



CLEVELAND HEIGHTS

Council Committee of the Whole

September 18, 2023

6:00 PM

City Hall – Executive Conference Room

Agenda

- 1) Call to Order/Roll Call**
- 2) Aquatics Feasibility Study (30-40 min)**
Jason Nolde, GPD Group
- 3) Discussion on construction noise ordinance and potential amendments (10-15 min)**
 - a. Examples: Beachwood, Pepperpike, Richmond Heights, Rocky River, Shaker Heights, University Heights
- 4) Legislative Review/Caucus (15 Minutes)**
- 5) Youth Advisory Board legislation (5-10 min)**
Councilmember Russell
- 6) Youth Opportunities Unlimited MOU legislation (5-10min)**
Councilmember Russell
- 7) Adjournment**

648.04 DISORDERLY CONDUCT; UNREASONABLE NOISES.

- (a) No person shall recklessly cause inconvenience, annoyance or alarm to another, by doing any of the following:
- (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
 - (2) Making unreasonable noise or offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person in such manner as to provoke or encourage a violent response.
 - (3) Insulting, taunting or challenging another under circumstances in which such conduct is likely to provoke a violent response;
 - (4) Hindering or preventing the movement of persons on a public street, road, highway or right of way, or to, from, within or upon public or private property, so as to interfere with the rights of others and by any act which serves no lawful and reasonable purpose of the offender;
 - (5) Creating a condition which is physically offensive to persons or which presents a risk of physical harm to persons or property by any act which serves no lawful and reasonable purpose of the offender.
- (b) No person, while voluntarily intoxicated shall do either of the following:
- (1) In a public place or in the presence of two or more persons engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if he were not intoxicated, should know is likely to have such effect on others;
 - (2) Engage in conduct or create a condition which presents a risk of physical harm to himself or another, or to the property of another.
- (c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (b) hereof.
- (d) When to an ordinary observer a person appears to be intoxicated, it is probable cause to believe such person is voluntarily intoxicated for purposes of subsection (b) hereof.
(ORC 2917.11; Adopting Ordinance)
- (e) The following acts, among others, are hereby declared to be unreasonable noises in violation of subsection (a)(2) hereof, but such enumeration shall not be deemed to be exclusive:
- (1) The sounding of any horn, bell or other signal or warning device on any automobile, motorcycle, bus or other vehicle, except as a danger or warning signal; however, any such sounding of horn, bell or other signal or warning device as a danger or warning signal shall not be unreasonably loud or harsh or continued for any unnecessary period of time;
 - (2) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise;
 - (3) The unreasonable discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motor boat engine without effective and efficient muffling and reduction of noise;
 - (4) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced; and
 - (5) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or game or display of merchandise, except where a specific permit therefor has been granted by the Chief of Police. (1964 Code §73.03)
- (f) No person shall engage in construction or other activities, such as hammering, pounding, grinding or grading, so as to create objectionable or unreasonable noise or a disturbance to neighbors or other residents in the City, between the hours of 7:00 p.m. and 7:00 a.m. Monday through Friday and 7:00 p.m. to 9:00 a.m. on Saturdays, Sundays and official holidays. In case of an emergency, such as a utility outage, significant hardship, or to provide for safe and efficient flow of motor vehicle traffic, the Safety Director may authorize work during prohibited hours.
- (g) In case of emergency or serious illness, the Chief of Police may order the temporary cessation of a noisy or disturbing operation or construction work at any time, if necessary for the preservation of the health or safety of the residents of the City.
(Ord. 2008-92. Passed 8-12-08.)

648.09 NOISE.

(a) No person shall create, or allow, permit or suffer the creation of, a loud, disturbing and unnecessary noise in the City. As used in this section, the following acts shall be deemed to be loud, disturbing and unnecessary noises, but such enumeration shall not be deemed to be exclusive, namely:

