ORDINANCE NO. 73-45

An Ordinance Controlling Noise in the City of Bloomington

BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA:

Section 1. That the Municipal Code of the City of Bloomington be amended to include Chapter 14.09, entitled "Noise Regulations", to read as follows:

14.09.010 Public Policy and Purpose. It is hereby declared to be the public policy of the City of Bloomington to prohibit unnecessary, excessive and offensive noise from all sources subject to its police power. Above certain levels noise is detrimental to the health and welfare of the citizenry and in the public interest shall be systematically regulated and proscribed by the City of Bloomington.

14.09.020 Definitions. As used in this chapter unless the context clearly requires otherwise:

a. "Sound pressure level", in decibels, is that level measured by a sound pressure level meter using the A-weighted scale as defined in the American National Standard S-1.4-1971.

b. "Noise" is that sound, sound made by people, or combination of sounds, which exceeds the sound pressure level as established by this chapter for a particular sound-producing object, vehicle, residential zone, hospital zone, church zone, school zone, or any other area limited by this chapter.

c. A "sound pressure level meter" is an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound pressure levels in a manner specified by this chapter that the slow meter response of the sound pressure level meter shall be used in order to best determine the average pressure.

d. "Person" shall mean a person, firm, association, co-partnership, joint venture, coporation, or any entity, public or private in nature.

e. "Emergency work" shall mean work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger or work by private or public utilities when restoring utility service.

f. "Non-stationary source" shall mean a machine or device capable of being moved from place to place for occasional or temporary use at a given location including, but not limited to, motor vehicles, pile drivers and bulldozers.

g. "Fixed source" shall mean a machine or device capable of creating a noise level at the property upon which it is regularly located, or upon which it is regularly used, which projects into another property; this includes but is not limited to industrial and commercial process machinery and equipment, pumps, fans, air-conditioning apparatus, refrigeration machines, powered lawn mowers, and chain saws.

h. "Motor vehicles" shall include any and all self-propelled vehicles as defined in Burns Indiana Statutes §47-1802, IC 9-4-1-2.

i. Classification of areas into residential, school, hospital, church, commercial manufacturing and/or business zones for purposes of this chapter shall be as defined in the then existing City of Bloomington Zoning Ordinance. For purposes of this chapter hospital, school and church zones shall be considered as residential zones.

j. "Daytime" for Non-stationary sources shall mean six (6) a.m. to eleven (11) p.m. and "night time" for Non-stationary sources shall mean eleven (11) p.m. to six (6) a.m.; "daytime" for Fixed sources shall mean seven (7) a.m. to nine (9) p.m. and "nighttime" for Fixed sources shall mean nine (9) p.m. to seven (7) a.m.

k. "Muffler" means 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.

14.09.030 Sound pressure level or noise measurements.

a. All sound pressure level or noise measurements shall be made by a designated police officer, or a police officer using a police patrol vehicle equipped for sound pressure level measurements, or a designated civil servant who shall be appointed by the Bloomington Environmental Quality and Conservation Commission, with the approval of the Common Council, whose duties would include, but not be limited to, investigation, study and/or measurement of sound pressure levels in and for the City of Bloomington. Provided, however, that such police officer(s) or employee(s) of the Environmental Commission shall be trained in the use of the sound monitoring equipment by the Indiana University Speech and Hearing Department, or any other recognized school, institute or other group which has as a principal part of its function the study, investigation, and measurement of sound.

b. Measurement of sound or noise shall be made with a sound pressure level meter meeting the standards prescribed by the American Standards Association. The instrument(s) shall be maintained in calibration and good working order. A calibration check shall be made of the system before or after any sound or noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound or noise. A windscreen shall always be used.

c. Measurement shall be made at any point on the property into which the noise is being transmitted and shall be made at least three (3) feet away from any ground, wall, floor, ceiling, roof, or other plane surface.

d. In the event of multiple occupancy of a property, the measurement may be made at any point inside the premises to which any complainant has right of legal private occupancy; provided, that the measurement shall be made at least three (3) feet away from any ground, wall, floor, ceiling, roof, or other plane surface.

e. The median measurement for this chapter shall be the sum of two readings divided by two.

f. Measurement of motor vehicles shall be taken at least fifty (50) feet from the center line of travel of the source in areas other than residential. If the noise projects into private residential property, residential property as defined in section 14.09.020(i), then measurement shall be taken at the nearest property line to the source in accordance with section 14.09.030(c). Measurement for purposes of investigating a complaint made by a citizen on any public street shall be taken at least twenty feet from the center line of travel of the source.

g. The procedure for measurement of motor vehicles shall be as follows: One (1) measurement is to be made when the vehicle is one hundred and ten (110) feet from the point of placement of the sound pressure level meter as measured along the line of travel; a second reading shall be taken when the vehicle is parallel to the point of placement of the sound pressure level meter. The median measurement shall then be recorded as the measurement for that moving vehicle.

h. If a measurement is taken at the boundary of two (2) zones then the more restrictive zone's standards shall apply.

