

ORDINANCE 2023-01
AN ORDINANCE REGULATING EXCESSIVE NOISE

PUBLIC POLICY AND PURPOSE

The Town Council of Nashville finds the following as a matter of public policy:

- 1) That the making of sound of a volume, frequency, pattern, or duration of music that prohibits, disrupts, injures or endangers the health, safety, welfare, prosperity, comfort, or repose of persons of ordinary sensitivities within the Town has so increased as to constitute a public nuisance;
- 2) That the sole intent of the provisions of this chapter is declared to be a matter of legislative determination for this declaration of public policy to secure and promote the health, safety, welfare, prosperity, comfort, and repose of persons in this town by reducing unreasonable noise;
- 3) That Nashville is a small community which is associated with art, shopping, quiet, peace and well-being. That loud amplified music negatively affects the health and wellbeing of individuals who can hear the music beyond the confines of where it is being played, whether live or via recording;
- 4) Certain provisions of Chapter 92 of the Town of Nashville Code of Ordinances should be amended and clarified to accomplish the foregoing purposes and to promote understanding of the Chapter.

BE IT THEREFORE ORDAINED:

Sec. 92.15 - DEFINITIONS

The following definitions apply throughout this Chapter, regardless of the form of the words used (e.g., amplify, amplifier, amplified, amplification).

Acoustic: Of relating to or being a vocal sound or sound made by a musical instrument whose sounds is not electronically modified.

Acoustic Music: Melodic noise or music that is played live or can be played via recording without amplification.

Amplified Music: Music or melodic noise, played live or from a recording, that is played with amplification.

Amplify: To make louder by means of mechanical or electronic modification.

Event: Something that happens, such as a social or entertainment occasion or activity for which a permit has been issued by the Town of Nashville, sponsored by any organization, or by any bar, restaurant, or place of business that has sought a Permit from the Town of Nashville for the playing of amplified music.

Inside: An interior or internal place or part of a place consisting of a permanent structure enclosed by four walls and a ceiling that will contain any noise created or music played within it. Non-permanent structures (e.g. tents) do not provide an inside for the purposes of this ordinance.

ORDINANCE 2023-01

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.

Motor Vehicle: Except as otherwise provided in this ordinance, a vehicle that is self-propelled. The term does not include a farm tractor or agricultural implement designed to be operated primarily in a farm field or on farm premises, a bicycle, an electric bicycle, an electric foot scooter, electric personal assistive mobility device or any other vehicle propelled by means other than a motor.

Muffler: Any device used upon a motor vehicle whose purpose is the deadening of the combustion noises of any engine thereof, 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.

Music: The science or art of ordering tones or sounds in succession, in combination, and in temporal relationships to produce a composition having unit and continuity; or vocal or instrumental sounds having rhythm, melody, or harmony.

Nashville Business District: Areas within the Town of Nashville outside the Nashville Village District.

Nashville Village District: The area represented on the map attached hereto as incorporated herein as Exhibit A.

Noise: Sound that lacks musical quality or is noticeable unpleasant and that is undesired or interferes with one's hearing of something; or Sound (including Amplified Music) that is of a volume, frequency, or pattern that disrupts, injures or endangers the health, safety, welfare, prosperity, comfort, or repose of reasonable persons, or pattern, that disrupts, injures, or endangers the health, safety, welfare, prosperity, comfort, or repose of reasonable persons.

Parking Area: A public and private location where motor vehicles are or may be permanently or temporarily located, whether with or without charge.

Permit: A written grant of permission or license granted by the Town of Nashville. Permits will cost \$150.00 which may be waived for non-profit groups.

Person: An individual, firm, association, partnership, joint venture, corporation, limited liability corporation, limited liability company, fiduciary, or any other entity, publicly recognized by law, whether public or private in nature.

Public Way: A street, sidewalk, alley, road, highway, or thoroughfare in the Town of Nashville, including a privately owned business parking lot and drive, that is used by the public or open to use by the public.

Residential District: Areas within the Town of Nashville zoned as R1, R2 or RB, which will be within either the Nashville Village District or the Nashville Business District.

ACTS PROHIBITED

It shall be unlawful under this subchapter to:

- A. Intentionally create noise as defined in Sec. 92.15, or to allow others to do so on property owned and controlled by a person;

ORDINANCE 2023-01

- 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 are 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 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 the device is played, used or operated.
- F. In a residential district (R1, R2, and RB) it shall be a violation of this subchapter 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 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 produce, and it continues after the person is advised by a law enforcement officer to abate or diminish the sound.
- G. In the Nashville Business District (B1, B2, B3, RB, and GB), it shall be a violation of this chapter to play, use, operate, or allow to be played, used, or operate a radio, television, digital media player, or musical device where the sound is amplified including any loudspeaker, sound amplifier or any other machine or device for producing Amplified Music outside of any bar, restaurant, or place of business in the Nashville Business District.
- H. In the Nashville Village District, it shall be a violation of this chapter to play, use, operate, or allow to be played, used, or operated any type of musical device where the sounds are amplified including any loudspeaker, sound amplifier, or any other machine or device for producing any Amplified Music outside any bar, restaurant, or place of business in the Village District.
- I. It shall be a violation of this subchapter for any person or persons to create any loud, disturbing, or offensive noise on any street, sidewalk, or public place except as listed in the exemptions in Sec. 92.17.
- J. To allow an animal or bird kept as pet to make continuous noise as defined in Sec. 92.15.

