

ORDINANCE NO. 4083

ARTICLE I - SHORT TITLE

This ordinance may be cited as the "NOISE ORDINANCE OF THE CITY OF HAMMOND, INDIANA."

ARTICLE II - DECLARATION OF FINDINGS AND POLICY

WHEREAS, the making and creation of excessive, unnecessary, or unusually loud noises within the limits of the City of Hammond, Indiana is a condition which has existed for some time, and the extent and magnitude of such noises is increasing; and

WHEREAS, the making, creation, or maintenance of such excessive unnecessary or unusually loud noises which are prolonged, unusual, or unreasonable in their time, place, and use, affect, and are a detriment to public health, comfort, convenience, safety, and welfare of the residents of the City of Hammond, Indiana; or may cause damage to property or business; and

WHEREAS, the necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted, is declared as a matter of legislative determination and public policy and the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, and the peace and quiet of the inhabitants of the City of Hammond, Indiana;

ARTICLE III - DEFINITIONS AND STANDARDS

Section 3.1 TERMINOLOGY AND STANDARDS

All terminology used in this ordinance, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.,

ARTICLE III - DEFINITIONS

Section 3.2.1 A - WEIGHTED SOUND PRESSURE LEVEL MEANS

The sounds pressure level as measured on a sound level meter using the A - weighting network. The level so read shall be designated db (A) or dBA.

Section 3.2.2 AMBIENT NOISE LEVEL MEANS

The sound pressure level of all the encompassing noise associated with a given environment, being usually a composite of sounds from many sources.

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Section 3.2.3 CHIEF

Chief of the Hammond Police Department, and/or Chief of the Hammond Air Pollution Control Department or their duly authorized representative.

Section 3.2.4 DECIBEL MEANS

A logarithmic (dimensionless) unit of measure often used in describing the amplitude of sound. Decibel is denoted as dB.

Section 3.2.5 EMERGENCY WORK

Work made necessary to restore property to a safe condition following a public calamity, work to restore public

utilities, or work required to protect persons or property from an imminent exposure to danger.

Section 3.2.6 EMERGENCY VEHICLE

Emergency vehicle means a motor vehicle used to respond to a public calamity or to protect persons or property from imminent danger.

Section 3.2.7 MOTOR VEHICLE MEANS

Any vehicles, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, motorcycles, minibikes, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles, which are propelled by mechanical power.

Section 3.2.8 MUFFLER

Any apparatus consisting of baffles, chambers, or acoustical absorbing material whose primary purpose is to transmit liquids or gases while causing a reduction in sound emission at one end. To qualify such an apparatus must cause a reduction in sound pressure level (x) dB (A) upon insertion into the system for which it is intended.

Section 3.2.9 NOISE MEANS

Any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.

Section 3.2.10 NOISE DISTURBANCE MEANS

Any sound or vibration which annoys, disturbs, or perturbs reasonable persons with normal sensitivities; or any sound which injures or endangers the comfort, repose, health, hearing, peace, or safety of other persons.

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Section 3.2.11 PERSON MEANS

Any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of the United States, a state or any political sub-division of that state.

Section 3.2.12 PLAINLY AUDIBLE NOISE MEANS

Any noise for which the information content of that noise is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.

Section 3.2.13 POWERED MODEL VEHICLES MEANS

Any powered vehicles, either airborne, waterborne, or landborne, which are designed not to carry persons or property such as, but not limited to, model airplanes, boats, cars, rockets, and which can be propelled by mechanical means.

Section 3.2.14 PROPERTY BOUNDARY MEANS

An imaginary line exterior to any enclosed structure, at the ground surface, which separates the real property owned by one person from that owned by another person, and its vertical extension.

Section 3.2.15 PUBLIC RIGHT-OF-WAY AND PUBLIC SPACE MEANS

Any street, avenue, boulevard, highway, alley, or public space which is owned or controlled by a public governmental entity.

Section 3.2.16 SOUND LEVEL METER MEANS

An instrument, including a microphone, amplifier RMS detector and integrator or time average, output meter and weighting networks, that is sensitive to pressure fluctuations. The output meter reads sound pressure level when properly calibrated and the instrument is of Type 2 or better as specified in American National Standard Institute Publication S1. 4-1971, or its successor publication.

