

**AN ORDINANCE TO AMEND THE DELAWARE COUNTY CODE FOR THE
PURPOSE OF CONTROLLING UNWANTED AND EXCESSIVE NOISE IN
DELAWARE COUNTY, INDIANA**

WHEREAS, the generation of excessively loud sound may infringe upon the rights of property owners and others to the peaceful and quiet enjoyment of their property;

WHEREAS, the production of excessively loud sound may pose a danger to the public by preventing drivers and pedestrians from hearing emergency vehicles or audible sounds from other drivers, and by distracting drivers and pedestrians from public dangers;

WHEREAS, prolonged exposure to high decibel levels of sound can result in damage;

WHEREAS, the Delaware County Code should be amended to add a new Chapter to Title 3, that being Chapter 22-Abatement of Unlawful Noises.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of Delaware County, Indiana, that:

SECTION 1: Definitions

A. For the purpose of this Ordinance, the following definitions shall apply:

1. Weighted Sound Level: The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).
2. Consistent and Obnoxious Noise: Shall mean noise that emanates from a property that is heard by adjacent property owners, passersby or others that is constant, consistent and such that it detrimentally affects the peace, quiet and serenity of another person's use and enjoyment of their property or their use of the area away from the property where the noise emanates.
3. Decibel (dB): A unit for measuring the volume of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to reference pressure, which is 20 micro-pascals (20) micronewtons per square meter.
4. Motor Vehicle: Any truck, semi-truck, automobile, van, motorcycle, motor-driven cycle, motor scooter, dune buggy, snowmobile, all-terrain vehicle, go-cart, minibike, and trail bike.
5. Noise Level: The A-weighted sound level produced by any source.

6. Sound Level Meter: An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter and weighing networks used to measure sound pressure levels. Such instrument shall be used for measurement of the intensity of sound and calibrated in decibels as standardized by the American National Standards Institute (ANSI). Readings shall be made on a dB(A) scale.

SECTION 2: Loud Noises Prohibited

- A. No person shall make any loud, raucous, improper, unreasonable, offensive, or unusual noise which disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the county.
- B. Consistent and Obnoxious Noise. It shall be unlawful for any person to permit, allow or have on their property any source of noise that is consistent and constant so as to be a nuisance to neighbors and residents off the property.
- C. It shall constitute a violation if a person continues to make the loud, raucous, improper, unreasonable, offensive, or unusual noise after being asked to stop by a law enforcement officer of the county.
- D. The following acts, among others, are declared to be loud, raucous, or disturbing noises in violation of this section:
 1. The sounding of any horn or signaling device on any motor vehicle on any street or public place except as a danger warning, the creation by means of any such signaling device of any unreasonably loud and raucous sound; and any such signaling device for an unreasonable period of time.
 2. Using, operating, or permitting to be played, used, or operated, any radio receiving set, musical instrument, phonograph, cellular phone, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle, or location in which the device is operated and who is a voluntary listener. The operation of any such machine or device in a manner that produces sound plainly audible to a person with normal hearing:
 - i. From any place other than the property on which the sound source is located when the machine or device is being operated between the hours of 10:00 p.m. and 7:00 a.m.;

- ii. From a distance greater than seventy-five (75) feet from the sound source of the machine or device when it is located in any public street or place of the county; or
 - iii. In any public conveyance other than a taxicab or jitney, except for a person who is voluntarily listening to the machine or device through earplugs; shall be prima facie evidence of a violation of this subsection, except when a permit is granted.
3. The operation or use of any engine, motor, power unit on a motorboat, motor vehicle, motorcycle, or other vehicle or craft of any kind, blower or power fan in a manner that makes unreasonable noise and continuing to do so after being asked to stop, except when a permit is granted. Operation or possession of any engine, motor, power unit, blower, or power fan not equipped with a muffler or other noise-reducing device that complies with the applicable federal, state, and local standards:
 - i. In any public street or public place of the county between the hours of 10:00 p.m. and 7:00 a.m.; or
 - ii. Between the hours of 10:00 p.m. and 7:00 a.m. in a manner that makes sound plainly audible to a person with normal hearing from any place other than the property on which the sound source is located, shall be prima facie evidence of a violation of this subsection. This subsection shall not apply to entrants or participants in a scheduled race or sporting event.
4. Yelling, hooting, whistling, hollering, or singing on the public streets or other public place at any time or place so as to annoy or disturb the quiet, comfort, or peace of persons in any office or in any dwelling, hotel, or other type of residence or of any person in the area.
5. The constant or consistent barking of a single dog or multiple dogs or the constant or consistent loud noises from any domestic animal kept by the owner.
6. The creation or emission from any person, or from any other noise source, any noise which annoys or disturbs the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence.
7. The participation in or permitting of any parties or gatherings which create loud or raucous noise.
8. Noise Limit: It shall be unlawful for any person to cause noise levels from the operation or use of motor vehicles in excess of 83 dB(A) in any area within the corporation limits of the County

at any time. Such noise level limit shall be measured at a distance of not less than 15 feet from the source of the noise.

