECTIVE DATE

1. This ordinance shall become effective and be in full force on April 6, 1995

This ordinance was amended on \_\_\_\_\_\_\_\_\_2018.