

ORDINANCE NO. 32 - 25

By: Alex Silverman

An ordinance to repeal the current version of section 648.11 of the Bexley codified ordinances, Disturbing the Peace, and to replace it with a new version in order to modernize and clarify provisions of this Section; expand protections for the peaceful enjoyment of residential neighborhoods; and to provide for expanded work hours for Low Impact Contractors.

WHEREAS, Section 648.11 of the Bexley codified ordinances contains provisions that are outdated, often difficult to enforce, and reference technology and practices that are no longer in common use; and

WHEREAS, The advent of more powerful home entertainment systems and the expanded use of outdoor entertainment areas has placed additional pressure on the peaceful and quiet enjoyment of neighborhoods; and

WHEREAS, The importance of adequate sleep, particularly in adolescents, is better understood than ever, with adequate and undisturbed sleep being necessary to support mental and physical well-being and provide students with the necessary developmental conditions to promote a healthy and productive learning environment; and

WHEREAS, Modern technologies that provide for quieter and more sustainable operation of contractor equipment can be encouraged and prioritized through reasonable regulation in this code;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1.

That section 648.11, Disturbing the Peace, be repealed in full and replaced with the following:

648.11 DISTURBING THE PEACE.

(a) **Purpose.** This section is created in order to:

- (1) Protect the right and interest of residents to enjoy a peaceful environment, particularly in the confines of their own residence;
- (2) Provide particular protection to residents during evening hours, when disturbance of the peace can interrupt sleep schedules and pose a hazard to the health and well-being of residents, and can be particularly harmful to children.

(b) **Definitions**

- (1) “Commercial Contractor” means a business entity or individual over the age of 18, engaged in providing professional construction, repair, maintenance, or landscaping

services for compensation, and employing more than one person or operating under a business name or license.

- (2) “dBA” means the sound pressure level in decibels as measured on a sound level meter using the A-weighting filter network. For the purpose of enforcement of this Section, dBA measurements shall be conducted by a law enforcement officer or authorized city official, using equipment capable of reliably performing dBA measurements.
- (3) “Homeowner” means an individual who owns and occupies a residential property within the City, or their immediate family.
- (4) “Landscape Services” means the provision of services, by a third-party contractor, of or relating to landscape maintenance, including but not limited to the mowing, trimming, edging, chemical treatment, planting, removing, and maintenance of grass, trees, shrubs, plantings, and mulch.
- (5) “Low Impact Contractor” means a contractor providing landscape maintenance or tree care services who exclusively utilizes equipment powered by electricity in the performance of the project in question.
- (6) “Plainly Audible” means any sound that can be clearly heard by a person of normal hearing, without the aid of a sound-level meter, at the property line or inside an adjacent dwelling.
- (7) “Tree Services” means the provision of services, by a third-party contractor, of or relating to tree maintenance, including but not limited to the planting, pruning, trimming, chemical treatment, and removal of trees.
- (8) “Weekday Hour Restrictions” applies to hour restrictions from Sunday at noon until Friday at noon unless otherwise noted.
- (9) “Weekend Hour Restrictions” applies to hour restrictions from Friday at noon until Sunday at noon unless otherwise noted.
- (10) “Workweek Hours” applies to hours specified on days Monday through Friday.

(c) **Excessive or Prohibited Noise.** No person shall make, continue or cause to be made any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the City.

(1) **Noises Enumerated – Explicit Prohibitions.** The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive. These acts are summarized in the following list with detail provided in the succeeding subsections:

Unauthorized Horns, signaling devices, etc.
Loudspeakers, amplifiers for advertising
Yelling, shouting on public streets
Noisy animals, birds, etc.

Exhausts without mufflers
Defect in vehicle or load
Noise around schools, courts, churches, hospitals
Hawkers, peddlers
Promotional drumming
Prohibited leaf blowers
Noises in excess of 70dBA at the property line

A. Vehicle and Mechanical Noise

- (i) **Unauthorized Horns, signaling devices, etc.** The sounding of any horn or signaling device on any automobile, motorcycle, motor scooter or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time.
- (ii) **Exhausts without mufflers.** The discharge into the open air of the exhaust of any engine, motorcycle, motor scooter or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;
- (iii) **Defect in vehicle or load.** The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise;

B. Human-generated Noise

- (i) **Yelling, shouting, etc on public streets.** Yelling, shouting, hooting, whistling or singing on the public streets at any time or place so as to unduly annoy or disturb the quiet, comfort or repose of any person in the vicinity;
- (ii) **Hawkers, peddlers.** The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood;
- (iii) **Noisy animals, birds, etc.** The keeping of any animal or bird which, by causing frequent or long continued noise, disturbs the comfort or repose of any person at a property outside of the property upon which the animal or bird is being kept.