ARTICLE IV - AGENCIES

Section 4.1 ENFORCEMENT

The noise control program required by this ordinance shall be administered by the Hammond Air Pollution Control Department and/or the Hammond Police Department.

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Section 4.2 DEPARTMENTAL ACTIONS

All departments shall, to the fullest extent consistent with their authorities under other ordinances administered by them, carry out their program in such a manner as to further the policy stated in Article II of this ordinance.

Section 4.3 DEPARTMENTAL COOPERATION

All department shall cooperate with the Hammond Air Pollution Control Department and/or the Hammond Police Department to the fullest extent in enforcing the noise regulations of this ordinance.

Section 4.4 COMPLIANCE WITH OTHER LAWS

All departments engaged in any activities which result or may result in the emission of noise, shall comply with Federal and State laws and regulations, as well as the

provisions of this ordinance, respecting the control and abatement of noise to the same extent that any person is subject to such laws and regulations.

Section 4.5 CONTRACTS

Any written agreement, purchase order, or instrument whereby the city is committed to the expenditure of funds in return for work, labor, services, supplies, equipment, materials, or any combination of the foregoing, shall not be entered into unless such agreement, purchase order, or instrument contains provisions requiring that any equipment or activities which are subject to the provisions of this code will be operated, constructed, conducted, or manufactured without causing violation of the code.

ARTICLE V - AUTHORITY AND DUTIES

Section 5.1 POWERS OF HAMMOND AIR POLLUTION CONTROL DEPARTMENT AND HAMMOND POLICE DEPARTMENT

In order to implement the purposes of this ordinance, the Hammond Air Pollution Control Department and/or the Hammond Police Department shall have the power to:

Section 5.1.1 STUDIES

Conduct, or cause to be conducted, studies, research, and monitoring related to noise.

Section 5.1.2 EDUCATION

Conduct programs of public education regarding the causes and effects of noise but not giving specific advice for its abatement, and to encourage the participation of public interest groups in related public information efforts.

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Section 5.1.3 COORDINATION AND COOPERATION

Coordinate the noise control activities of all municipal departments and cooperate where practicable with all appropriate municipal, county, state and federal agencies to best implement the purposes of this ordinance; and

Section 5.1.4 PROJECT REVIEWS

Review projects subject to review by any other department for compliance with the intent and provisions of this ordinance. This shall include the review of all licensing applications where noise may be an important factor.

Section 5.1.5 INSPECTIONS

For reasonable cause and upon presentation of proper credentials, enter any building, property, premises, or place with the owner's, occupant's, or tenant's approval to inspect any noise source for the purpose of ascertaining the compliance or non-compliance with any provision of this condition;

Section 5.2 DUTIES OF NOISE ENFORCEMENT OFFICERS

In order to implement the purposes of this ordinance, the Chief of the Hammond Air Pollution Control Department and/or the Hammond Police Chief, shall be required to:

Section 5.2.1 MEASUREMENT STANDARDS

Develop measurement methods and standards which will further the purposes of this ordinance.

Section 5.2.2 TRUCK ROUTES

Develop a truck route map of the community for the purpose of reducing truck noise.

Section 5.2.3 ENFORCEMENT PROCEDURES

Develop administrative procedures which will provide for effective enforcement of this ordinance.

Section 5.2.5 LONG TERM NOISE GOALS

Develop a generalized noise map of the community, develop long term objectives for achieving quiet in the community and develop a means for implementing these objectives into the long range planning process.

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ARTICLE VI - NOISES PROHIBITED

Section 6.1 GENERAL PROHIBITIONS

It shall be unlawful for any person to make, continue, or cause to be made or continued or caused any excessive, unnecessary, or unusually loud noise, or to create a noise disturbance within the limits of the City of Hammond, Indiana.

Section 6.2 SPECIFIC PROHIBITIONS

The following acts among others, are declared to be loud, disturbing, or cause to be made or continued or caused any excessive, unnecessary, or unusually loud noise, or to create a noise disturbance within the limits of the City of Hammond, Indiana.

Section 6.2.1 HORNS AND SIGNALLING DEVICES

The sounding of any horn or signalling device or any motor vehicle or any public right-of-way, except as a danger warning signal or as provided in the vehicle code of the State of Indiana, or the sounding of any such device for an unnecessary and unreasonable period of time, at any place.

