

# Community Democracy River

## CREATE OR UPDATE ORDINANCES TO MEET COMMUNITY VISION



### Create or Update Nuisance Ordinances

- An ordinance is a local law that is passed by your municipality. In most towns, ordinances are created and reviewed by the city council, and if the majority of council members vote “yes”, the ordinance is passed.
- A nuisance ordinance can hold industrial facilities accountable to decrease some common frustrations that often come with their work, such as soot or dust; smells; sounds; and truck traffic.

**River point:** Upriver – It may be a long process to get a nuisance ordinance proposed, reviewed, and approved, but this process can begin at any time.

- Nuisance ordinances will be strongest if other levers are pulled upriver, especially levers that build relationships, influence the local municipality, and get many people to agree on the need for the ordinance. Some of these levers are:
  - Authentic relationship building
  - Co-create Community Vision
  - Learn about your municipality
  - Learn about your community’s health and wellbeing
  - Vote in local elections
  - Become part of your local municipality
  - Update municipality’s comprehensive plan
  - Update zoning laws
  - Engage your relationships + community
  - Attend public meetings, and review local agendas and notices
  - Develop strategic messaging
  - Make verbal and written comments on issues you care about

### Strengths & Skills that can pull lever:

- Relationship Building & Feeling
- Influencing & Motivating
- Thinking & Strategy
- Doing & Executing

**Decision-Making power:** Municipal governing body

### Ordinance Examples

The examples shown on the next pages show different ways that towns and cities have used zoning to protect the environment and work toward environmental justice. All five are assessed for:

| Practicality  | Equitable   | Resiliency |
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| <ul style="list-style-type: none"> <li>• Ease to create and enact.</li> </ul> | Builds toward equity and social or political determinants of health. Includes addressing past |            |

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| <ul style="list-style-type: none"> <li>• Affordability to municipality.</li> <li>• Has clearly defined measures of success</li> <li>• Potential preemption issues from state and/or federal laws.</li> </ul> | <p>harms and changing the future for racial, economic, LGBTQ+, immigrant &amp; refugee outcomes:</p> <ul style="list-style-type: none"> <li>• Physical and mental health and wellbeing.</li> <li>• Jobs &amp; economic security.</li> <li>• Healthy and affordable housing.</li> <li>• Positive neighborhood environment.</li> <li>• Food security</li> <li>• Neighborhood safety.</li> <li>• Ongoing community input &amp; participation.</li> </ul> | <ul style="list-style-type: none"> <li>• Protects the environment through healthy air and water, green spaces, and heat index.</li> <li>• Opportunities for youth</li> <li>• Opportunities for community connection &amp; togetherness</li> </ul> |
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### Example One: Noise Ordinance

