

ORDINANCE NO. 10-96
(AS AMENDED)

AN ORDINANCE AMENDING ORDINANCE NO. 1592 AND SECTIONS 94.05, 94.06 AND 94.99 OF THE CODE OF ORDINANCES, OF THE CITY OF ANDERSON, INDIANA AS TO THE CREATION OF A NOISE CONTROL ORDINANCE.

WHEREAS, the Common Council of the City of Anderson, Indiana has adopted Ordinance No. 1592, which ordinance, as amended, has been approved by the Mayor; and

WHEREAS, certain levels of noise are detrimental to the health and welfare of the citizenry and it should be the policy of the city to prohibit such unnecessary, excessive and offensive noise from all sources within the jurisdiction of the City of Anderson; and

WHEREAS, changes in legislation and in the needs and development of the community have made it necessary to amend said Ordinance to provide for noise control from all sources.

NOW , THEREFORE, BE IT ORDAINED, by the Common Council of the City of Anderson, Indiana, as follows:

SECTION I - Chapter 94, of the City of Anderson, Indiana, Code of Ordinances, shall be amended to add the following new sections under the title of "NOISE CONTROL":

"94.40 Scope:

The provisions of this chapter shall apply to the control of all noise within the city limits, as it now exists or may hereafter be established.

94.41 Definitions:

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Motor vehicle". Any vehicle powered by a mechanical engine, and designed to be driven or used on any public or private property. Such definition shall include, but not be limited to: automobiles, vans, trucks, motorcycles, motor scooters, dune buggies, snowmobiles, all-terrain vehicles, go-carts, minibikes, and trail bikes.

"Person". Any individual, association, partnership, joint venture, or corporation which includes any officer, and employee, department, agency or instrumentality thereof.

94.42 Loud and Unnecessary Noise Prohibited:

(A) It shall be a violation of this ordinance for a person to make any loud, raucous, improper, unreasonable, offensive or unusual noise, disorder or tumult, which disturbs, injures or endangers the comfort, repose, health, peace or safety or others within the city, or to permit such noise, disorder or tumult to be made in or about his/her house or premises, and the same is hereby declared to be a public nuisance.

(B) Further, it shall be the duty of every owner, occupant, manager, agent or operator of any property, structure, vehicle, or business in the city, to prevent persons using property under their control from violating this chapter.

94.43 Enumeration of Certain Prohibited Acts:

The following acts, uses or noises, among others, subject to specific exemptions, are declared to be loud, raucous or disturbing noises in violation of this ordinance. Such enumeration shall not be deemed to be exclusive:

(A) Using, operating or permitting to be played, used or operated any 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 property in which such machine or device is operated and who is a voluntary listener.

(B) Using, operating or permitting the use or operation of any machine, instrument or device capable of producing or reproducing of sound which is cast upon other properties including the public right-of-way for the purpose of commercial adverting or to attract attention to any activity, performance, sale, place or structure.

(C) Using, operating or permitting the use of operation of any machine, instrument or device capable of producing or reproducing any sound on any public transportation vehicle.

(D) Using, operating or permitting to be played, used or operated any machine or device for the producing of reproducing of sound on any public right-of-way adjacent to any school, institution of higher learning, church or court while the same are in use, or adjacent to any hospital which unreasonable interferes with the working of such institution, or which unduly disturbs patients in the hospital.

94.44 Prohibited Noise:

No person shall play, use, operate or permit to be played, used or operated, any machine or device for the producing or reproducing of sound, if it is located in or on any of the following:

(A) Any public property, including any public right-of-way, highway, building, sidewalk, park or thoroughfare, if the sound generated is audible at a distance of 30 feet from its source.

(B) Any motor vehicle on a public right-of-way, highway, or public space if the sound generated is audible at a distance of 30 feet from the device producing the sound.

94.45 Exemptions:

Exemptions shall not be permitted within any duly established "Quiet Zone" when such zone is designated by appropriate signage. The following shall be exempted from the provisions of this ordinance:

- (A) Sound emitted from sirens of authorized emergency vehicles.
- (B) Lawn mowers, garden tractors, and similar home power tools when properly muffled, between the hours of 7:00 a.m. and 9:00 p.m.
- (C) Burglar alarms or other warning devices when properly installed on publicly or privately owned property, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time.
- (D) Celebrations on Halloween and legal holidays.
- (E) Permitted parades or festivals.
- (F) Attendant noise connected with the actual performance of athletic or sporting events and practices related to them.
- (G) The emission of sound for the purposes of alerting persons to the existence of an emergency, or for the performance of emergency work.
- (H) Sounds associated with the normal conduction of a legally established non-transient business within the normal range appropriate for such use.
- (I) In the case of motor vehicles, where the noise is the result of a defective or modified exhaust system, if the cause is repaired or otherwise remedied within seven (7) calendar days."

SECTION II - Section 94.99, "Penalty", shall be amended to add the following:

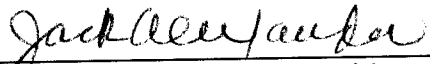
"(C) Whoever violates the provisions of Sections 94.40, 94.41, 94.42, 94.43, 94.44 and 94.45 of this chapter, shall upon conviction thereof, be fined a sum of not less than one hundred seventy five dollars (\$175) for the first (1) offense, a sum of not less than two hundred seventy five dollars (\$275) for the second (2) offense, and a sum of not less than five hundred dollars (\$500) nor more than one thousand dollars

(\$1,000). A separate offense shall be deemed committed on each day that a violation occurs or continues."

SECTION III - Sections 94.05 and 94.06 under the heading "NOISE; AMPLIFYING DEVICES" in of the Code of Ordinances of the City of Anderson, Indiana are hereby repealed.

SECTION IV - This Ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, and publication as by law provided.

PASSED AND ADOPTED by the Common Council of the City of Anderson, this 11th day of April, 1996.



JACK ALEXANDER, President
Common Council of the City of Anderson

ATTEST:




MARIE SYLVESTER RIGGS, City Clerk

Presented to me, the undersigned City Clerk of the City of Anderson, to the Mayor of said City for his approval on the 15th day of April, 1996 at 9.00 o'clock, 9 .M.



MARIE SYLVESTER RIGGS, City Clerk

Having examined the foregoing Ordinance, I do now, as the Mayor of the City of Anderson, approve said ordinance and return the same to the City Clerk of Anderson, this 15th day of April, 1996.



J. MARK LAWLER, Mayor,
City of Anderson

PREPARED BY:
WILLIAM C. KREEGAR
ASSISTANT CITY ATTORNEY

1st Reading 3-14-96
2nd Reading 3-14-96
3rd Reading 4-11-96
Amended 4-11-96
3rd Reading as Amended 4-11-96 adopted