

**ORDINANCE NO. 2021-07
TOWN OF NASHVILLE INDIANA**

AN ORDINANCE REGULATING SOUND

PUBLIC POLICY AND PURPOSE

The Nashville Town Council finds that excessive noise may:

1. Impair the safe operation of motor vehicles by distracting drivers;
2. Disturb the quiet and normal functioning of the Town's residential and commercial areas;
3. Startle, threaten, frighten, or intimidate individuals or animals;
4. Project a negative image of the Town to the detriment of the health, welfare, and safety of Nashville's citizens and guests;
5. Negatively affect that portion of the population who use hearing aid devices.

The Council further finds that the performance of music for entertainment purposes has become an integral part of the Town's tourism economy and should be encouraged subject to reasonable regulation to protect the comfort of the Town's residents.

Accordingly, it is the policy of the Town of Nashville to prohibit excessive, annoying, or distracting noise.

DEFINITIONS

Person: An individual, firm, association, co-partnership, joint venture, corporation, or any entity, public or private in nature.

Noise: For the purpose of this chapter, noise shall mean sound that is of a volume, frequency, or pattern that prevents, disrupts, injures, or endangers the health, safety, welfare, prosperity, comfort or repose of reasonable persons, including law enforcement officers. "Noise" does not include "Music" as defined herein.

Music: Vocal or instrumental sounds (or both) combined in such a way as to produce beauty of form, harmony, and expression of emotion.

Muffler: Any device used upon a motor vehicle whose purpose is the deadening of combustion noises of any engine thereon, or the deadening of any other motor noises, including but not limited to the noise of exhaust gases, or any other mechanical device for the deadening of the noise and intake gases upon a motor vehicle.

Modified Exhaust System: Any exhaust system in which the original noise abatement devices have been removed, altered or replaced to produce more noise. The officer may use any other state or federal regulations that may apply.

Public Way: Any street, roadway, alley, sidewalk, or other area deeded or dedicated for public travel or transportation services.

Parking Areas: Both public and, private locations where motor vehicles are permanently or temporarily

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ACTS PROHIBITED

It shall be unlawful under this ordinance to:

- a) Intentionally create noise as defined herein, or to allow others to do so as property owned and controlled by a person;
- b) Intentionally create noise after being requested to stop by a law enforcement officer.
- c) It shall be unlawful for any person to operate a truck, motor vehicle, motorcycle or motorized bicycle, which causes noise as a result of a defective or modified exhaust system(s) or as a result of rapid acceleration, de-acceleration, engine revving or cause tire squeal, sliding or skidding. This also includes "blipping", "racking" and use of compression braking.
- d) Except as used for warning purposes, it shall be a violation of this chapter for any person to use, operate or sound any horn or signaling device on any motor vehicle in any public street or public place in the Town of Nashville for any unreasonable period of time.
- e) To play, use, or operate or allow to be played, used or operated in any motor vehicle on a public way or parking area any radio, television, digital media player, loudspeaker, sound amplifier, musical instrument, or any other machine or device for producing or reproducing sound at a volume that is louder than necessary for the convenient hearing of persons who are inside the vehicle within which such device is played, used or operated. Sound that is clearly audible twenty-five feet from the vehicle is prima facie evidence of a violation of this action.
- f) In a residential district (R1, R2), it shall be a violation of this chapter to play, use, operate or allow to be played, used, or operated a radio, television, digital media player, loudspeaker, sound amplifier, musical instrument, or any other machine or device for producing sound in such a manner that the sound produced persists continuously, intermittently and can be heard outside the immediate premises where it is being produced, and is an annoyance to another person or persons. It is prima facie evidence of a violation of this section if the sound is audible from any place outside the premises where it is being produced, and it continues after the person is advised by a law enforcement officer to abate or diminish the sound.
- g) Except for the live performance of music for entertainment purposes in a business district (B1, B2, B3, RB), it shall be a violation of this chapter to play, use, operate or allow to be played, used, or operated a radio, television, digital media player, loudspeaker, sound amplifier, or any other machine or device for producing sound in such a manner that the sound produced can be heard at a location twenty five (25) feet or more from the immediate premises where it is being produced, and is an annoyance to another person or persons. It is prima facie evidence of a violation of this section if the sound is audible twenty five (25) feet or more from the premises where it is being produced, and it continues after the person is advised by a law enforcement officer to abate or diminish the sound.
- h) It shall be a violation of this chapter for any person or persons to create any loud, disturbing, or offensive noise on any street, sidewalk or public place except as listed in exemptions.
- i) To allow an animal or bird kept as a pet to make continuous noise as defined herein and to continue to allow it to do so after being advised by a law enforcement officer to quiet the animal or bird.