Section 6.2.2 RADIOS, TELEVISION SETS, AND SIMILAR DEVICES

Operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum or other device for the production or reproduction of sound, in such a manner as to cause noise disturbance; or operating any such device in such a manner as to be plainly audible across property boundaries, or through partitions common to two parties within a building; or plainly audible at twenty-five (25) feet from such device when operated within a motor vehicle parked on a public right-of-way.

Section 6.2.3 EXTERIOR LOUDSPEAKERS

Using or operating any mechanical device or loudspeaker in a fixed or movable position exterior to any building, such that the sound therefrom is plainly audible and causes a noise disturbance beyond the property boundary of work; emergencies are exempt from this provision.

Section 6.2.4 STREET SALES

Selling anything by outcry within any area of the city zoned primarily for residential uses, "except between the hours of 9:00 a.m. and 6:00 p.m."

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Section 6.2.5 ANIMALS

Owning, keeping, possessing, or harboring any animal or animals which, by frequent or habitual howling, barking, meowing, squawking, or other noisemaking, causes a noise disturbance. The provisions of this section shall also apply to all private or public facilities, including any animal pounds, which hold or treat animals.

Section 6.2.6 LOADING OPERATIONS

Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage cans, or containers or otherwise similar objects between the hours of 7:00 p.m. and 7:00 a.m. the following day in such a manner as to cause noise disturbance.

Section 6.2.7 VEHICLE REPAIRS OR TESTING

Repairing, rebuilding, modifying or testing any motor vehicle or off road vehicles or motorboat in or near a residential use district in such a manner as to cause noise disturbance.

Section 6.2.8 POWERED MODEL VEHICLES

Operating or permitting the operation of Powered Model Vehicles or Power Lawnmowers between the hours of 9:00 p.m. and 7:00 a.m. the following morning, in a manner as to cause a noise disturbance.

Section 6.2.9 REFUSE COMPACTING AND/OR COLLECTION VEHICLES

The operating or permitting to be operated, any motor vehicle which can compact and/or collect refuse between the hours of 7:00 p.m. and 7:00 a.m. the following day in a residential district or directly adjacent to a residential district.

Section 6.2.10 STANDING MOTOR VEHICLES

Operating or permitting the operation of the motor of any motor vehicle whose manufacturer's gross weight is in excess of ten thousand (10,000) pounds, or any attached auxiliary equipment for a period longer than (3) minutes in any hour while such vehicle is stationary on public or private property and is not within a completely enclosed structure. This section shall not apply to buses and taxis operated for the transportation of passengers while

standing in established bus/taxi turnarounds, terminals, lots and storage yards.

Section 6.2.11 VIBRATION

Using or causing the use of any device that creates a vibration which is above the perception threshold of an individual beyond the property boundary of the source on private property and causes a noise disturbance.

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Section 6.2.12 MUFFLER EXHAUSTS

It shall be unlawful to discharge into the open air, the exhaust of any stationary internal combustion engine, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

No person shall modify or change the exhaust muffler, intake muffler or any other noise abatement device of a motor vehicle in a manner such that the noise emitted by the motor vehicle is increased above that emitted by the vehicle as originally manufactured.

Section 6.2.13 QUIET ZONES

Creating a noise disturbance within the vicinity of any school or other institution of learning, hospital, nursing home, court, or other designated area where exceptional quiet is necessary, while the same re in use, provided conspicuous signs are displayed in adjacent or contiguous streets, indicating that the same is a quiet zone.

Section 6.2.14 SQUEALING TIRES

The squealing of automobile or truck tires in such a manner as to create a noise disturbance. Emergency accelerating, stopping or swerving shall be exempt from this provision.

ARTICLE VII - EXCEPTIONS AND PERMITS

Section 7.1 EMERGENCY EXCEPTION

Noise caused in the performance of emergency work for the immediate safety, health, or welfare of the community or individuals of the community, or to restore property to a safe condition following a public calamity shall not be subject to the provisions of this ordinance. Nothing in this Section shall be constructed to permit law enforcement, ambulance, fire, or other emergency personnel to make excessive noise in the performance of their duties when such noise is clearly unnecessary.

