

**ORDINANCE NO. 061422C**

**ORDINANCE AMENDING Title IX, Chapter 93, § 93.04**

**WHEREAS**, the Town Council of the Town of McCordsville, Indiana has heretofore amended with various ordinances Title IX, Chapter 93, § 93.04; and

**WHEREAS**, it has now been discovered that during the process of revising Title IX, Chapter 93, § 93.04, certain provisions were not maintained which the Town Council wishes to reinsert into § 93.04; and

**WHEREAS**, the Town Council of the Town of McCordsville believes the re-adoption of the inadvertently deleted provisions of § 93.04 to be in the best interest of the health, safety, and welfare of the citizens of McCordsville, Indiana.

**THEREFORE, BE IT ORDAINED** by the Town Council of the Town of McCordsville, Indiana, as follows:

**SECTION I**

Title IX, Chapter 93, is hereby amended by the reinsertion of § 93.04 as follows:

(A) *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 section. This enumeration shall not be deemed to be exclusive:

(1) (a) Using, operating or permitting to be played, used or operated, any machine or device for the producing or reproducing of sound in a manner so as to disturb the peace, quiet, and comfort of neighboring inhabitants when such sound exceeds the sound level limit as it pertains to the zoning districts below, unless another agreement has been reached with the town:

1. Residential Area during the hours of 7:00am – 10:00pm= 55 dB(A)
2. Residential Area during the hours of 10:00pm - 7:00am= 50 dB(A)
3. Commercial Area during the hours of 7:00am - 10:00pm= 66 dB(A)
4. Commercial Area during the hours of 10:00pm - 7:00am= 64 dB(A)
5. Industrial Area during the hours of 7:00am – 10:00pm= 66 dB(A)
6. Industrial Area during the hours of 10:00pm - 7:00am= 64 dB(A)

(b) *Zoning Districts.* The restriction of the dB(A) set forth above apply to the zoning district of the sound source, not the complainant.

(c) *Measurement Procedures.* The sound level meter shall be operated according to the instrument manufacturer's instruction and as follows:

1. *Microphone Orientation.* The microphone shall be pointed toward the allegedly offensive noise source, unless the instrument manufacturer's instructions specifically indicate otherwise.

2. Meter Setting. The meter shall be set for the A-weighted network and “slow” response mode.

3. Calibration. An external calibration check and battery check shall be made before and after each use.

4. Meter Readings. The recorded reading shall be the highest sound level obtained with the allegedly offensive noise source in operation, disregarding unrelated peaks due to extraneous ambient noises.

5. Sound levels shall be measured at the approximate location of the complainant’s property line, at a height of at least four feet above the immediate surrounding surface.

6. After a complaint is made, the officer shall measure the dB(A). If the noise level exceeds the dB(A) level allowed for the sound source zone, then the officer will contact the person responsible for the sound source and request the sound source come into compliance. If the person responsible for the sound source does not come into compliance the officer responding to the complaint will issue the offending person a warning or citation. For every complaint and noncompliance action taken, a new citation may be issued if the sound maker continues to exceed the dB(A) level allowed for the sound source’s zone.

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

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

(4) Using, operating or permitting to be played, used or operated, any machine or device for the producing or 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 medical facility which unreasonably interferes with the working of the institution, or which unduly disturbs patients in the medical facility.

(B) *Prohibited noise.* No person shall play, use or permit to be played, used or operated, any machine or device for the producing or reproducing of sound, if it is in or on any of the following:

(1) 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; or

(2) 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.

(C) *Exemptions.* The following shall be exempted from the provisions of this section:

- (1) Sound emitted from sirens of authorized vehicles;
- (2) Lawn mowers, garden tractors and similar home power tools when properly muffled, between the hours of 7:00 a.m. and 8:00 p.m.;
- (3) Burglar alarms or other warning devices when properly installed on public or privately owned property, provided that the cause for the alarm or warning device sound is investigated and turned off within a reasonable period of time;
- (4) Fireworks celebration between the hours of 5:00 p.m. and two hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8 and July 9; between the hours of 10:00 a.m. and 12:00 midnight on July 4; and between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1. At all other times other than set forth herein, fireworks displays and/or celebrations are specifically prohibited, however, an exemption from this provision may be sought by a petitioner upon the filing of a petition with the McCordsville Town Council at least 45 days prior to the event. Furthermore, fireworks displays and/or celebrations are strictly prohibited upon public land and/or facilities at all times unless said fireworks displays and/or celebrations are sponsored in whole or in part by the Town of McCordsville;
- (5) Permitted parades or festivals;
- (6) Attendant noises connected with the actual performance of athletic or sporting events and practices related to them;
- (7) The emission of sound for the purpose of alerting persons to the existence of an emergency or the performance of emergency work;
- (8) Sounds associated with the normal conduct of a legally established non-transient business within the normal range appropriate for the use;
- (9) 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 days; and
- (10) The erection, demolition, alteration or repair of any building, or the excavation thereof, between the hours of 7:00 a.m. and 6:00 p.m. (EST) or 7:00 p.m. (EDT) on Monday through Saturday, except in the case of urgent necessity in the interest of public health and safety, and then only with a permit from the Public Works Commissioner, which permit may be granted for a period not to exceed three days while the emergency continues and which permit may be renewed for periods of three days while the emergency continues. If the Public Works Commissioner and/or the Town Manager should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building, or the excavation thereof, or of any streets and highways, between the hours of 6:00 p.m. and 7:00 a.m. (EST), or on Sunday, and that loss or inconvenience would result to any party in interest, they may grant permission for such work to be done between the hours of 6:00 p.m. and 7:00 a.m. (EST), or on Sunday. Additionally, the erection, demolition, alteration or repair of the interior of any building in a commercial or industrial zoning district, or a property where commercial or industrial uses are permitted via PUD zoning, may be permitted between the hours of 7:00 a.m. and 10:00 p.m. (EST/EDT), 7 days a week. However, said erection, demolition, alteration or repair must be to