- (1) Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle, except as a danger warning, the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- (2) Radios, phonographs, etc. The use or operation of any radio receiving set, musical instrument, phonograph or other machine or device for the production or reproduction of sound in such manner as to:
 - A. Disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto; or
 - B. Be plainly audible within a distance of fifty feet from the building, structure or vehicle in which it is located.
- (3) Loudspeakers, amplifiers for advertising. The use of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public.
- (4) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (5) Shouting. The shouting and crying of peddlers, hawkers, vendors and others, which shouting and crying disturb the peace and quiet of the neighborhood.
- (6) Heavy equipment. The use of heavy earth-moving and construction equipment in close proximity to residential dwellings during the hours of 7:00 p.m. and 7:00 a.m. of the following day. In addition, no operation of heavy earth-moving and construction equipment is permitted on Sundays and the following holidays observed by the City of Pepper Pike: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday immediately after Thanksgiving Day and Christmas Day. The above regulations shall apply except in periods of emergency upon a permit issued pursuant to a resolution of Council.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If the offender persists in violating this section, after reasonable warning or request to desist, the offense is a misdemeanor of the third degree. The penalty shall be as provided in Section 698.02.

(Ord. 2005-98. Passed 10-19-05.)

553.03 NOISE FROM PERSONS OR STATIONARY NOISE SOURCES IN RESIDENTIAL ZONING DISTRICTS OR AFFECTING RESIDENTIAL OR INSTITUTIONAL PROPERTY.

(a) No persons shall create or cause to be emitted from his person, or from any stationary noise source, any noise which causes or results in a noise level equal to, or exceeding, 55 dBA measured at any lot line of any lot located in any residential zoning district or in residential or institutional use elsewhere.

(b) Notwithstanding the prohibition in subsection (a), no person shall cause unreasonable noise to be made which is audible in any residential zoning district or in residential or institutional use elsewhere. For purposes of this section, "unreasonable noise" shall be defined as follows, but such enumerations shall not be deemed to be exclusive:

- (1) Horns, signaling devices, etc. The sounding of any horn or signaling device on any motor vehicle, motorcycle or other vehicle except as a danger warning; the creation by means of any such sounding of any such device for an unnecessary and unreasonable period of time.
- (2) Radios, phonographs, etc. The use or operation of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of a neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. Such operation between the hours of 9:00 p.m. and 7:30 a.m. in such manner as to be audible at a distance of fifty feet from the building, structure or vehicle in which it is located shall be prima facie evidence of violation of this section.
- (3) Loudspeakers, amplifiers for advertising. The use of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public.

(Ord. 135-97. Passed 12-9-97.)

- (4) Exhausts. The discharge into the open air of any steam engine, stationary internal combustion engine, motorboat, motor vehicle, motorcycle, motorized bicycle, all-terrain vehicle, or other such similar motorized device except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(Ord. 44-2003. Passed 8-12-03.)

- (5) Shouting. The shouting and crying of peddlers, hawkers, vendors and others which disturb the peace and quiet of the neighborhood.

- (6) Heavy equipment. The use of heavy earth-moving and construction equipment in close proximity to residential dwellings during the hours of 7:00 p.m. to 7:30 a.m. The above regulations shall apply except in periods of emergency, as determined by the Director of Public Safety and upon permit issued by the Director of Public Safety.

- (7) Lawn mowers, power-driven lawn and garden equipment and other tools. The operation of a lawn mower, power-driven lawn and garden equipment and power-driven tools and excessive hammering or pounding within 300 feet of any dwelling unit before 7:30 a.m. or after 9:00 p.m.

(Ord. 135-97. Passed 12-9-97.)

558.04 SPECIFIC PROHIBITIONS, RESTRICTIONS AND EXEMPTIONS.

(a) Construction. It is prohibited to operate or permit the operation of any tools or equipment in construction, drilling, building or demolition work between the hours of 9:00 p.m. and 7:00 a.m., or on Sundays or Holidays, except for emergency work of public service utilities or by special variance. During the permitted period of operation, maximum sound level in residential areas for construction activities with a valid permit shall not exceed eighty-eight (88) dB measured at a distance of fifty (50) feet from the vehicle or other noise source.

(b) Power Tools. It is prohibited to operate or permit the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawn mower or other similar device for non-commercial use other than powered snow removal equipment, outdoors between the hours of 9:00 p.m. and 7:00 a.m. or on Saturday, Sunday or Holidays before the hour of 9:00 a.m. During the permitted period of operation, maximum sound levels in residential areas shall not exceed eighty-eight (88) dB measured at a distance of fifty (50) feet from the noise source

(c) Emergency Signaling Devices.

