

**ORDINANCE 06-100**  
**ORDINANCE PROVIDING FOR THE CONTROL OF NOISE**  
**IN THE UNINCORPORATED AREAS OF ELKHART COUNTY, INDIANA**

**Whereas**, Indiana Code Sections 36-1-3-1 et seq. permit any County in the state of Indiana to exercise any power or perform any function necessary to the public interest in the context of its County or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or preempted by any other law, or is not expressly granted by any other law to another governmental entity;

**Whereas**, excessive noise from motor vehicles and other sources has a negative effect on the health, safety, welfare, and comfort of citizens and degrades the quality of life in the community;

**Whereas**, the Board of Commissioners of the County of Elkhart, Indiana, finds that it is in the public interests of Elkhart County and its citizens to provide for the regulation and control of certain noises within the unincorporated areas of Elkhart County, Indiana;

**Now, therefore, be it ordained** by the Board of Commissioners of the County of Elkhart, Indiana, as follows:

**SECTION 1. TITLE.**

This Elkhart County Ordinance may be referred to as the “Elkhart County Noise Control Ordinance.”

**SECTION 2. DEFINITIONS.**

For purposes of this Ordinance, the following definitions shall apply:

**(A) 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 the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

**(B) A-Weighted Sound Level.** The sound pressure level is decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.

**(C) Noise level.** The A-weighted sound level produced by a motor vehicle.

**(D) Sound level meter.** An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter and weighting 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.

**(E) Termination request.** An oral or written request of any person, to specifically include a police officer with general, specific, or limited police powers within the County Area, reasonably addressed to or presented to a person making, continuing, or causing to be made or continued, or permitting, any noise that is reasonably deemed by the requesting person to be contrary to the “General Rule” (defined below), which request seeks that the person to whom it is presented cease, continue, or cause to be stopped or terminated, the making, causing, or permitting of such noise.

**SECTION 3. LOUD NOISES PROHIBITED.**

**(A) General Rule.** No person shall make, continue, or cause to be made or continued 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 unincorporated areas of Elkhart County, Indiana (“County Area”).

**(B) Specific Prohibitions.** The following acts, among others, are declared to be loud, raucous, or disturbing noises in violation of this Section 3, but such enumeration shall not be deemed to be exclusive:

(1) The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place except as a danger warning; the creation by means of any such signaling device of any continuous or repeated unreasonably loud and raucous sound; the use of any horn, whistle or other device operated by engine exhaust; the use of any such signaling device when traffic is for any reason held up AFTER a Termination Request. The operation of any such horn, whistle, or signaling device in such a manner as to be plainly audible at a distance of 50 feet from the vehicle in which it is located after a Termination Request shall be *prima facie* evidence of a violation of this subsection (1).

(2) Using, operating, or permitted to be played, used, or operated, any radio receiving set, musical instrument, phonograph, boom box, or other machine or device for the producing or reproducing of sound in such an unreasonable manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time louder volume than is necessary for convenient hearing for the person who is in the room, vehicle, or chamber in which such machine or device is operated, and who is a voluntary listener AFTER a Termination Request. The use, operation of any such set, instrument, phonograph, machine, or device in a such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located after a Termination Request shall be *prima facie* evidence of a violation of this subsection (2).

(3) Using, operating, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure in a continuous or repeated unreasonably loud and raucous manner AFTER a Termination Request. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located after a Termination Request shall be *prima facie* evidence of a violation of this subsection (3).

(4) The keeping of any animal which by causing unreasonable frequent or long-continued noise shall disturb the comfort or repose of any person in the County Area AFTER a Termination Request.

(5) The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in such other manner, including a failed, broken, or defective muffler or exhaust system as to create an unreasonable loud and/or unnecessary engine noise, grating, grinding, rattling, or other noise AFTER a Termination Request. The operation of any such automobile, motorcycle, or vehicle in such a manner as to be plainly audible at a distance of 50 feet from the vehicle in which it is located after a Termination Request shall be *prima facie* evidence of a violation of this subsection (5).

(6) The operation of any motor vehicle or motorcycle in such a manner as to create an unreasonable excessive noise such as squealing of tires or other noise unrelated to engine noise or normal operation, and noise created bby unnecessary grinding, rattling, or other vehicle disrepair AFTER a Termination Request. The operation of any such automobile, motorcycle, or vehicle in such a manner as to be plainly audible at a distance of 50 feet from the vehicle in which it is located after a Termination Request shall be *prima facie* evidence of a violation of this subsection (6).

