

BILL NO. 474

ORDINANCE NO. 014-0011

AN ORDINANCE REGULATING NOISE WITHIN THE CITY OF CLEVELAND.

**BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLEVELAND,
CASS COUNTY, MISSOURI, AS FOLLOWS:**

Section 1 Purpose

The purpose of this Ordinance is to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the City of Cleveland through reduction, control and prevention of loud and raucous noise which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensibilities.

Section 2 Definitions

“Construction” means any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of structures, improvements, utilities or similar property.

“Demolition” means any dismantling, intentional destruction or removal of structures, improvements, utilities, or similar property.

“Emergency Work” means work made necessary to restore property to a safe condition following a public calamity or act of God, or work required to protect the health and safety of persons or property.

“Noise” means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

“Off-Road Recreational Vehicle” means any motor driven off-road recreation vehicle capable of cross- country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain, including, but not limited to, a multi-track or multi-wheel drive vehicle, an ATV, a motorcycle or related 2-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind.

“Person” means any individual, firm, association, partnership, joint venture, or corporation.

“Residential Area” means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally non-conforming, for residential use.

Section 3 General Prohibition

No person shall make, continue, or cause to be made or continued:

- (1) Any unreasonably loud or raucous noise; or

(2) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the City; or

(3) Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to cause unreasonable discomfort to any persons within the area from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors, or their guests, or operators or customers in places of businesses, or as to detrimentally or adversely affect such residents or places of business.

Factors for determining whether a violation exists shall include, but not be limited to, the following, which shall be considered in the light of a reasonable person with ordinary sensibilities:

- (a) The proximity of the noise to sleeping facilities, whether residential or commercial;
- (b) The time of day or night the noise occurs;
- (c) The duration of the noise;
- (d) The volume and intensity of the noise;
- (e) Whether the noise is recurrent, intermittent, or constant;
- (f) Whether the origin of the noise is natural or unnatural; and
- (g) Whether the origin of the noise is usual or unusual.

Section 4 Per Se Violations

By way of example, but in no respect by way of limitation, this Ordinance is intended to apply (but not so limited) to the following specific activities which are clearly audible beyond the property line:

(1) *Vehicle Horns, Signaling Device, and Similar Devices:* The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of the City, for more than ten (10) consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.

(2) *Non-Emergency Signaling Devices:* Sounding or permitting the sounding of any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten (10) consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the City for traffic control purposes are exempted from this provision.

(3) *Emergency Signaling Devices:* The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle or similar emergency signaling device, except in an emergency or except as provided in Subsections a) and b), below

(a) Testing of an emergency signaling device shall occur between 7:00 AM and 7:00 PM. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month unless otherwise approved by the Mayor for good cause.

(b) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within fifteen (15) minutes of activation unless an emergency exists.

(4) *Construction Noises:* The creation of noise which is clearly audible beyond the property from which it is emanating, resulting from the erection (including excavation), demolition, alteration or repair of any building or improvement, at any of the following times: Prior to 7:00 AM and after 10:00 PM. A deviation from such limitation shall be authorized if a permit is obtained in advance from the Mayor, upon a showing that the noise will not result in an unreasonable disturbance of one (1) or more residential occupants. In cases of emergency work, construction or repair noises are exempt from this provision.

(5) *Off-Road Recreational Vehicles:* The use or operation of an off-road recreational vehicle in such a manner to cause private or public nuisance. For purposes of this section, a public or private nuisance shall be deemed to have occurred when the operation of the off-road recreational vehicle is conducted in such a manner as to unreasonably intrude on the privacy or peaceful enjoyment of residential property owners, including, but not limited to the following conduct: Operating or permitting the operation of an off-road recreational vehicle in a manner causing unreasonably loud noise as defined in Section 2 of this Ordinance;

Section 5 Exemption

The activities of government entities being provided for the public health, safety and/or welfare shall be exempt from this Ordinance.

Section 6 Nuisance

Any violation of any provision of this Ordinance is hereby declared to be a nuisance per se and is enjoined by appropriate legal action.

Section 7 Violation Penalties

(1) A violation of this Ordinance shall be deemed a municipal civil infraction subject to penalties as provided by law.

(2) Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punishable separately.

(3) The City reserves the right to seek injunctive relief from the circuit court to enforce compliance with this Ordinance .

Section 8 Repealer

All ordinances and portions of ordinances inconsistent with this Ordinance are hereby repealed.

Section 9 Severability

Should any provision or part of the Ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this Ordinance, which shall remain in full force and effect.

Section 10 Effective Date

This Ordinance shall take effect immediately upon its passage and approval.


Duly read two (2) times, once in entirety on and once by title only, and approved on this ____ day of October 2014 by the Board of the Aldermen of the City of Cleveland, Missouri.

Alderman Hemenway aye Alderman Campbell aye

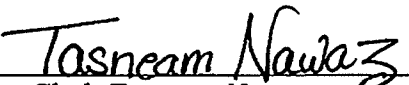
Alderman Muller aye Alderman Spry aye

Alderman Reintjes aye Alderman Denton absent


Mayor Menke (in event of tie only) ____



Mayor Leonard C. Menke



City Clerk Tasneam Nawaz

APPROVED by the Mayor of said city this 7th day of October 2014


Mayor Leonard C. Menke

ATTEST:


City Clerk Tasneam Nawaz

