

## **ORDINANCE PROHIBITING UNREASONABLE NOISE**

WHEREAS, the City of Cleveland seeks to regulate the auditory environment for aesthetic and safety reasons; and

WHEREAS, the City desires to maintain expressive activity in the community while maintaining and enhancing the environment, and to advance the safety and welfare of the community; and

WHEREAS, the purpose of this ordinance is to improve the livability and entertainment product of Cleveland, which has made the city synonymous with exemplary residential, artistic, restaurant and entertainment opportunities, while providing for effective means of communication, consistent with constitutional guarantees; and

WHEREAS, the regulation of sounds produced outdoors by commercial establishments will have a positive impact on traffic safety, police enforcement and enjoyment of the community.

NOW, THEREFORE, BE IT ORDAINED BY the Mayor and Board of Alderman for the City of Cleveland as follows:

### **1. Unreasonable noise prohibited.**

The creation of any unreasonably loud, disturbing noise in the city is hereby prohibited. Noises of such character, intensity and duration as are reasonably calculated to be detrimental to the life or health of any ordinary reasonable person are hereby prohibited.

### **2. Enumeration of specific noises.**

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter; provided, however, that such enumeration shall not be construed to be exclusive of other noises, to wit:

(1) The playing of any radio, phonograph or any musical instrument in such manner, or with such volume, particularly during the hours between 12:00 a.m. and 7:00 a.m., as to create a noise such as reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling or other type of residence in the vicinity.

(2) The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or operated in such manner as to create loud noises such as spinning or squealing tires, grating, grinding, rattling or other noise.

(3) The erection (including excavation), demolition, alteration or repair of any building or other structure, or any other type of construction involving the use of heavy equipment, power equipment, or other tools creating excessive noise, other than between the hours of 6:30 a.m. and

7:00 p.m., Monday through Sunday, except when in the public interest, and then only with permission from the mayor and board of aldermen for a specific time.

(4) The creation of any excessive noise on any street adjacent to any school, institution of learning, or court while the same are in session, or adjacent to any hospital, which unreasonably interferes with the working of such institution, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.

(5) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show or sale of merchandise.

(6) The failure of any person or persons to control and cease the unreasonable and/or habitual barking of any dog or dogs:

a. When said dog or dogs are in the possession of and/or being kept by said person or persons; and

b. When said barking creates a noise so as to disturb or disrupt the sleep or other normal activities of any other person.

### **3. Certain uses of sound amplifying equipment by business establishments prohibited.**

(a) The use of any loudspeaker or amplifier of sound attached to a building housing a business establishment in such manner that the sound coming from such loudspeaker or amplifier with such volume during the hours between 12:00 a.m. and 7:00 a.m., as to create a noise such as reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling or other type of residence in the vicinity shall be prohibited.

(b) The use or operation of any loudspeaker or amplifier of sound outside any building housing a business establishment in such a manner that the sound from such loudspeaker or amplifier with such volume during the hours between 12:00 a.m. and 7:00 a.m., as to create a noise such as reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling or other type of residence in the vicinity shall be prohibited. This prohibition includes any patios or porches or parts of a building that are not completely enclosed by walls and a roof.

### **4. Sound level of vehicular audio systems.**

(a) No person operating or occupying a motor vehicle on any street, highway, alley, parking lot, or driveway, either public or private property, shall operate or permit the operation of any sound amplification system, including, but not limited to, any radio, tape player, compact disc player, loud speaker, or any other electrical device used for the amplification of sound from within the motor vehicle so that the sound is plainly audible at a distance of 50 or more feet from the vehicle or, in the case of a motor vehicle on private property, beyond the property line.

(b) For the purpose of this subsection, "plainly audible" means any sound which clearly can be heard, by unimpaired auditory senses based on a direct line of sight of 50 or more feet, however, words or phrases need not be discernible and said sound shall include bass reverberation.

(c) Prohibitions contained in this section shall not be applicable to emergency or public safety vehicles, vehicles owned and operated by the municipal government, county government, state government, federal government or any utility company, for sound emitted unavoidably during job-related operation, or any motor vehicle used in an authorized public activity for which a permit has been granted by the appropriate agency of the city.

(d) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Audio system* means a device or combination of devices designed for the production, reproduction or amplification of sound including, but not limited to, any radio, stereo, tape deck, compact disc player or loudspeaker, which is operated in, installed in, or powered by a motor vehicle.

*Motor vehicle, authorized emergency vehicle and highway* mean as ascribed by the Mississippi Uniform Highway Traffic Regulations Law-Rules of the Road.

## **5. Recognized Exceptions**

The Mayor and Board of Aldermen recognize that certain exceptions to the Noise Ordinance may be necessary when the event/concert/performance brings favorable notice to the City and encourages tourism. For such activities, the entity/person shall make application to the City for a waiver of the noise ordinance regulations for their specific event/concert/performance. Specifically exempted from the noise ordinance are the following: Oktoberfest, Anotherfest, the Crosstie Festival, the Record Store Day Festival, Cleveland School District and Delta State University sponsored events/athletic events/music performances and all Grammy Museum events which the Board finds and recognizes as unique events which promote tourism and bring favorable notice to the City.

## **6. Penalty**

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined no more than:

\$100.00	1 <sup>st</sup> Offense
\$250.00	2 <sup>nd</sup> Offense
\$500.00	3 <sup>rd</sup> Offense
\$1000.00	4 <sup>th</sup> Offense

**7. Effective Date**

This Ordinance shall become effective thirty (30) days following its passage. The City Clerk shall cause the Ordinance to be published in a local newspaper with general circulation. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

(State Law reference— Authority to regulate noise, MCA 1972, § 21-19-15.)

**ORDAINED, ADOPTED AND APPROVED** this 7th day of June, 2016.

/s/ Billy Nowell

BILLY NOWELL, being the same person and  
Duly authorized to act as BILLY NOWELL, Mayor