

Ordinance No. 743-2021 AS AMENDED

By Council Member Santana

AN EMERGENCY ORDINANCE

~~To supplement the Codified Ordinances of Cleveland, Ohio, 1976, by amending Section 605.10, as amended by Ordinance No. 899-08, passed June 9, 2008, related to unnecessary noise.~~

To amend Section 605.10 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 899-08, passed June 9, 2008, relating to unnecessary noise.

WHEREAS, this ordinance constitutes an emergency measure providing for the immediate preservation of public peace, property, health, or safety, now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. ~~That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by amending Section 605.10, as amended by Ordinance No. 899-08, passed June 9, 2008, to read as follows:~~ Section 1. That Section 605.10 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 899-08, passed June 9, 2008, is amended to read as follows:

Section 605.10 Unnecessary Noise

(a) No person shall make, or cause, suffer, allow, or permit to be made within the City any unreasonably loud, disturbing and unnecessary noise, or noises of such character, intensity or duration as to be detrimental to the life and health of any individual, or unreasonably disturb the quiet, comfort, or repose of neighboring inhabitants.

(b) Loud, disturbing and unnecessary noises in violation of this section shall include without limitation the following:

(1) The sounding of any horn, bell, or other signal or warning device on any motor vehicle, motorcycle, bus or other vehicle, except as a danger or warning signal;

(2) The keeping of any animal or bird which, by causing frequent or long continued noise disturbs the comfort and repose of any person in the vicinity, where such noise can be distinctly heard outside the property line of the premises at which the animal or bird is kept;

(3) The use of any motorcycle, or vehicle so out of repair or so loaded as to create loud or unnecessary grating, grinding, rattling or other noise;

(4) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger, or the use of steam under pressure for cleaning purposes in any establishment between the hours of 7:00 p.m. and 7:00 a.m., when the windows of such establishment are open;

(5) The unreasonable discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motor boat engine;

(6) The use of any mechanical device operated by compressed air (excluding a jackhammer operated on weekdays between the hours of 8:00 a.m. and 7:00 p.m.) unless the noise created thereby is effectively muffled and reduced;

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(7) The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers;

(8) The making of any unnecessary noise by a person or by his or her operation of any instrument, device, agency or vehicle, and/or the performance of any construction or demolition activity or the operation of any mechanical, electrical, pneumatically, hydraulically powered or battery operated apparatus used in connection with any construction or demolition activity between the hours of 7:00 p.m. and ~~7:00~~ 8:00 a.m. within five hundred (500) feet of places of residence and one hundred fifty (150) feet of any portion of the grounds and premises on which is located a hospital or other institution reserved for the sick, aged or infirm, or within one hundred fifty (150) feet of any school, courthouse, church or building in which religious services are held, during school hours, hours of holding court or hours of public worship, respectively. The area within one hundred fifty (150) feet of a hospital, school, courthouse or church shall be a “zone of quiet” and the Director of Public Safety shall place signs within such zones of quiet calling attention to the prohibition against unnecessary noise;

(9) The making of any loud or unnecessary noise in violation of Chapter 683 of these Codified Ordinances;

(10) The discharge, ignition, or explosion of any fireworks, except novelty or trick fireworks as defined in RC 3743.01, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to RC 3743.50 through 3743.55.

(c) Emergency utility or other repair work, such as restoring electric power lines or a water or sewer main, shall be exempted from this ordinance. If there is a need to do any construction or demolition activity other than emergency repairs the construction contractor in charge of the project shall submit to the Director of Public Safety a request to perform construction work outside of the time allowed under this ordinance. The Director of Public Safety may grant an exemption to this ordinance if such an exemption is justified and necessary.

(d) Whoever violates any of divisions (b)(1) through (b)(8) of this section is guilty of making unnecessary noise, a minor misdemeanor, and shall be fined pursuant to Section 601.99, which fine shall not be suspended, waived or otherwise reduced. Whoever violates this section within twelve (12) hours of having been charged with the minor misdemeanor of making unnecessary noise or of having been warned by a police officer to desist from making unnecessary noise is guilty of making unnecessary noise, a misdemeanor of the fourth degree, and shall be fined pursuant to Section 601.99 which fine shall not be suspended, waived, or otherwise reduced.

(e) Whoever violates divisions (b)(9) or (b)(10) of this section shall be guilty of a misdemeanor of the fourth degree and shall be fined pursuant to Section 601.99 upon a first offense, which fine shall not be suspended, waived, or otherwise reduced, and subject to up to thirty (30) days in jail. Notwithstanding this division, the penalties contained in Section 683.99 shall apply to violations of division (b)(9) of this section.

(f) Whoever violates division (b)(9) or (b)(10) of this section, upon any subsequent offense, or within thirty-six (36) hours of having been warned by a police officer to desist from violating one (1) of these sections, shall be guilty of a misdemeanor of the third degree and shall be fined pursuant to Section 601.99, which fine shall not be suspended, waived, or otherwise reduced, and subject to up to sixty (60) days in jail. Each day upon which a violation occurs or continues shall be a separate and punishable offense.

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(g) Whoever violates division (b)(10) of this section, during any of the dates of Memorial Day through Labor Day, inclusive, shall be guilty of a misdemeanor of the third degree and shall be fined pursuant to Section 601.99, which fine shall not be suspended, waived, or otherwise reduced, and subject to up to sixty (60) days in jail. Each day upon which a violation occurs or continues shall be a separate and punishable offense.

Section 2. That Section 605.10, as amended by Ordinance No. 899-08, passed June 9, 2008 is hereby repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

JS:rns
FOR Council Member Santana
9-20-2021

THERE IS NO LEGAL OBJECTION TO THIS LEGISLATION IF AMENDED AS FOLLOWS:

1. In the title, strike lines 2, 3, 4, 5, and 6 in their entirety and insert: "To amend Section 605.10 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 899-08, passed June 9, 2008, relating to unnecessary noise.".
2. In Section 1, strike lines 1, 2, and 3 in their entirety and insert: "Section 1. That Section 605.10 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 899-08, passed June 9, 2008, is amended to read as follows:".

Date: _____ (Signed): _____

Stephanie Melnyk
Chief Assistant Director of Law
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