EXEMPTIONS

The following uses and activities shall be exempt from the provisions of this chapter:

- a) Non-amplified crowd noises resulting from legal activities.
- b) Construction operations for which building permits have been issued or for which a permit is not required under the following conditions and with the following exceptions:

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- 1) Because of the loud and unusual sounds, and the ground vibrations associated with pile drivers, excavating equipment, pneumatic hammers, and diesel gasoline hoists, the operation of this equipment shall be exempt only when it occurs between the hours of seven a.m. and eight p.m. or when allowed by a special permit;
 - 2) In order to be exempt, all equipment used in such operations shall be operated with the manufacturer's mufflers and noise-reducing equipment in use and in proper operating conditions;
- c) Noises of safety signals, warning devices, and emergency pressure relief valves;
 - d) Noises resulting from authorized emergency, fire or police vehicle when responding to an emergency call, acting in time of emergency or in connection with official police or fire department business;
 - e) Noises resulting from emergency work;
 - f) Reasonable noises made by churches between the hours of seven a.m. and eight p.m.
 - g) Noises resulting from burglar alarms and other warning devices when properly installed, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time;
 - h) Noises resulting from rubbish collection utilizing any mechanical equipment between the hours of six a.m. and five p.m. only;
 - i) Noises associated with equipment or animals lawfully utilized by persons with disabilities to accommodate their disability;
 - j) Noises associated with legal consumer fireworks used during the times Indiana Code prohibits regulation by municipalities, which are as follows:
 - 1) Between the hours of five p.m. and two hours after sunset on June 29th, June 30th, July 1st, July 2nd, July 3rd, July 6th, July 7th, July 8th, and July 9th.
 - 2) Between the hours of ten a.m. and eleven p.m. on July 4th
 - 3) Between the hours of ten a.m. on December 31st and one a.m. on January 1st
 - k) Any other noise resulting from activities of a temporary duration permitted by law and for which a permit has been granted by the Town of Nashville. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit.
 - l) Live performance of music for entertainment purposes subject to the restrictions set out in this ordinance.

LIVE MUSIC

- a) Live music for entertainment purposes shall not be performed outdoors except between the hours of [redacted] AM and [redacted] PM.
- b) Live music for entertainment purposes performed outdoors shall not exceed a volume of [redacted] decibels (DB) measured 10 feet from the performance stage.
- c) Live music for entertainment purposes shall not be performed outdoors in a residential district.
- d) Live music for entertainment purposes performed indoors shall not exceed [redacted] decibels (DB) in volume measured 10 feet from the exterior wall closest to the performance stage.

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SPECIAL PERMITS

- a) The Town Council may authorize special event permits.

PRESUMPTIONS

- a) An act shall be presumed to be intentional if it occurs or persists after the actor has been asked to stop.
- b) Repeated violations of this ordinance shall be deemed a nuisance and may be subject to all legal and equitable remedies including damages and injunction. Any aggrieved person may bring action. under this presumption.

ENFORCEMENT

- a) In order to facilitate the prosecution of this Ordinance, any person making a complaint hereunder shall be required to give his or her name, address and telephone number at the time of making the complaint;
- b) Making unreasonable noise and continuing to do so after being asked to stop may be a criminal act (Class B Misdemeanor) in violation of I.C. 35-45-1-1;
- c) The Town Marshall is empowered to enforce this ordinance by written warning, citation for fines or arrest if the actor's conduct violates I.C. 35-45-1-1 or any other state statute;
- d) The Town Council or any aggrieved person may bring action to enjoin repeated violations of this Ordinance.

PENALTIES AND APPEALS

Violations of this Ordinance shall be punished by fines according to the following schedule:

First Violation	\$50.00
Second violation within 12 months	\$100.00
Third violation within 12 months	\$200.00
Fourth and subsequent violations	\$500.00

Each day that the violation occurs or persists shall be deemed a separate violation for the purpose of assessing fines. Fines must be paid or appealed to the Town Council in writing within five (5) days. The fine shall be paid to the Town of Nashville at 200 Commercial St., Box 446, Nashville, IN 47448. Decisions on Appeal to the Town Council shall be final unless appealed pursuant I.C. 4-21.5-5-1 within thirty (30) days of said decision.

SEVERABILITY

If any provision of this ordinance shall be determined to be invalid or unenforceable, it shall not affect the validity or enforceability of the remaining provisions.

REPEALER

This ordinance shall become effective upon passage and publication as required by law. It supersedes and REPEALS all prior ordinances in conflict herewith and specifically REPEALS and replaces Sections 92.15, through 92.99 of the Town of Nashville Code of Ordinances.

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It is so **ORDAINED** this _____ day of _____ 2021

Prepared by and
approved for form:
James T. Roberts
Town Attorney

President Jane Gore yea nay abstain

Vice-President Alisha Gredy yea nay abstain

Council Member Nancy Crocker yea nay abstain

Council Member Anna Hofstetter yea nay abstain

Council Member Dave Rudd yea nay abstain

ATTEST:

Clerk-Treasurer, Brenda K. Young

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