

**ORDINANCE NO. 110310**

**AN ORDINANCE REQUESTING TO AMEND TO THE TOWN OF FISHERS NOISE ORDINANCE WHICH IS APART OF THE TOWN OF FISHERS MUNICIPAL CODE**

WHEREAS, the Town of Fishers has established a Noise Ordinance within its Municipal Code, to address noise as a public nuisance;

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 Town Council of the Town of Fishers, Indiana, finds that it is in the public interests of the Town of Fishers and its citizens to provide for the regulation and control of certain noises within the corporate limits of the Town of Fishers, Indiana;

NOW THEREFORE, IT IS HEREBY ORDAINED by the Town Council of the Town of Fishers, meeting in regular session, that Chapter 98 of the Town Code of Ordinance be repealed and replaced with the following:

**CHAPTER 98: NOISE**

Section

- 98.01 Definitions
- 98.02 Offense
- 98.03 Exception
- 98.99 Penalty

**§ 98.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DEVICE.** Any radio, tape recorder/player, compact disc player, stereo system, record player, television or other electronic device capable of producing or reproducing any sound, noise, musical rhythm or vocal sound.

**MOTOR VEHICLE.** Any vehicle, such as, but not limited to automobiles, trucks, motorcycles or any other vehicles propelled or operated by means of power.

**PLAINLY AUDIBLE.** Any noise, musical sound, musical rhythm or any other sound that is electronically amplified or broadcast in any manner that can be heard by the human ear.

**PUBLIC RIGHT- OF- WAY or PUBLIC PLACE.** Includes, but is not limited to, any avenue, street, road, alley, easement, parkway, highway, sidewalk, park or other public place that is owned or controlled by any governmental entity.

**WATERCRAFT.** As defined by I.C. 6-6-11-1.

**§ 98.02 OFFENSE.**

(a) No person, corporation, entity, or landowner shall permit any noise to be generated or produced which exceeds 115db for more than two minutes per hour, when measured at the property line of the property where such sound originates.

(b) No person shall play, use or operate any machine, device or thing that produces or reproduces sound, or permit the playing or use thereof, including, but not limited to, loudspeakers, radios, CD players, television sets, musical instruments, phonographs, or cassette players, nor keep any animal, other than a service animal lawfully used by a handicapped person to accommodate his/her handicap, that exceeds 90db from a distance of not less than six feet (6') from the property line of the property where such sound originates, or is audible forty feet (40') or more outside said property line.

(c) No person shall at any time operate or play a device that produces or reproduces sound, including, but not limited to, loudspeakers, radios, CD players, television sets, musical instruments, phonographs, cassette players or the like from a watercraft or boat (as defined by I.C. 6-6-11-1) located on Geist Reservoir that exceeds 80db at the shoreline or water's edge.

(d) It shall be unlawful within the municipal limits of the town, for any device within or attached to any motor vehicle to be utilized in or at such a level so as to be plainly audible at a distance greater than 30 feet from said device, or which causes a distraction to any person.

(e) The use and operation of lawn mowers, weed blowers, garden tractors, construction and repair equipment, go-carts, generators and power tools and the like, shall be limited to the following hours: between the hours of 7:00 a.m. and 10:00 p.m. May 15<sup>th</sup> to September 15<sup>th</sup>, and 7:00 a.m. to 9:00 p.m. September 16<sup>th</sup> to May 14<sup>th</sup> only.

(f) The use of rubbish collection equipment shall be in accordance with Chapter 50 of the Town Code of Ordinances dealing with Garbage, Trash and Refuse collections.

**§ 98.03 EXCEPTIONS.**

The following are exempted from the provisions of this section:

(a) Sounds emitted from authorized emergency vehicles or sirens (including tornado sirens).

(b) Burglar and car alarms and other warning devices, when properly installed, providing the cause for such alarm or warning device sound is investigated and turned off within a reasonable period of time.



(c) Town or other governmental entity sanctioned parades, festivals, carnivals, fairs, celebrations, concert performances, band and drum corps performances, artistic performances and the like, as well as any rehearsals for same.

(d) The emission of sound for the purposes of alerting persons to the existence of an emergency or the testing of such equipment, or for the performance of emergency construction, repair or other work.

(e) Sounds associated with the normal operation of the Gun Club (14926 East 113<sup>th</sup> Street, Fortville, IN 46060), church bells, cannon salutes, Conner Prairie's re-enactments or Symphony on the Prairie, and boat racing horns on Geist Reservoir during a bona fide practice or race used by an official of the race or practice, when such sounds are within the normal range appropriate for such use.

(f) Subject to the other provisions of this section, and any other applicable law, rule or regulation, those sounds associated with motor vehicles lawfully operating on Town, County, State, and Federal streets and highways.

(g) Sounds associated with the operation of aircraft or snow removal equipment.

(h) Sounds emitted by emergency generators in the event of power failure, periodic testing and maintenance shall adhere to subsection (b) above.

(i) Sounds emitted by construction/road work approved by the Town or other governmental entity.

(j) Train Horns as required by law.

**§ 98.99 PENALTY.**

Any person violating any provision of this chapter shall have committed a Class "C" infraction and shall be punished accordingly, with each violation being a separate and distinct violation and subject to being penalized accordingly. The schedule of fines payable through the Ordinance Violation Bureau shall provide for an increasing fine for subsequent offenses.

Any person who violates the provisions of this section shall be guilty of an infraction, punishable by a fine of not more than:

First offense	Up to \$ 250
Second offense	Up to \$ 500
Third offense	Up to \$1,000
Fourth and subsequent offenses	Up to \$2,500

The Hamilton County or Fishers Court shall be the court of proper venue and jurisdiction for the enforcement of this section.

Citations for violation of this section may be issued by any sworn member of the Fishers Police Department.

This Ordinance shall be in full force and effect upon its passage by the Town Council in accordance with law. All ordinances or parts thereof in conflict herewith are hereby repealed.

ADOPTED by the Fishers Town Council this 21<sup>st</sup> day of March, 2011.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

BY:	<u>Scott A. Faultless</u>	AYE	_____	NAY
	<u>Michael L. Colby</u>		_____	
	_____		_____	
	<u>Stuart F. Easley</u>		_____	
	<u>Eileen N. Pritchard</u>		_____	
	<u>Daniel E. Henke</u>		_____	
	<u>David C. George</u>		_____	
	<u>Arthur J. Levine</u>		_____	

ATTEST: Linda Gaye Cordell Date: 3/21/11  
Linda Gaye Cordell, Clerk-Treasurer  
110310

Approved by: Douglas D. Church: Church, Church, Hittle, and Antrim – Town Attorney