the interior of the building and the building's exterior shell must be intact and fully enclosed between the hours of 6:01 p.m. (EST) or 7:01 p.m. (EDT) and 10:00 p.m. (EST/EDT), and 7:00 a.m. and 10:00 p.m. (EST/EDT) on Sunday. Running or idling vehicles or equipment or any other outside noise, may not accompany the interior work between the hours of 6:01 p.m. (EST) or 7:01 p.m. (EDT) and 10:00 p.m. (EST/EDT), or 7:00 a.m. and 10:00 p.m. (EST/EDT) on Sunday. Exception: The Town Manager may allow construction work in a commercial or industrial zoning district, or a property where commercial or industrial uses are permitted via PUD zoning, to occur between the hours of 10:00 p.m. (EST/EDT) and 7:00 a.m. (EST/EDT) for a limited period of time if the Town Manager finds the work appropriate and necessary for the completion of the project. This exception must be granted in writing by the Town Manager to those responsible for the construction work in advance of the extended hours work. Should such an exception be granted, in writing, by the Town Manager, those responsible for the activities being conducted during the extended timeframe shall maintain on-site and readily available a copy of the written exception in addition to immediately upon receipt of said written exception, delivering a copy to the Director of the Hancock County Emergency Operations Center in Greenfield, Indiana.

(D) The Town of McCordsville will allow a maximum of ten (10) events per address where music or noise is allowed to be over the limits allowed under Chapter 93.01 of the Town of McCordsville Code of Ordinances. These events shall adhere to all Town requirements, with the following exception: the sound level limits shall be 90 dB(A) **AT THE SOURCE** during the hours of noon to 10:00 p.m. Sunday through Thursday and during the hours of noon to midnight Friday and Saturday. An application for an event permit that would increase the decibel level must include an aerial photograph or plot plan of the subject property indicating the location where the noise or music will be played and shall be submitted to the Town's Planning and Building Department 30 days prior to the event for internal review and approval. The Planning & Building Department reserves the right to deny a permit that place the source of the music closer to another property than necessary. For an event for which a noise adjustment as described is requested, the applicant will notify Residents by available means that an event will occur which will allow for an increase in the decibel level. **By signing the application, the applicant is giving permission to the McCordsville Police Department to enter onto private property to test the decibel level.**

(E) The Town is not responsible for any event that exceeds the noise ordinance limits and are held without obtaining the required permit. If an event which exceeds the noise ordinance limits without a permit is held without notifying the Town, the event organizer(s) will be responsible for all appropriate fees incurred by the Town of McCordsville. Further, the McCordsville Police Department may shut-down an Event that did not acquire the appropriate permit.

(F) Town Sponsored events will not require any fees. A permit under this section is \$50, payable to the Town of McCordsville. Please note, approval of a noise adjustment is not approval for a temporary use or temporary structure as defined by Section 4.02 of the Town's Zoning Ordinance. If you are planning a large gathering or event, please refer to Section 4.02 to review applicability. If you still have questions regarding whether or not your gathering or event needs a temporary use or temporary structure permit, please contact the Planning & Building Department at 317.335.3604 or [building@mccordsville.org](mailto:building@mccordsville.org).

**SECTION II**

This Ordinance shall be in full force and effect from and after its passage and due publication according to law.

**SECTION V**

Introduced and filed on the \_\_\_\_\_ day of \_\_\_\_\_, 2022. A motion to consider on first reading on the day of introduction was offered and sustained by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed pursuant to I.C. 36-5-2-9.8.

Duly ordained and passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by the Town Council of the Town of McCordsville, Hancock County, Indiana, having been passed by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

**TOWN OF McCORDSVILLE, INDIANA, BY ITS TOWN COUNCIL**

Voting Affirmative:

Voting Opposed:

\_\_\_\_\_  
Thomas R. Strayer

\_\_\_\_\_  
Thomas R. Strayer

\_\_\_\_\_  
Larry J. Longman

\_\_\_\_\_  
Larry J. Longman

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Gregory J. Brewer

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Gregory J. Brewer

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Branden D. Williams

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Branden D. Williams

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Chad Gooding

\_\_\_\_\_  
Chad Gooding

ATTEST:

\_\_\_\_\_  
Staci Starcher  
Clerk-Treasurer

This instrument was prepared by Gregg H. Morelock, BRAND & MORELOCK, 6 West South Street, Greenfield, IN 46140.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Gregg H. Morelock.