

Before the Common Council
City of Charlestown, Indiana

ORDINANCE 2009-OR 8

AN ORDINANCE REGULATING UNNECESSARY AND UNDESIRABLE NOISE
IN THE CITY OF CHARLESTOWN, INDIANA

WHEREAS, The citizens of the City of Charlestown, Indiana have expressed gratitude and appreciation for the opportunity to quiet enjoyment of property in the City; and

WHEREAS, an integral part of maintaining the high quality of life in the City certain noises are odious and offensive; and

WHEREAS, unnecessary and undesirable noises within the City are a nuisance; and

WHEREAS, in order to eliminate the nuisance caused by reduce odious and offensive, unnecessary and undesirable noises in the City it is necessary to adopt an ordinance restricting and prohibiting such noises.

THEREFORE, IT IS HEREBY ORDAINED the Common Council of the City of Charlestown, Indiana, as follows:

PUBLIC POLICY

- (1) That the making and creation of loud, unnecessary or unusual noises of various kinds and by various means within the limits of the city have so increased as to constitute a public nuisance;
- (2) That the making, creation or maintenance of loud, unnecessary, unnatural or unusual noises which are prolonged in their time, place and use, affect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the city;
- (3) That the necessity, in the public interest, for the provisions of this chapter is declared, as a matter of legislative determination for this declaration of public policy, to be designed to secure and promote the public health, comfort, convenience, safety, welfare and prosperity, and the peace and quiet of the inhabitants and visitors in this city.

UNLAWFUL NOISES

Except as otherwise provided in this section, it shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health and peace or safety of others within the city. Accordingly, the following acts, among others, are declared to be loud, disturbing and unnecessary noises and in violation of this section, but such enumeration shall not be deemed to be exclusive:

(1) *Horns and signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle in any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand, air or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the continued or repeated use of any such signaling device when traffic is for any reason held up, or in any parade, or in any group of vehicles.

(2) *Radios and media players.* Playing, using or operating, or permitting to be played, used or operated, any radio or television receiving set, compact disc player, MP3, iPod, or other electronic music/video player, phonograph, or other machine or device for producing or reproducing sound in such a 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 or persons who are in the room, vehicle or chamber in which such machine or device is operated, and who are voluntary listeners thereto, except when a permit therefor for some special occasion is granted. The operation of any such set, instrument, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of one hundred (100) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this subsection.

(3) *Loudspeakers, amplifiers for advertising.* Playing, using or operating, or permitting to be played, used or operated, any radio or television receiving set, musical instrument, compact disc player, MP3, iPod, or other electronic music/video player, loudspeaker, sound amplifier or other machine or device for producing or reproducing sound at any place upon the public streets or in any vehicle used for the transportation of persons for hire as a common carrier, for the purpose of commercial or other kind of advertising or attracting the attention of the public to any activity or building or structure, which is so used as to disturb and annoy other persons in their businesses, homes or elsewhere in their right of personal privacy and quiet.

(4) *Yelling, or shouting.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling or other type of residence, or of any person in the vicinity.

(5) *Animals or birds.* The keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort or repose of any person in the vicinity.

(6) *Whistles.* The blowing of any locomotive whistle, or one operated by any other means, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of the proper city authorities.

(7) *Exhausts.* The discharge into the open air of the exhaust of any internal-combustion engine or any other type of engine or power unit on a motorboat, motor vehicle, motorcycle or other vehicle or craft of any kind, except through a muffler or other device which will effectively reduce and prevent loud or

explosive noises therefrom.

(8) *Construction or repairing of buildings.* The erection, demolition, alteration or repair of any building, or the excavation therefor, other than between the hours of 7:00 a.m. and 9:00 p.m., except in the case of urgent necessity in the interest of public health and safety, and then only with a permit from the City Building Commissioner, which permit may be granted for a period not to exceed three (3) days while the emergency continues and which permit may be renewed for periods of three (3) days while the emergency continues

(9) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while it is in use, or adjacent to a hospital which unreasonably interferes with the operation thereof or which disturbs or unduly annoys patients in the hospital; provided that conspicuous signs are displayed in such streets indicating that the same has been declared and is a school, hospital or other such quiet zone.

(10) *Drums.* The use of any drum, horn or other instrument or device for the purpose of attracting attention by creation of noise to any performance, exhibition, show or sale; except in a parade or place for which authorization has been granted.

(11) *Pile drivers, hammers.* The operation between the hours of 9:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance the use of which is attended by loud or unusual noise, except when being operated by a public utility in connection with emergency repairs of such utility.

NOISE PERMIT

A person or entity that wishes to engage in any activity which might otherwise be prohibited by this ordinance can request a permit authorizing the noise made as a consequence of the activity from the Board of Public Works of the City of Charlestown, Indiana (the "BPW"). Such permit shall be at no cost to the applicant, and any person aggrieved by the action of the BPW may appeal that decision to the Common Council.

PENALTIES

The first violation in any calendar year shall be subject to admission of violation and payment of a fine of at least one dollar (\$1.00), up to one hundred dollars (\$100.00). All second and subsequent violations in the calendar year are subject to a fine of at least one hundred dollars (\$100.00), up to two hundred dollars (\$200.00).

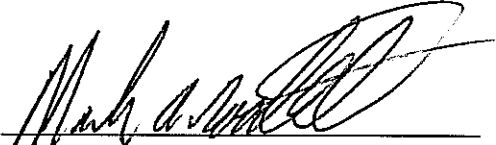
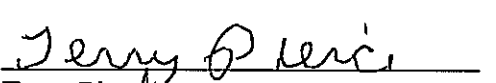

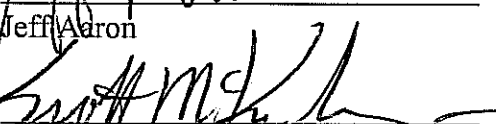
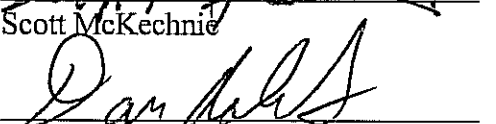
EFFECTIVE DATE

This ordinance shall be in full force and effect takes effect thirty (30) days after its publication.


SECTIONS ADOPTED SEPARATELY

Each section of this ordinance is adopted separately. In the event that it is determined that any part or section of the ordinance is illegal, only that section shall be repealed.

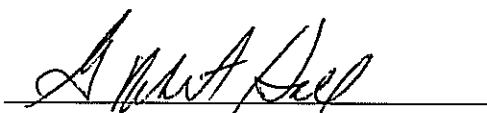
ALL OF WHICH IS ORDAINED BY THE COMMON COUNCIL OF THE CITY OF CHARLESTOWN ON THIS 8th DAY OF August 2009.

| | Voted In Favor | Voted Against | Abstained | Absent |
|-----------------------------------------------------------------------------------------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
|  Mark Goodlett, Council President | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|  Terry Pierce | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|  Jeff Aaron | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|  Scott McKechnie | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|  Dan Roberts | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Presented to Mayor G. Robert Hall on the 8th day of August 2009.



Donna Coomer
City Clerk/Treasurer

SEEN AND APPROVED BY ME THIS 8th DAY OF AUGUST 2009, BY:


Mayor G. Robert Hall

ATTEST:

9-8-09
Date


Donna Coomer

City Clerk/Treasurer