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| <p><b>Athens, OH:</b></p> <p>This ordinance states various excessive noise level violations, including residential noise, horns, sirens, etc. This comprehensive list was made to protect the public health and safety of the community.</p> |  |   |  |  |  |
| <p><b>Practicality</b></p>   | <p>The ordinance starts with stating various definitions of terms used later in the ordinance. For example, ‘property plane’ is defined as means a vertical plane including the property line which determines the property boundaries in space; ‘residential zone’ means any land located within a planned unit development area ‘used for authorized residential purposes’; and ‘residential power equipment’ is defined as any saw, drill, lawnmower, leaf-blower, or any similar tool or device. or instance, Various types of noise-emitting things, such as radios or horns, are listed in this ordinance, all with specific rules and regulations.</p> <p>In this ordinance, construction noise is only permitted in case of an emergency, and certain restrictions apply (construction or demolishing cannot take place from the hours of 9:00 pm to 7:00 am). If the construction or demolition is approved as not affecting (will not affect) public health and safety, then construction and demolition may take place during the prohibited hours.</p> <p>The use or operation of any sound producing machine is prohibited at any hour, however, the noise level cannot exceed 85 dB at any point outside of the property plane, or within the property boundaries. To the right is a chart labeling certain levels of decibels to compare. Note how extended exposure to noise levels above 85 dB can cause or result in permanent hearing loss. This level is intentionally set to protect the community.</p> <div data-bbox="478 456 1115 899" style="text-align: center;"> <h3>LEVEL OF NOISE in decibels (dB)</h3> <table border="1"> <tr> <td style="background-color: #90EE90; padding: 5px;"> <p><b>Faint</b></p> <p>20 dB<br/>Leaves rustling</p> <p><b>Soft</b></p> <p>30 dB<br/>Whisper<br/>40 dB<br/>Quiet library</p> <p><b>Moderate</b></p> <p>60 dB<br/>Conversation</p> </td> <td style="background-color: #FFD700; padding: 5px;"> <p><b>Loud</b></p> <p>70 dB<br/>Traffic<br/>80 dB<br/>Alarm clock</p> <p>Extended exposure to noise levels above 85 dB can cause permanent hearing loss</p> </td> <td style="background-color: #FF8C00; padding: 5px;"> <p><b>Very Loud</b></p> <p>90 dB<br/>Power tools<br/>100 dB<br/>MP3 Players<br/>110 dB<br/>Sporting events</p> <p>Uncomfortable</p> <p>90 dB<br/>Dance clubs</p> </td> <td style="background-color: #800080; padding: 5px;"> <p><b>Painful</b></p> <p>130 dB<br/>Ambulance<br/>140 dB<br/>Fireworks/Guns</p> <p>Always avoid exposure to very loud noises and protect your ears with hearing protection</p> </td> </tr> </table> </div> | <p><b>Faint</b></p> <p>20 dB<br/>Leaves rustling</p> <p><b>Soft</b></p> <p>30 dB<br/>Whisper<br/>40 dB<br/>Quiet library</p> <p><b>Moderate</b></p> <p>60 dB<br/>Conversation</p> | <p><b>Loud</b></p> <p>70 dB<br/>Traffic<br/>80 dB<br/>Alarm clock</p> <p>Extended exposure to noise levels above 85 dB can cause permanent hearing loss</p>                    | <p><b>Very Loud</b></p> <p>90 dB<br/>Power tools<br/>100 dB<br/>MP3 Players<br/>110 dB<br/>Sporting events</p> <p>Uncomfortable</p> <p>90 dB<br/>Dance clubs</p> | <p><b>Painful</b></p> <p>130 dB<br/>Ambulance<br/>140 dB<br/>Fireworks/Guns</p> <p>Always avoid exposure to very loud noises and protect your ears with hearing protection</p> |
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| <p><b>Equitable</b></p>  | <p>This ordinance creates the same rules for anyone producing any type of excessive noise but is particularly important for industrial uses. Industrial sites are more likely to occur in low-income areas, so this ordinance protects those living in those areas.</p> <p>Residential noise is only permitted in certain cases, such as any machinery inside a residential home, but still cannot exceed 85 dB inside another unit (on the same property plane) with all doors and windows shut. This allows residents to live freely in their own space but are still slightly restricted in excessive noise.</p>  |   |  |  |  |
| <p><b>Resiliency</b></p>   | <p>This ordinance sets out to preserve the safety and health of the community, while still allowing for certain emergency vehicles to be an exception to these excessive noise issues.</p>   |   |  |  |  |
| <p><b>Highlights</b></p>   | <p>This ordinance has an extensive penalty list, including a \$100 fine, and if that fine is not paid, the offender will receive a minor misdemeanor citation in court. A second offense results in a minor misdemeanor, and any further excessive noise violations result in a minor misdemeanor in the fourth degree. This ordinance does not prioritize individual citations, as anyone who violates the ordinance must pay the fee, no matter if it's an individual or b or business.</p>  |   |  |  |  |

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### Example Two: Truck Traffic

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| <b>Coatesville, PA</b>  |   |
| This ordinance clearly states that certain roads do not permit industrial machinery to drive along them. Designated truck routes were created and stated within this ordinance to avoid any large trucks driving on residential roads, protecting citizens and allowing for less of a nuisance. |   |
| <b>Practicality</b>   | <p>This ordinance clearly states the roads the trucks can travel on within the town of Coatesville. Six routes are mentioned, with two being semi-major highways, and the rest as larger roads with less residential traffic and housing.</p> <p>There is also a list of various streets that strictly prohibit traffic.</p> <p>Trucks, as defined in this ordinance, as being any vehicle, whose body weight or combined body weight exceeds three tons.</p> |
| <b>Equitable</b>  | This ordinance allows for certain streets and roads to be protected from environmental hazards such as truck runoff, as well as public nuisances of trucks on residential streets and roads, as well as general noise, traffic, and other factors emitting from large industrial vehicles.  |
| <b>Resiliency</b>   | <p>Street signs clearly stating truck routes are placed throughout the town, as well signage showing truck-prohibited roads.</p> <p>This ordinance is strictly enforced by the City Police and Chief of Police, as well as requiring any trucks to be weighed and determining whether the truck must follow the ordinance's rules.</p> <p>Violations of this ordinance result in a fine of more than \$100 and less than \$300.</p>                           |
| <b>Highlights</b>   | Exceptions are made for emergency vehicles and any trucks owned or operated by the city of Coatesville.   |

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### Example Three: Particle Pollution