(7) The creation of an unreasonably loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers AFTER a Termination Request. The creation of any such noise in

such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located after a Termination Request shall be *prima facie* evidence of a violation of this subsection (7).

(8) The creation of any unreasonably loud or raucous noise on any street adjacent to any school, institution of learning, church, or court, while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which unduly disturbs patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital, or court street AFTER a Termination Request. The creation of any such noise in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located after a Termination Request shall be *prima facie* evidence of a violation of this subsection (8).

**(C) Decibel Based Prohibition.** In addition to the prohibitions at subsections (1) through (8) above, the following acts are declared to be loud, raucous, or disturbing noises in violation of this Section 3, based on Decible (dB):

(1) Any noise that exceeds a level of 83 dBA based on a distance from the noise source of not less than 15 feet, and irrespective of the 50 feet standard set forth in subsections (1) through (8) above, shall be *prima facie* evidence of a noise prohibited by this Section 3. All provisions of the immediately preceding sentence to the contrary notwithstanding, noise that creates fewer decibels than 83 dBA from 15 feet also constitutes noise prohibited by this Section 3 if such noise otherwise constitutes a prohibited noise stated in this Section 3. Further, there is not any decibel measurement requirement necessary to prove the existence of a noise prohibited by Section 3.

**(D) Additional Prohibitions Unrelated to Termination Request or dBA Level.**

(1) The operation by a business of outdoor public address systems within five hundred (500) feet of any residence.

(2) The idling of a tractor as defined by Indiana Code 9-13-2-180, as from time to time amended, between the hours of 9 p.m. and 6 a.m. within five hundred (500) feet from any residence.

**(E) Control of Property.** It shall be the duty of every home owner, hotel manager, tavern or inn keeper, the owner or manager of any business in the County, or motor vehicle driver to prevent persons using property under their control from violating this Section 3.

**SECTION 4. EXEMPTIONS.**

The provisions of Section 3 shall not apply to the emission of sound:

(A) For the purpose of alerting persons to the existence of an emergency;

(B) In the performance of work to prevent or alleviate physical or property damage threatened or caused by a public calamity or other emergency;

(C) As part of outside school activities sponsored by a school located within the County Area;

(D) As part of outside sporting events, concerts, festivals, fairs, or other public events which are sponsored, permitted, or authorized by any governmental entity;

(E) From equipment or operations utilized for agricultural purposes within a County Area zoned for agriculture;

(F) From equipment or operations utilized for permitted or authorized manufacturing purposes within a County Area zoned for, or subject to a special use permit or variance for, such permitted manufacturing purposes.

## **SECTION 5. PERMITS FOR SPECIAL USES.**

(A) The Elkhart County Board of Zoning Appeals shall have the authority to issue permits that allow deviation from the requirements of Section 3 for:

(1) Holidays, celebrations, concerts, parades, or other special events, public or personal; or

(2) Persons who demonstrate that bringing the source of sound or activity for which the permit is sought into compliance with the provisions of Section 3 would constitute an unreasonable hardship on the applicant, the community, or other persons affected by the permit has been outweighed by the hardship. Permits may contain any conditions, including a time limit, that are necessary to limit the adverse impact of the activity.

(B) Noncompliance with any condition of the permit shall terminate and subject the person holding it to the provisions of this subsection.

(C) The Board of Zoning Appeals shall issue guidelines defining the procedures to be followed in applying for a permit and the specific criteria to be considered in deciding whether to issue a permit. The Board of Zoning Appeals shall also determine the fees for those permits to be issued.

## **SECTION 6. ENFORCEMENT AND PENALTIES.**

(A) Ordinance violations shall be enforced under proceedings brought pursuant to Indiana Code 34-28-5 et seq., as amended, in a manner similar to that of infractions with complaint and summons described in Indiana Code 9-30-3-6, as amended, issued by the Elkhart County Sheriff's Department or other police agency. Prior to issuing a citation under this Section 6, the Elkhart County Sheriff's Department may issue a warning in an effort to achieve compliance without the necessity of legal action.

(B) Any person adjudged to have violated any provision of this Ordinance by engaging in conduct prohibited or declared unlawful in Section 3 shall be fined no less than Two Hundred Fifty Dollars (\$250) but no more than Two Thousand Five Hundred Dollars (\$2,500) and shall be responsible for all applicable Court costs.

## **SECTION 7. EFFECTIVE DATE.**

This Ordinance shall take effect and be in full force from and after the last to occur of (a) date of passage of this Ordinance by the Elkhart County Commissioners, (b) April 1, 2006, and (c) publication of the adoption of this Ordinance according to law.