Section 7.2 PERMIT ISSUANCE

The Hammond Air Pollution Control Chief is authorized to review permits as required by any provision of this ordinance as subject to such limitations as to area, noise levels, time limits, and other terms and conditions as it determines are appropriate to protect public health, safety, and welfare from the noise emanating therefrom. This Section shall in no way affect the duty to obtain any other permit or license required by law for such activities.

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Section 7.3 EXEMPTIONS FOR TIME TO COMPLY

(a) Upon good cause shown by the owner of any noise source, the Hammond Air Pollution Control Chief shall have the power to grant an exemption from the operation of this ordinance in order to allow sufficient time for installation of needed control equipment, facilities, or modifications to achieve compliance not to exceed (30) days, provided that such exemption may be renewed for an

additional like period but only if satisfactory progress toward compliance shown.

(b) Any person seeking an exemption shall file a petition with the Hammond Air Pollution Control Chief. The Hammond Air Pollution Control Chief shall promptly give written notice of such petition to any person who has in writing requested notice of such exemption petitions, and shall publish notice of such petition in a newspaper of general circulation within this municipality. The Hammond Air Pollution Control Chief, in his discretion, concludes that a hearing would be advisable or if any person files a written request for a hearing or a written objection to the grant of such exemption within ten (10) days of the notice provided herein, a hearing shall be held on the petition. A written transcript shall be kept of any such hearing.

(c) In granting or denying an exemption, the Hammond Air Pollution Control Chief shall file and publish a written order, stating the facts and reasons leading to his decision.

(d) A decision by the Hammond Air Pollution Control Chief may be appealed to the Hammond Air Pollution Control Board who shall render a decision binding on all parties subject to the appeal. The appeal hearing shall be open to the public. Any person may testify at the hearing, either in person or by duly authorized representative or attorney. All testimony shall be given under oath.

ARTICLE VIII - MAXIMUM PERMISSIBLE NOISE LEVELS OF MOTOR VEHICLES ON PUBLIC RIGHT-OF-WAY

Section 8.1

No person shall operate a motor vehicle on a public right-of-way at any time in such manner that the sound pressure level emitted by said vehicle exceeds the levels set forth in Table 1 when measured at the location established by Section 8.1.1. This section shall apply to all motor

vehicles, whether publicly or privately owned, that are duly licensed.

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Section 8.1.1 MEASUREMENT DISTANCE

For the purpose of Section 8.1, Table 1, the standard measurement height shall be four (4) feet and the standard horizontal measurement distance from the center line of the traffic lane being monitored shall be twenty-five (25) feet. For the purpose of Section 8.2, Table 2 the standard measurement height shall be four (4) feet and the standard horizontal measurement distance from the center line of travel of the vehicle shall be fifty (50) feet.

Section 8.1.2 FEDERAL PREEMPTION

At such time as the Administrator of the U.S. Environmental Protection Agency establishes noise standard applicable to the operation of licensed interstate motor carriers pursuant to Section 18 of the Federal Noise Control Act of 1972 (Public Law 92-574) said standards and measurement techniques shall be incorporated herein by reference and the motor vehicle noise limits and measurement location set forth in Article VIII shall be superseded with respect to those classes of motor vehicle operators covered by said federal standards.

Section 8.2 MAXIMUM PERMISSIBLE NOISE LEVELS FOR VEHICLES OPERATING OFF PUBLIC RIGHT-OF-WAY

No person shall operate a motorized vehicle or recreational device off a public right-of-way in such manner that the sound pressure level emitted there from exceeds the limits

set forth in Table 2 when measured at the locations set forth in Section 8.1.1. This Section shall apply to all motorized vehicles and recreational devices, whether publicly or licensed including but not limited to trailers, motorcycles, mini-bikes, go-carts, snowmobiles, amphibious craft, dune buggies, racing vehicles, water ski towing devices, and watercraft.

ARTICLE IX - VIOLATION NOTICE

Section 9.1 VIOLATION NOTICE

If the Chief has reason to believe that noise from any source violates the provisions of this ordinance, he may instead of acting under Section 11.1 issue to the owner or operator of the source in question a violation notice.