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| <p><b>Greenwich, CT</b><br/>This ordinance tries to decrease air pollution, with an emphasis on particle and soot pollution in the town. The goal of this ordinance is to improve the health, safety, comfort, and welfare for humans, plants, and animals.</p> |  |
| <b>Practicality</b>   | <p>This ordinance defines terms such as air pollution, smoke, and particulate matter. These definitions are necessary in any successful ordinance.</p> <p>This ordinance tries to decrease particulate matter by saying:</p> <ul style="list-style-type: none"> <li>- No one should handle any material in such a way that ambient amounts of particle pollution become airborne;</li> <li>- No buildings, roads, or other structures cannot be built without the proper preventative measures (to restrict particle pollution);</li> <li>- For larger industrial sites, specific amounts of emissions are listed in a table that are permitted comparative to the amount of weight processed. (West Virginia and Ohio have different state laws that may not allow this, however, the Pennsylvania Air Pollution Control act allows municipalities to pass more protective air quality laws than the state has when needed. (<a href="#">Section 12</a>) See link for citation and law.)</li> <li>- Private incinerators and fuel burning machinery are not permitted in the town; and</li> <li>- Open burning is permitted, so long as an excess amount of smoke is created.</li> </ul> <p>This ordinance creates a job in the municipality called “The Director of Health”. The Director of Health can edit rules of this ordinance if needed; can encourage the community to volunteer with environmental efforts; and can appoint special advisory groups on matters concerning air pollution. They are the main official in the town concerning air pollution.</p> <p>The Director of Health must take certain factors such as degree of pollution, temporary interim control measures, and the age/prospective life of the facility into consideration when determining if a facility is a ‘nuisance’. If the Director of Health determines that the ordinance has not been followed and this facility causes a threat to the town and its inhabitants, then they may suspend the program and issue a violation notice.</p> |
| <b>Equitable</b>  | <p>Low-income areas have a higher likelihood of being closer to industrial areas, so decreasing the amount of particulate coming from these areas could have a positive impact on the neighborhood’s environment, physical health, and the people’s general well-being.</p>  |
| <b>Resiliency</b>   | <p>The Director of Health is encouraged to appoint people in the community to not only participate in special advisory groups concerning air pollution and particle concerns, but also encourage people to volunteer and help in their community with air pollution related issues.</p> <p>This ordinance helps the environment by decreasing particulate matter in the air.</p> <p>This ordinance encourages community connection by allowing for the creation of community-led advisory groups and encouraging volunteer activities.</p>   |
| <b>Highlights</b>   | <p>This ordinance can create a community advisory committee, create a clear structure of who will oversee particulate matter (The Director of Health), and create specific limits for industrial emissions.</p>  |

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### Common Elements of Nuisance Ordinances:

For any nuisance ordinance, there are a few things to think about and include, such as:

- How is nuisance defined? What are the types of nuisances most impacting the community?
- Who is the primary staff member responsible for enforcing a nuisance ordinance?
- What accountability is there if someone does not follow the nuisance ordinance?
- How can the community make complaints? How are these complaints transparent so the community can see what is done with their complaint?

### Defining a Public Nuisance

No matter the nuisance (noise, pollution, traffic, etc.), it's important for an ordinance to clearly state what the nuisance is, and why it is important to protect the community from that nuisance, whether it be for community health and safety, and/or for environmental protection and well-being. Some define nuisances more generally, for instance, Coatesville, PA:

- “All articles, acts or things whatsoever caused, kept, maintained or permitted by any person to the injury, inconvenience or annoyance of the public;” and. “pursuits followed or engaged in, or acts done by any person to the injury, annoyance or inconvenience of the public, including the conducting of an otherwise lawful business in a manner which produces annoyance and injury to the public (164-1).”

This definition is vague so it could include a lot, but could be a bit ambiguous or easy to ignore for certain types of pollution, dust, and soot nuisances since they aren't explicitly named.

Other ordinances list specific items that are included as a nuisance, and then usually have a more open-ended definition at the end. For example, Greenwich, CT. This can help get rid of any ambiguity – especially around pollution such as soot and dust – and make those things explicit nuisances the municipality can enforce.