SECTION 3: Exemptions

- A. The following are exempt from the provisions of this Ordinance:
1. Sounds emitted from authorized emergency vehicles.
 2. Lawn mowers, weed blowers, garden tractors, construction and repair equipment, go-carts and power tools, when properly muffled, between the hours of 7 a.m. and 10:00 p.m. only.
 3. Sounds from the use of consumer fireworks between the hours of 7 a.m. and Midnight or 2 hours after the sundown, whichever is earlier.
 4. Burglar alarms and other warning devices when installed properly, provided that the cause for the alarm or warning device sound is investigated and turned off within a reasonable time.
 5. Parades, festivals, carnivals, fairs, celebrations, concert performances, band and drum corps performances, and artistic performances, as well as any rehearsals for the same, and other events authorized by the appropriate governmental authority.
 6. Attendant noise connected with the actual performance of athletic or sporting events and practices.
 7. The emission of sound for the purpose of alerting persons to the existence of an emergency, or for the performance of emergency construction, repair, or other work.
 8. Sounds associated with the use of legal fireworks.
 9. Sounds associated with the normal conduct of legally established non-transient businesses, organizations, and governmental entities, when such sounds are customary, incidental, and within the appropriate normal range.
 10. Rubbish collection utilizing mechanical equipment.

SECTION 4: Penalty

A. In the event that a person, firm or entity shall violate this Ordinance, they shall be guilty of an infraction punishable by a fine of not more than:

First Offense:	\$_____
Second Offense:	\$_____
Third and Subsequent Offenses:	\$_____

- B. Persistent noise: daily penalty. In the event that any person shall permit consistent and/or constant noise shall be fined a minimum of the third and subsequent offenses penalty for each and every day that the noise continues after being told to stop or control the noise.

SECTION 5: Abatement Notice

- A. Where, upon inspection, reasonable cause is found to believe that an unlawful noise exists, the enforcement authority shall issue a written abatement notice.
- B. Abatement notices shall be served upon all known holders of substantial property interest in the real estate upon which the unlawful noise is alleged to occur.
- C. The abatement notice must contain:
1. The name of the person to whom the order is issued;
 2. The legal description or address of the real estate where the unlawful noise is located which is the subject of the notice;
 3. The action that the notice requires. The ordered action must be reasonably related to abatement of the conditions constituting the unlawful noise;
 4. The period of time allotted to complete the required action. The time allowed must allow a sufficient time to accomplish the required action;
 5. The penalties if the owner fails to abate the unlawful noise or nuisance; and
 6. The name, address, and telephone number of the enforcement authority.
- D. Service of abatement notices shall be made by any of the following means:
1. Sending a copy of the notice by registered or certified mail to the residence of the person to be notified, with return receipt request;
 2. Delivering a copy of the notice personally to the person to be notified;
 3. Leaving a copy of the notice at the dwelling or usual place of abode of the person to be notified;
 4. Posting a copy of the notice in a prominent place upon the premises where the nuisance is located; and
 5. If after a reasonable effort, service cannot be obtained by any of the means described above, service may be made by publishing

the notice in a newspaper of general circulation in the county in which the property subject to the notice is located.

SECTION 6: No Severability

Any provision of this Ordinance which shall be severed from any other provision or provisions of this Ordinance shall not affect the entire ordinance. If any single provision of this Ordinance is held unconstitutional or invalid, then the entire Ordinance shall not be deemed unconstitutional or invalid.

SECTION 7: Repealer.

All other Delaware County ordinances shall remain in full force, except, any ordinance in conflict with the provisions herein shall be superseded and of no effect unless this Ordinance is repealed, expires, or invalidated.

SECTION 8: Effective Date

This Ordinance shall take effect upon adoption and publication as required by law.

PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY, INDIANA ON THIS, THE _____ DAY OF _____, 2022.

Sherry Riggan, President

Shannon Henry, Vice-President

James King, Commissioner

Attest:

Steven G. Craycraft, Auditor
Delaware County, Indiana