14.09.040 Sound Pressure Level Limits in dB(A) for Single Noise or Sound Sources in Residential, Business and Manufacturing Zones.

a. These levels may not be exceeded by the median measurement for more than three (3) cumulative minutes in any one (1) hour by any one (1) stationary, or fixed, source of sound. These levels may not be exceeded by the mediam measurement by any one (1) non-stationary source of sound, motor vehicles included.

	1973 to September 1, 1978	
Zones	Daytime	Night time
Residential	80	70
Business	80	75
Manufacturing	85	75

b. Levels for 1978 and after shall be as follows: provided that review and approval of these levels by the Environmental Commission, or its authorized representative, shall be made within one (1) year prior to September 1, 1978. Such review must take into consideration the existing federal and state standards concerning manufacture and sale of sound producing objects, vehicles, and machinery. The Environmental Commission, or its authorized representative, shall be empowered to adjust these levels after said review to reflect current manufacturing techniques and/or standards set by the federal or state government:

	After September 1, 1978	
Zones	Daytime	Night time
Residential	72	62
Business	78	70
Manufacturing	85	70

c. Mandatory public review of this ordinance shall take place within six months of date of passage and annually thereafter. Reviews shall be conducted under auspices of the Environmental Commission and must be publically advertised at least one (1) month prior to being held.

14.09.050 Noises Prohibited.

a. It shall be unlawful for any person to create any unnecessary, loud and disturbing, or offensive noise on any street, sidewalk, or public place adjacent to any school, institution of learning or church while any of the same is in use; or adjacent to any hospital at any time provided conspicuous signs are displayed in such streets, sidewalks or public place indicating the presence of a school, institution of learning, church or hospital.

b. It shall be unlawful to operate, or cause to be operated, any non-stationary source or fixed source which emits a noise above the limits set out in Section 14.09.040, except as

specifically exempted in Section 14.09.060. Measurement shall be made in accordance with Section 14.09.030 (c), (d), (f), or (g).

c. It shall be unlawful to operate a motor vehicle, or combination of vehicles towed by such motor vehicle which creates noise or sound which exceeds the noise level limits set out in Section 14.09.040 of this chapter.

d. Every motor vehicle with an internal combustion, steam or air motor shall be equipped with a suitable and efficient muffler. A muffler shall be considered suitable and efficient, for purposes of this chapter, when it does not create excessive noise. Excessive noise shall be determined when any sound created by the motor vehicle at any time and under any condition exceeds the limits set out in section 14.09.040. Except by specific governmental authorization given by the Bloomington Police Department or the Office of the Mayor, no person while on a public or private highway, street or road shall operate a motor vehicle with the muffler cut out or removed. No cutout shall be so arranged or connected as to permit its operation or control by the driver of any motor vehicle while in position for driving or by a passenger of any motor vehicle.

14.09.060 Exemptions. The following uses and activities shall be exempt from noise level regulations:

a. Non-amplified crowd noises resulting from legal activities, between the hours of seven (7) a.m. and nine (9) p.m.

b. Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government; providing such equipment is operated with the manufacturer's mufflers and noise reducing equipment in use and in proper operating condition.

c. Noises of safety signals, warning devices, and emergency pressure relief valves.

d. 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

e. Noises resulting from emergency work as defined in Section 14.09.020 (e).

f. Noises made by churches using bells as part of their religious observance and by persons having obtained a permit to use the streets.

g. Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control instructions and pursuant to and within the duly adopted federal air regulations shall be exempt from provisons of Section 14.09.070 as well as other provisions of this chapter. Any aircraft operating under technical difficulties in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations are also exempt.

h. All noises resulting from normal operations of railroad trains are exempt. Provided, however, that excessive use of railroad train signaling devices shall be considered violations of this chapter.

i. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the City of Bloomington in accordance with Section 14.09.070. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit or license and contained in section 14.09.070.

14.09.070 Special Permits. Applications for a permit for relief from the maximum allowable noise level limits designated in this chapter shall be made in writing to the Mayor, or his or her duly authorized representative. Any permit granted by the Mayor or other authorized person must be in writing, with appropriate copies to the Police Department, City Engineer and Environmental Commission and shall contain all conditions upon which said permit shall be effective. The Mayor, or other authorized person may grant the relief as applied for under the following conditions:

a. The Mayor, or other authorized person, may prescribe any reasonable conditions or requirements he or she deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound attenuating devices.

b. Except in emergency situations, as determined by the Mayor, or other authorized person, the Temporary Permit may be issued only for the hours between seven (7) a.m. and nine (9) p.m. and such permit shall not be issued for longer than one week, renewable by further application to the Mayor or other authorized person. Provided, however, that such renewal(s) are not automatic nor be longer than four (4) consecutive weeks.

c. The Mayor, or other authorized person, may issue Special Permits, that remain in force, for equipment that is maintained in good condition. Reasonable conditions may be placed upon the Special Permit and the Special Permit shall be renewed annually.

