

GENERAL ORDINANCE NO. 34-10

AN ORDINANCE
CREATING SECTION 29.309,
GREEN BAY MUNICIPAL CODE,
RELATING TO IMPOUNDMENT AND
SEIZURE OF DEVICES AND VEHICLES
CAUSING EXCESSIVE NOISE

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 29.309, Green Bay Municipal Code, is hereby created to read:

29.309 IMPOUNDMENT AND SEIZURE OF LOUD DEVICES AND VEHICLES.

(1) DEFINITIONS. For the purposes of this ordinance, the following terms or phrases shall have the meanings below:

(a) “Noise violation” shall mean a violation of:

1. § 29.101, Green Bay Municipal Code, adopting § 346.94(16), Wis. Stats., or
2. § 29.101, Green Bay Municipal Code, adopting § 346.945, Wis. Stats.

(b) “Sound-producing device” shall mean a radio, electric sound amplification device, or any other sound-producing device.

(2) DEVICE IMPOUNDMENT. At the time of issuing a citation for a noise violation, the issuing officer may impound the sound-producing device used in the commission of the noise violation if the person charged with such violation is the owner of the sound-producing device and has two or more prior convictions of a noise violation within a three-year period. Upon disposition of the citation for a noise violation, payment of any forfeiture imposed and request by the rightful owner of the sound-producing device impounded under this subsection, the device shall be returned to the requester.

(3) DEVICE SEIZURE. At the time of issuing a citation for a noise violation, the issuing officer may seize the sound-producing device used in the commission of the noise violation if the person charged with such violation is the owner of the sound-producing device and has three or more prior convictions of a noise violation within a three-year period. Upon disposition of the citation for a noise violation, payment of any forfeiture imposed and request by the rightful

owner of the sound-producing device impounded under this subsection, the device shall be returned to the requester unless disposed of in the following manner:

(a) Within 30 days after the seizure of the property or the date of conviction, whichever is earlier, the city attorney may commence an action to forfeit the device to the city by filing a summons, complaint and affidavit of the person who seized the device with the Clerk of Brown County Circuit Court and, within 90 days after filing, serve authenticated copies of those papers upon the person from whom the property was seized.

(b) Upon service of an answer, the action shall be set for hearing within 60 days of the service of the answer but may be continued for cause or upon stipulation of the parties. If no answer is served, the court may render a default judgment.

(c) The city shall have the burden of satisfying or convincing to a reasonable certainty by the greater weight of the credible evidence that the sound-producing device was used in the commission of a noise violation.

(d) No liability is imposed by this ordinance upon any authorized law enforcement officer or employee engaged in the lawful performance of duties.

(4) **VEHICLE IMPOUNDMENT.** If the sound-producing device may not be easily removed from the vehicle and the vehicle is owned by the person charged with the noise violation, the issuing officer may impound the vehicle for not more than five working days to permit the city, or its authorized agent, to remove the sound-producing device. After removal of the sound-producing device from an impounded vehicle, and after the owner of the vehicle has paid the cost of impounding the vehicle and removing the sound-producing device, the vehicle shall be returned to its rightful owner.

5) **ABANDONED DEVICE OR VEHICLE.** Any impounded vehicle which has remained unclaimed for a period of 90 days after disposition of the citation shall be disposed following the procedure for an abandoned vehicle under § 342.40, Wis. Stats. Any impounded sound-producing device shall be disposed of by public auction if it has:

(a) Remained unclaimed for a period of 90 days after disposition of the citation, or

(b) Been forfeited to the city under sub. (3).

(6) **INAPPLICABLE TO MOTORCYCLES.** This ordinance does not apply to a sound-producing device on a motorcycle.

SECTION 2. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on and after its passage and publicatio Dated at Green Bay, Wisconsin, this 21st day of September, 2010.

APPROVED:

/s/James J. Schmitt
Mayor

ATTEST:

Chad J. Weininger
Clerk

First Reading: 09/07/10
Effective Date: 09/25/10