- “The existence of a condition involving any one (1) or more of the following items: trees, shrubs or vegetation which are hazardous or injurious to the public health, safety and welfare or which would cause substantial depreciation in the value of real property in the neighborhood or which have been determined to be a nuisance pursuant to any other provision of this Municipal Code, building and construction materials, landscape and fill materials, demolition debris, motor vehicles and motor vehicle parts, fixed- and rotary wing aircraft and parts, boats and boat parts, tires, appliances, furniture, metal, plastic, cardboard or glass containers, paper and rags which are inoperative, abandoned or discarded; which are found in substantial quantities in or upon any premises and are visible from any third-party residential premises; and which are hazardous or injurious to the public health, safety and welfare or which cause substantial depreciation in the value of real property in the neighborhood. (6.C-2.h)”

### A Group to Create & Implement:

A comprehensive plan is often the first step to enacting any sort of nuisance ordinance (noise, pollution, traffic, etc.). A comprehensive plan is a roadmap for where your municipality will go in the future. This roadmap helps towns be more equitable in safe, as planning this nuisance ordinances can help improve the physical, mental, and environmental health of any municipality. Usually, a comprehensive plan is developed by your municipality's Planning Board, Commission, or Department, and is updated every five or ten years. A Comprehensive Plan should be a long process that includes a lot of community input and feedback to shape what it includes and where your municipality is headed in the future. Once the comprehensive plan and nuisance ordinances are drafted, your municipal decision-makers (such as City Council) will approve the creation of the ordinance(s).

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### **Ordinance Enforcement:**

Some nuisance ordinances list many municipal staff members who could oversee and enforce the nuisance. “Pros” to this approach is it gives power to a large number of people. However, sometimes that leads to nobody enforcing it since it’s nobody’s primary responsibility. Other ordinances give one staff member primary enforcement responsibility, and list a number of additional staff who could enforce. Examples of staff members who are given primary enforcement responsibilities include: zoning enforcement officer, code enforcement officer, police force, director of health.

### **Inclusion of Community Members & Transparency:**

Once a plan and nuisance ordinance(s) are in place, there should be ongoing opportunities for community inclusion. Many communities may even draft a study to identify the environmental problems in the community and how a nuisance ordinance would address those issues.

Another way that a plan and nuisance ordinances could intentionally include community is ensuring strong transparency when new developments are being proposed. These changes can come about through zoning changes, public participation laws, and community benefit processes. This can happen through:

- Reporting mechanisms, such as hotlines or an online reporting system;
- Maintaining/creating community partnerships;
- Releasing/encouraging the release of environmental and community impact assessments and reports;
- Increasing opportunities for public participation while the developers are sharing their assessments and reports, including group classes and general community education on nuisances;
- Ensure developers proactively tell anyone who lives close to the site what their proposal is and includes;
- Releasing public notifications through social media or local news.

### **Youth Involvement Opportunities:**

A comprehensive plan can prioritize youth voice and involvement while it is being created ensure that the municipality is creating a space where youth have opportunities and want to stay after they finish school. Youth can also participate in Community Advisory Committees, like the one in Example #4.

### **Improving Environmental Conditions:**

Nuisance ordinances can indirectly benefit the environment, whether that be through reducing noise and light pollution, general air quality, or runoff/deposit of chemicals. This depends on the nuisance, but generally, these ordinances can protect the environment.

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### References:

Athens, OH, Title 13- General Offenses,

[https://library.municode.com/oh/athens/codes/code\\_of\\_ordinancesnodeId=TIT13GEOF\\_CH13.04OFAGPUPE\\_13.04.10UNNO](https://library.municode.com/oh/athens/codes/code_of_ordinancesnodeId=TIT13GEOF_CH13.04OFAGPUPE_13.04.10UNNO)

City Code of Woodstock, IL: [https://codelibrary.amlegal.com/codes/woodstockil/latest/woodstock\\_il/0-0-0-7889](https://codelibrary.amlegal.com/codes/woodstockil/latest/woodstock_il/0-0-0-7889).

4.1.3.10: Noise, *American Legal Publishing*, [https://codelibrary.amlegal.com/codes/woodstockil/latest/woodstock\\_il/0-0-0-10926](https://codelibrary.amlegal.com/codes/woodstockil/latest/woodstock_il/0-0-0-10926).

Coatesville, PA, Article XVIII A: Truck Traffic on Certain Streets, <https://ecode360.com/9637367>

Greenwich, CT, Chapter 6C. Nuisances: [https://library.municode.com/ct/greenwich/codes/code\\_of\\_ordinances?nodeId=CH6C.NU](https://library.municode.com/ct/greenwich/codes/code_of_ordinances?nodeId=CH6C.NU)

Local Policies for Environmental Justice: A National Scan, Natural Resource Defense Council, <https://www.nrdc.org/sites/default/files/local-policies-environmental-justice-national-scan-tishman-201902.pdf>.

Pennsylvania Air Pollution Control Act: <https://www.legis.state.pa.us/WU01/LI/LI/US/HTM/1959/0/0787..HTM>  
Section 12 Mentioned.

*This resource was originally created by Martina Frederick, Fair Shake Community Democracy Intern*

This resource is part of Fair Shake Environmental Legal Service's Community Democracy River.  
For more information and additional resources, tools, and levers, visit: <https://www.fairshake-els.org/community-organizing-resources>.