

## **CITY OF UTICA**

### **ORDINANCE NO. 171**

#### **CITY OF UTICA NOISE ORDINANCE**

##### **Section 1**

###### **Title; Intent and Purpose.**

This ordinance may be referred to as the "City of Utica Noise Ordinance." This ordinance was created, and may be amended from time to time, to preserve the peace and tranquility of neighborhoods, public places, and streets within the community. The Michigan Supreme Court has long recognized the right of all persons to the tranquility enjoyed by citizens of a community where good order reigns among its members, and the legitimate interest of municipalities in the preservation of peace and order. For these reasons, the City Council deems it necessary and appropriate to regulate and restrict unnecessary and unreasonable noise within the City.

##### **Section 2**

###### **Definitions.**

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

***LOUD NOISE.*** Any sound which, due to its volume, duration or character, annoys, disturbs, injures or endangers the comfort, health, peace and safety of reasonable persons of ordinary sensibilities. The term shall be limited to noise heard on the public streets, parking lot open to the public or other public place, any church or hospital or in any occupied building which is not the source of the noise, including the grounds surrounding the building. Unless otherwise provided in this chapter or the zoning ordinance, noise shall be determined at a distance of at least 50 feet measured in a straight line from the source of the noise.

##### **Section 3**

###### **General Prohibition.**

Unless otherwise permitted by this chapter or the zoning ordinance, no person shall cause, create or continue any loud noise within the city limits.

##### **Section 4**

###### **Specific Prohibitions.**

The following are determined to be violations of this ordinance. This list is not exhaustive, but merely demonstrative, and it shall not preclude enforcement of Section 3 or this ordinance

under additional or variant circumstances.

(1) *Horns and signal devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other motor vehicle for any purpose other than to avoid an accident or collision or other reason allowed by law.

(2) *Electronic devices and musical instruments.* The playing of amplified music or sound as to annoy, disturb or unreasonably interfere with the quiet, comfort or repose of other persons.

(3) *Shouting, singing and the like.* Yelling, shouting, singing or the making of any other loud noise on the public streets or right-of-way, or in or within 30 feet of a residence or residential zoning district, as to annoy or disturb the quiet, comfort or repose of other persons. The creation of any such loud noise between the hours of 11:00 p.m. and 7:00 a.m. which is plainly audible from any public place within the city is prohibited without limitation.

(4) *Vehicle noises generally.* The operation of any truck, automobile, motorcycle or other vehicle as to cause loud noise.

(5) *Steam whistles or sirens.* The operation of any steam whistle or siren, except for the purpose of giving notice of the time to begin or stop work or as a warning of fire or other danger or for other purposes upon special permit from the City Council.

(6) *Engine exhausts.* The discharge outside of any enclosed building of the exhaust of any steam engine, internal combustion motor engine, vehicle or motorboat engine, except through a muffler or other similar device which effectively prevents the discharge of loud noises.

(7) *Construction noises.* The erection (including excavation), demolition, alteration or repair of any building or premises, or the excavation of streets and highways, in or within 30 feet of any residence or residential zoning district other than between the hours of 7:00 a.m. and 9:00 p.m.

(8) *Removal of garbage and/or solid waste.* The creation of noise in connection with the lawful removal of garbage and/or solid waste from any residential premises between 7:00 a.m. and 9:00 p.m. or from commercial or industrial premises between 6:00 a.m. and 9:00 p.m.

(9) *Lawn, tree and landscape care.* The mowing of lawn(s), blowing of refuse or leaves, removal or trimming of trees, and/or performing of other outdoor landscaping of property using any gas or electric powered machine between 7:00 a.m. and 9:00 p.m.

(10) *Devices to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any person, event, performance, show, sale or display of merchandise.

(11) *Mobile sound amplification.* The broadcasting of electronically reproduced sound from motor vehicles or other portable means, when audible to or perceived by others in the community who are not responsible for such broadcast, has the deleterious effect upon the community of increasing **noise** pollution, disturbing the peace and quiet of residential neighborhoods and others near the sound in question, and impeding the ability of the listener and others from hearing or noticing the approach of emergency vehicles using sirens and other alerts. It is the intent of this chapter to strike an appropriate balance between the right of individuals to obtain information and derive pleasure by listening to radios and other devices, and the right of the public to a peaceful and healthful environment. Therefore, the following restrictions shall govern the broadcasting of such sound within the city:

(a) The playing, transmitting, amplifying, or other broadcasting of personal or commercial music or sound, by electronic or other technological means installed in a motor vehicle or otherwise portable, in such a manner that it is plainly audible at a distance of 30 feet in any direction from the operator or source between the hours of 7:00 a.m. and 11:00 p.m., is prohibited.

(b) The playing, transmitting, amplifying, or other broadcasting of personal or commercial music or sound, by electronic or other technological means installed in a motor vehicle or otherwise portable, in such a manner that it is plainly audible in a public place or residential neighborhood by any person other than the operator between the hours of 11:00 p.m. and 7:00 a.m., is prohibited.

(c) For purposes of this section, the phrase ***PLAINLY AUDIBLE*** means any sound that can be detected by a person using his or her unaided hearing faculties. The enforcing officer need not determine the title of a specific sound, specific words, or the performing artist, and the detection of the rhythmic bass component of music is sufficient to constitute a plainly audible sound.

(d) For violations of this subsection involving broadcasts from a motor vehicle, the operator of the motor vehicle shall be presumed to have dominion and control over the source of the broadcast, and shall therefore be presumed to be responsible for the violation. Passengers, or others lacking an ownership interest, may be found guilty of violating this subsection if such persons had constructive dominion and control over the source of the broadcast, or otherwise aided and abetted the operator.

(e) This subsection shall not be applicable to mobile sound amplification for which a valid city permit has been issued, or for which such sound amplification is incidental to and appropriate for the use of a valid city permit, such as for parades, ice cream trucks, and similar activities, so long as such activities comply with the terms of any such city permit.

The above enumeration of activities shall not be construed to be an exhaustive list of all prohibited activities.

## **Section 5**

### **Exceptions.**

None of the prohibitions shall apply to any of the following:

- (1) Any police vehicle, ambulance, fire engine or emergency vehicle which is engaged in emergency activities.
- (2) Excavation or repair of bridges, streets, highways, sewer or water construction by or on behalf of the City of Utica, State of Michigan or the County of Macomb between the hours of 9:00 p.m. and 7:00 a.m. when the public welfare, safety and convenience render it necessary to perform work during those hours.
- (3) Activities and events for which the City has approved in writing the waiver of a restriction, limitation or condition for an activity or use, including but not limited to professional sporting events and related activities.
- (4) Activities of government entities, including the parks and recreation commission

## **Section 6**

### **Violations.**

The first violation of this ordinance shall be punishable by a civil fine of \$100. A second violation shall be punishable by a fine of \$200. A third or subsequent violation shall be a misdemeanor punishable by imprisonment for not more than 90 days and/or a fine of not more than \$500.00.

## **Section 7**

### **Effective Date**

This Ordinance shall take effect immediately upon publication.

### **CERTIFICATION**

I hereby certify the foregoing is a true and complete copy of Ordinance No. 171 duly adopted by the City Council of the City of Utica at a Regular Meeting held on March 9, 2021, pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be made available as required by said Act.



**Lori Cooke, City Clerk**