SEC. 92.17 – EXEMPTIONS AND PERMITTED ACTS

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

- A. Within the Nashville Business District Amplified Music may ONLY be allowed with an Amplified Sound Permit issued from the Nashville Town Council for an event to occur, with one

ORDINANCE 2023-01

event per month up to a total of seven events per calendar year. Event may occur from noon to 10 p.m. on weekends, from noon to 9 p.m. on weekdays.

- B. Within the Nashville Village District Amplified Music may ONLY be allowed with an Amplified Sound Permit from the Nashville Town Council for a specific event, only one event per calendar year may be allowed from noon to 10 pm. on weekends, noon to 9 p.m. on weekdays.
- C. Non-amplified crowd noises.
- D. 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:
 - 1. Because of the loud and unusual sounds, and the ground vibrations associated with pile driver, excavating equipment, pneumatic hammers, and diesel gasoline hoists, the operation of this equipment shall be exempt only when it occurs between the hours of 7:00 a.m. and 8:00 p.m. or when allowed by a special permit.
 - 2. In order to be exempt, all equipment used in the operations shall be operated with the manufacturer's mufflers and noise reducing equipment in use and in proper operating conditions.
- E. Noises of safety signals, warning devices, and emergency pressure relief valves;
- F. Noises associated with equipment owned and operated by the Town of Nashville and the Nashville Municipal Utilities;
- G. Noises resulting from any 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;
- H. Noises resulting from emergency work;
- I. Reasonable noises made by churches between the hours of 7:00 a.m. and 8:00 p.m.;
- J. Noises resulting from burglar alarms and other warning devices when properly installed, providing the cause for the alarm or warning device sound is investigated and turned off within a reasonable period of time;
- K. Noises resulting from rubbish collection utilizing any mechanical equipment between the hours of 7:00 a.m. and 5:00 p.m. only;
- L. Noises associated with equipment or animals lawfully utilized by persons with disabilities to accommodate their disability;
- M. Noises associated with legal consumer fireworks used during the times state law prohibits regulations by municipalities which are as follows:
 - 1. Between the hours of 5:00 p.m. and 2 hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, and July 9.

ORDINANCE 2023-01

2. Between the hours of 10:00 a.m. and 11:00 p.m. on July 4.
 3. Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.
- N. Any other noise resulting from activities of a temporary duration for which a permit has been granted by the Town Council. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated in the permit.

Sec. 92.18 PERMITS

- A. The Nashville Town Council may authorize Civic Event Permits for such types of events as Community Parades, CVB Fairs/Markets, church fundraisers, school events, etc. Fees may be waived for non-profit events. Such permits may permit amplified music and noise.
- B. Within the Nashville Business District amplified music may ONLY be allowed with an Amplified Sound Permit issued from the Nashville Town Council for an event. Such a permit may only be granted for one event per month and for a total of no more than seven events per calendar year.
- C. Within the Nashville Village District Amplified Music may ONLY be allowed with an Amplified Sound Permit issued from the Nashville Town Council for a specific event and for a total of no more than one event in a calendar year.

Sec. 92.19 PRESUMPTIONS

- A. An act shall be presumed to be intentional if it occurs or persists after the actor has been asked to stop.
- B. An act shall be presumed to be knowing if when it occurs or persists the actor is aware of a high probability that he, she, or it is violating this Chapter.
- C. Repeated violations of this subchapter 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.

Sec. 92.20 ENFORCEMENT

- A. In order to facilitate the prosecution of this subchapter, 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, such as a Class B Misdemeanor, in violation of I.C. 35-45-1-3.
- C. The Chief of Police is empowered to enforce this subchapter by written warning, citation for violation of this Chapter, or arrest if the actor's conduct violates IC. 35-45-1-3 or any other state statute.

ORDINANCE 2023-01

- D. The Town Council or any aggrieved person may bring action to enjoin violations of this subchapter.

Sec. 92.21 PENALTIES

- A. The penalties provided herein are cumulative and shall not affect or foreclose any remedy available to any person as provided by law.
- B. Prior to citing any person for violation of this Chapter, the person shall be issued a written warning. If, within a reasonable time after receiving the written warning, the Person does not cease the violation, he, she, or it may be issued citations, the penalties for which are as follows:

First Violation:	\$ 250.00 fine.
Second Violation within any 12 month period:	\$ 500.00 fine.
Third Violation within any 12 months period:	\$1,000.00 fine.
Fourth and subsequent violations within any 12-month period:	\$ 2,500.00 fine.

- C. Each day that the violation occurs or persists shall be deemed a separate violation.
- D. In addition to the foregoing fines, if the entity violating this ordinance is a business, the Nashville Town Council may revoke or decline to renew its business license and may deny those who own or control the violating business a business license in the future.
- E. Fines for violations shall be paid to the Town of Nashville unless the cited person wishes to appeal the citation to the Nashville Town Council.
- F. Payment of fines or a written notice of appeal must be received by the Town of Nashville no later than five (5) business days after the date of the citation. The fine shall be paid to the Town of Nashville in the Office of the Clerk-Treasurer at 200 Commercial Street., PO Box 446, Nashville, Indiana 47448.
- G. Failure to pay the fine within five (5) business days after the date of the citation shall subject the violation to enforcement in the Brown Circuit Court, which may assess court costs, expenses, interest and attorney fees in addition to the amount of the fine.

Sec. 92.22 APPEALS

- A. Notices of the appeal of a citation to the Nashville Town Council must contain the following information:
- (1) The name, address and telephone number of the person appealing;
 - (2) The date and citation number of the citation;
 - (3) A brief statement of reason for the appeal; and
 - (4) Whether a hearing on the appeal is requested.

ORDINANCE 2023-01

Exhibit A

Nashville Village District