(1) The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren's whistle or similar stationary emergency signaling device, except for emergency purposes or for testing is prohibited except as provided in this Section. Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 7:00 a.m. or after 9:00 p.m., or the closing time of a commercial establishment. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty (60) seconds. Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur before 7:00 a.m. or after 9:00 p.m. In no case shall such test exceed ten (10) minutes.

(2) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm is prohibited unless such alarm is automatically terminated within two (2) minutes of activation, or within a reasonable time after notification of activation.

(3) The repeated or continual sounding of any horn or other auditory signaling device on or in any motor vehicle or watercraft except as a warning of danger is prohibited.

(d) Air Conditioners, Generators and Heat Pumps. The operating sound levels for air conditioners, generators and heat pumps shall not exceed seventy-five (75) dB with such sound levels measured at either the property line or fifteen (15) feet from the sound source whichever is the greater distance.

(e) Loudspeakers/Public Address Systems.

(1) Using, operating or permitting the operation of any loudspeaker, public address system, mobile sound vehicle or similar device amplifying sound therefrom on a public right-of-way or public space for commercial purpose is prohibited.

(2) Using, operating or permitting for any non-commercial purpose any loudspeaker, public address system, mobile sound vehicle or similar device between the hours of 10:00 p.m. and 10:00 a.m. so as to create a noise disturbance across a residential real property boundary is prohibited.

(f) Powered Model Vehicles or Go-Carts. Operation of powered model vehicles or go-carts in a public space shall not produce sound so as to be plainly audible at fifty (50) feet from such device between the hours of 7:00 a.m. and 9:00 p.m. and/or from twenty-five (25) feet from 9:00 p.m. until 7:00 a.m.

(g) Playing of Sound Devices.

(1) It is prohibited to operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, or similar device which produces, reproduces or amplifies sound from a stationary source so as to be plainly audible at fifty (50) feet from such device from 7:00 a.m. until 9:00 p.m. and from twenty-five (25) feet from 9:00 p.m. until 7:00 a.m.

(2) It is prohibited to operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, or similar device which produces, reproduces or amplifies sound from a moving source so as to be plainly audible at fifty (50) feet from such device from 7:00 a.m. until 9:00 p.m. and from twenty-five (25) feet from 9:00 p.m. until 7:00 a.m.

(h) Animals. Any person harboring or keeping any animal which disturbs the peace and quiet or endangers the repose or health of persons by frequent or habitual barking, howling or yelping is causing a public nuisance and is in violation of this Section. On complaint of any person or police officer, a citation may be issued.

(Ord. 57-87. Passed 6-22-87).

(i) Motor Vehicles.

(1) It is prohibited to cause the stationary operation or idling of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of seven thousand (7,000) pounds or any auxiliary equipment attached thereto, for a period longer than five (5) minutes at any time of day, so as to create a noise disturbance across a residential real property boundary, except due to traffic congestion or loading or unloading perishables. This Section shall not apply to public utilities vehicles, municipal service vehicles or buses operated as common carriers.

(Ord. 16-18. Passed 4-09-18.)

(2) Sound from a moving vehicular source located within the public right-of-way exceeding eighty (80) decibels is prohibited, except that sound from a vehicle with a manufacturer's gross weight rating of ten thousand pounds and above operated on a prescribed truck route at all times or elsewhere within the City during the hours of 7:00 a.m. to 6:00 p.m. on Monday through Saturday may exceed eighty (80) dB but shall not exceed eighty-eight (88) dB. Such sound shall be measured at a distance of at least twenty-five (25) feet from a vehicle located within the public right-of-way. This shall apply to all licensed motor vehicles, whether publicly or privately owned.

(3) The use or operation of truck engine brakes at any time within the City Limits is prohibited.

(j) Watercraft. No watercraft utilizing an exhaust system shall be operated within the navigable portions of the Rocky River or its channels or on that portion of Lake Erie within the jurisdiction of the City of Rocky River at a sound level greater than set forth in Ohio

R.C. 1547.31.

(k) Powered Snow Removal Equipment. Powered snow removal equipment shall not exceed eighty-eight (88) dB. Trucks with snowplow equipment must meet the regulation stated above in Section 558.04(i).

(l) Vehicle or Motorboat Repairs and Testing. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle, motor bicycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary is prohibited.