Section 9.1.1

Any person who is issued a violation notice may, within thirty (30) days from the date of receipt of said notice, submit data to the Chief indicating reasons why he does not believe he was in violation of Article VI. The Chief shall review the data submitted and within fifteen (15) days affirm or withdraw the violation notice by informing, in writing, the person receiving said notice of the decision to affirm or withdraw. In the case

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where such data is not submitted to the Chief within the thirty (30) days stipulated, the violation shall be considered still in force and affirmed.

Section 9.2.1

In the case of a violation of Article VIII the person cited, within ten (10) days of receipt of the Chief's decision to affirm the violation notice as provided for in (or within ten (10) days of a decision of the Air Pollution Control Board, should appeal be taken from the Chief's

decision to affirm the violation notice), may ask that noise tests be performed to determine the extent of noise being emitted from the operation which is the subject of the violation notice. If the noise tests indicate that the amount of noise exceeds the maximum allowable under Article VIII, the violation shall be considered substantiated. If the noise tests indicate that the amount of noise is equal to or less than the standard applicable to the operation under Article VIII, then the violation notice shall be considered void.

Section 9.2 SEALING

After previous notification of three (3) or more violations of this ordinance within a 12-month period, in respect to emitting excessive amounts of noise, a violator shall be notified by registered mail to show cause before the Air Pollution Chief within ten (10) days why the offending equipment shall not be sealed. The notice shall be directed to the last address of the person notified or if the person or his whereabouts is unknown, then the notice shall be posted on or near the premises at which the violations have occurred. If upon the hearing, at which the violator or his agent or attorney may appear and be heard, the Chief finds that adequate corrective measures have not been taken, he shall seal the equipment until such time as corrective measures are taken. The decision may be appealed to the Air Pollution Control Board, and such appeal shall stay the sealing until Air Pollution Control Board renders a decision. It shall be unlawful for any person to break the seal that has been duly affixed by the Chief or his authorized representative unless authorized in writing by the Chief to do so.

ARTICLE X - PERSONS LIABLE

Section 10.1 PERSON LIABLE

All persons owning, operating, or in charge or control of any equipment or premises who shall cause, suffer, allow, permit, or participate in any violation of this ordinance

shall be individually and collectively liable for any penalties imposed by this ordinance. This liability shall include any person who shall refuse to comply with or who shall assist in the violation of any of the provisions of this ordinance.

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Section 10.2 PARTY TO CLAIMS OR ACTIONS

All claims or actions filed by or against the Chief of the Hammond Air Pollution Control, or the Air Pollution Control Board or the Hammond Police Department shall be brought in the name of or filed against the City of Hammond, Indiana, a municipal corporation.

ARTICLE XI - PENALTIES

Section 11.1 PENALTIES

Any person who shall violate any of the provisions of this ordinance shall upon conviction thereof, pay a fine of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) for each violation, to which may be added imprisonment for a term not to exceed one hundred eighty (180) days.

ARTICLE XII - SEVERABILITY

Section 12.1 SEVERABILITY

If any clause, sentence, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance, and the application of such provision to other persons, firms, corporations, or circumstances, but shall

be confined in its part thereof directly involved in the controversy in which such judgment shall have rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of this body that this ordinance would have been adopted had such invalid provisions not been included.

ARTICLE XIII - REPEAL CLAUSE

Section 12.1 REPEAL CLAUSE

All laws heretofore passed by the Common Council of the City of Hammond dealing with the problem of noise, and specifically including Ordinance No. 2829 and amended by Ordinances No. 2855, 3281, 3570 entitled An Ordinance Regulating and Prohibiting Loud Unnecessary and Unusual Noises within the Limits of the City of Hammond are hereby repealed.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL of the City of Hammond this ordinance shall be in full force and effect from and after its passage, signature of the President of the Common Council, approval by the Mayor, and publication as required by law.

/s/ JOHN M. HMUROVIC, President
Hammond Common Council

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ATTEST:

/s/ STANLEY KULIK, City Clerk

Approved by the Mayor on the 26th day of March, 1975.

/s/ JOSEPH E. KLEN, Mayor
City of Hammond, Indiana

PASSED by the Common Council on the 24th day of
March, 1975, and approved by the Mayor on the 26th day of
March, 1975.

/s/ STANLEY KULIK, City Clerk