14.09.080 Other Noises Prohibited -- Standards for Unnecessary Noise.

a. Some sounds may be such that they are not measurable by the sound pressure level meter or may not exceed the limits set forth in this chapter, but they may be excessive, unnatural, prolonged, unusual or are a detriment to the public health, comfort, convenience, safety and welfare of the residents of the City of Bloomington. Noises prohibited by this Section are unlawful notwithstanding the fact that no violations of Sections 14.09.040 or 14.09.050 (b), (c), and (d) is involved. Thus the following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive, namely:

1. The sounding of any horn or signaling device on any automobile or other vehicle, except as a danger warning; the creation by means of any signaling device of any unreasonable, loud or harsh sound; the sounding of any signaling device for any unnecessary and unreasonable period of time; and the unreasonable use of any signaling device which creates sound.

2. a. Any noise of a continuous or intermittent nature which persists for a period of fifteen (15) minutes and can be heard by any person outside the immediate premises from the location of the emitter and is caused by the using, operating or permitting to be played, use or operation of any radio, television, tape or record player, amplifier, musical instrument or other machine or device used for the production, reproduction or emission of sound, or any prolonged sounds by people, or by any animal or bird so as to disturb the public peace, quiet and comfort of the neighboring inhabitants.

b. Any person making a complaint under this Section shall be required to give said person's name to the enforcement officer upon requesting an investigation. Said person shall also be required to sign a complaint after an investigation is made and before any further action under Section 14.09.080 is taken otherwise no further action will be undertaken.

14.09.090 Enforcement. This chapter shall be enforced by:

a. The Mayor, or his or her duly authorized representative, the Bloomington Police Department and/or a civil servant, appointed by the Bloomington Environmental Quality and Conservation Commission, with the approval of the Common Council, whose duties shall include, but not be limited to, investigation, study and/or measurement of sound pressure levels in and for the City of Bloomington.

b. Each person charged with enforcement of this chapter shall have the power and authority to issue all such orders and assess all penalties as are designated or necessary under this chapter. Such person, or persons, shall keep complete and accurate records. For purposes of enforcement any non-police officer who seeks enforcement of section 14.09.050 (c) must be accompanied by a police officer who shall make all arrests.

14.09.100 Violations, Penalties and Appeals. Those charged with violating noise limits in this chpater may, in the discretion of the enforcement officer, be issued an official warning advising them of their violation of the provisions of this chapter. If an official warning is issued it shall be considered as affording the violator one (1) opportunity to comply with this chapter's provisions. An official warning shall be issued by any person charged with enforcing this chapter.

a. Any person violating any of the provisions of this chapter, shall, upon a written finding of violation signed by the enforcement officer, be subject to a penalty assessed by said officer of $10.00 (ten dollars) per day each day said offense is committed. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

b. Upon written findings of a violation by the same person for the same offense three (3) times within a consecutive twelve (12) month period, when such noise is created by the same noise emitter or same type of noise emitter, the noise creating device may be ordered by the enforcement officer to cease being used or operated until it can be brought into compliance with this chapter.

c. All appeals from written finding of the enforcement officer must be taken, within seven (7) days, to an Appeal Board composed of one (1) member each from the Bloomington Environmental Commission, Plan Commission and Board of Public Safety, each member being selected by the respective group. The Mayor shall also appoint two (2) persons with knowledge and experience in the study and investigation of sound and its effects. The members of the Appeal Board shall serve without compensation and shall be designated by September 1 of each year and shall only be appointed for one (1) year.

d. All appeals from written findings of the Appeal Board shall be made to courts of competent jurisdiction within seven (7) days.

e. Upon failure to appeal an adverse finding or failure to comply with a written order or assessed penalty the City Attorney's Office shall be empowered to take all appropriate action necessary to enforce the written findings of the enforcement officer or of the Appeal Board.

14.09.110 Severability. If any provison, clause, sentence, or paragraph of this chapter, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this chapter which can be given effect without the invalid provisions or applications and, to this end, the provisions of this chapter are hereby decalred to be severable.

Section 2. Repealer: That upon its acceptance and passage by the Common Council of the City of Bloomington and its signing by the Mayor of the City of Bloomington and its promulgation in accordance with the law, this ordinance shall repeal Chapters 14.08 and 15.44 of the Bloomington Municipal Code.

Section 3. That this ordinance shall be in full force and effect on the First day of September, 1973, after its passage, promulgation, and publication in accordance with the law.

This Ordinance passed and adopted by the Common Council of the City of Bloomington on the 26 day of June 1973.

Charlotte T. Zietlow
Charlotte T. Zietlow, CouncilPresident

ATTEST:

Grace E. Johnson
Grace E. Johnson, City Clerk

Presented by me to the Mayor of the City of Bloomington, upon the 27 day of June, 1973, at the hour of 8:30 o'clock A.m.

Grace E. Johnson
Grace E. JOhnson, City Clerk

This ordinance approved and signed by me upon the 9th day of July 1973 at the hour of o'clock 5p.m.

Francis X. McCloskey
Francis X. McCloskey, Mayor

ATTEST:

Grace E. Johnson
Grace E. JOhnson, City Clerk

INTRODUCED BY:

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REFERRED TO COUNCIL COMMITTEE:

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APPROVED AS TO LEGALITY:

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