(m) Loading and Unloading. Loading, unloading, opening, closing or handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 9:00 p.m. and 7:00 a.m. or after 9:00 p.m. and before 10:00 a.m. on Sundays or Holidays is prohibited. (Ord. 71-12. Passed 3-25-12.)

755.03 SPECIFIC PROHIBITIONS.

The following acts, and the causing or permitting thereof, are declared to be in violation of this chapter.

- (a) Air Conditioners. Maintaining any refrigeration machinery or air-conditioning, consisting of air compressors or rotating or reciprocating machinery, in such a manner as to create a noise disturbance across a residential real property boundary.
- (b) Construction. Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work between the hours of 7:00 p.m. and 7:00 a.m., Monday - Friday; and 5:00 p.m. and 9:00 a.m., Saturday and Sunday such that the sound therefrom creates a noise disturbance across a residential real property boundary, except for emergency work of public service utilities or by special variance. This subsection shall not apply to the use of domestic power tools subject to subsection (c) hereof.
- (c) Domestic Power Tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawn mower or other similar device used outdoors, other than powered snow removal equipment, outdoors between the hours of 9:00 p.m. and 7:00 a.m., or on Saturday or Sunday before the hour of 9:00 a.m.
- (d) Emergency Signaling Devices.
 - (1) The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in this section. Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 7:00 a.m. or after 9:00 p.m. or the closing time of a commercial establishment, whichever shall occur later. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty (60) seconds. Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur before 7:00 a.m. or after 9:00 p.m. In no case shall such test exceed ten (10) minutes.
 - (2) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within two (2) minutes of activation, or within a reasonable time after notification of activation.
 - (3) The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right of way or public space, except as a warning of danger.
- (e) Explosives, Firearms and Similar Devices. The using or firing of explosives, firearms or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right of way, without first obtaining a special variance.
- (f) Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to cause a noise disturbance across a residential real property boundary.
- (g) Loudspeakers/Public Address Systems.
 - (1) Using, operating or permitting the operation of any loudspeaker, public address system, mobile sound vehicle or similar device amplifying sound therefrom on a public right of way or public space for any commercial purpose.
 - (2) Using, operating or permitting for any noncommercial purpose any loudspeaker, public address system, mobile sound vehicle or similar device between the hours of 11:00 p.m. and 7:00 a.m. such that the sound therefrom creates a noise disturbance across a residential real property boundary.
- (h) Places of Public Entertainment. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in any enclosed place of public entertainment at a sound level greater than ninety-five (95) dBA as read with a slow response on a sound level meter at any point which is normally occupied by a customer, unless a conspicuous and legible sign is located inside such place near each public entrance, stating "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT".
- (i) Powered Model Vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary or in a public space between the hours of 9:00 p.m. and 7:00 a.m.
- (j) Radios, Television Sets, Musical Instruments and Similar Devices. Operating, playing, or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, or similar device:
 - (1) Between the hours of 11:00 p.m. and 7:00 a.m. Monday through Friday or 11:00 p.m. and 9:00 a.m. Saturday and Sunday in such a manner as to create a noise disturbance across a residential real property boundary; or
 - (2) In such a manner as to create a continuing noise disturbance at fifty (50) feet from such device, when operating in or on a motor vehicle on a public right of way or public space.
- (k) Vehicle or Motorboat Repairs and Testing. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle, motorized bicycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary.

(Ord. 00-145. Enacted 2-26-01.)

660.18 CONSTRUCTION AND MAINTENANCE WORK RESTRICTED.

(a) No person shall work, nor order, direct, allow or permit another to work for him or her in the construction or maintenance of any building or structure in the City if such construction or maintenance is taking place on the exterior of such building or structure or, if performed in the interior portion of the building or structure, is creating any noise or odor which can be perceived from the grounds of any adjoining premises, unless such work is performed not earlier than 8:00 a.m. nor later than 4:30 p.m. on any day.

(b) The Building Commissioner or his or her authorized representative may waive such requirement and allow work at other times than those in division (a) hereof by giving special permission in writing if it is determined that special emergency conditions exist such that the work is immediately necessary to preserve, protect or insure existing construction against loss or damage or is necessary to prevent impairment of habitability of a residential premises.

(c) Whoever violates this section is guilty of a minor misdemeanor.

(1982 Code, § 521.17) (Ord. 80-20. Passed 4-7-1980.)