C. Commercial or Device-Generated Noise

- (i) **Loudspeakers, amplifiers for advertising.** The using, operating or permitting to be played, used or operated 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 to any building or structure;

- (ii) **Promotional Drumming.** The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale;
- (iii) **Prohibited Leaf Blowers.** The operation of any leaf blower at a volume exceeding 70dBA as measured at the property line, except as otherwise permitted in this section. Additionally, gas powered leaf blowers must comply with ANSI B175.2.

D. **Noise around schools, courts, churches, hospitals.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street;

E. **Noise generally.** Any noise, the source of which creates a volume of noise exceeding 70 dBA as measured at the adjacent property line, 5ft above grade.

(2) **Noises Enumerated – Time-Based Prohibitions.** The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section during the specified time periods, but such enumeration shall not be deemed to be exclusive. These acts are summarized in the following list with detail provided in the following subsections:

Noise Restriction Summary	Workweek / Weekday Hour Restrictions	Weekend / Weekend Hour Restrictions
Amplifiers, Loudspeakers, etc. audible from adjacent property	9:00 pm to 7:00 am	10:00 pm to 9:00 am
Yelling, shouting, etc.	9:00 pm to 7:00 am	10:00 pm to 9:00 am
Construction or repair of buildings and site improvements – by contractor	7:00 am to 6:00 pm	Permit required
Construction or repair of buildings and site improvements – by homeowner	Not to exceed 45 dBA at property line between 9:00 pm and 7:00 am or involve the use of outdoor power tools during those hours	Not to exceed 45 dBA at property line between 9:00 pm and 9:00 am or involve the use of outdoor power tools during those hours
Maintenance of sites – by contractor	7:00 am to 6:00 pm	Prohibited

Maintenance of sites – by low impact contractor	7:00 am to 7:00 pm	9:00 am to 5:00 pm
Maintenance of sites – by homeowner	7:00 am to later of 8:00 pm or sunset	7:00 am to later of 8:00 pm or sunset
Transportation of loads resulting in loud noise	7:00 am to 6:00 pm	Permit required
Pile drivers, jackhammers, etc.	8:00 am to 6:00 pm	Permit required
Stationary operation of commercial vehicles	7:00 am to 6:30 pm	Permit required
Nighttime noise generally	See subsection	See subsection

- A. **Amplifiers, Loudspeakers, etc. audible from adjacent property.** The using, operating or permitting to be played, used or operated any amplifier, loudspeaker, stereo, radio, musical instrument, television set or other machine or device for the production or reproduction of sound in such manner as to disturb the peace at any point from or beyond the property line during the following times:
- (i) **Time Restriction:** no such noise or activity shall occur between the following hours:
Weekday Hour Restrictions (Sunday night through Friday morning): Between 9:00 pm and 7:00 am
Weekend Hour Restrictions (Friday night through Sunday morning): Between 10:00 pm and 9:00 am
- B. **Yelling, shouting, etc.** Yelling, shouting, etc. at such a volume as to disturb the peace at any point from or beyond the property line during the following times:
- (i) **Time Restriction:** no such noise or activity shall occur between the following hours:
Weekday Hour Restrictions (Sunday night through Friday morning): Between 9:00 pm and 7:00 am
Weekend Hour Restrictions (Friday night through Sunday morning): Between 10:00 pm and 9:00 am
- C. **Construction or repair of buildings and site improvements.** The erection, demolition, alteration or repair of any building, or the construction or repair of site features or improvements, other than between the Workweek Hours of 7:00 am and 6:00 pm, except in case of urgent necessity or in the interest of public health and safety, and then only with a permit from the Mayor or their designee.
- (i) **Exceptions for Homeowners.** This section shall not be construed to prohibit a homeowner or resident from conducting the alteration or repair of any building, or the construction or repair of site features or improvements at any time, so long as the noise generated from such construction activity past the hours of

9:00 pm on a Weekday night and prior to 7:00 am on a Weekday morning, or past 9:00 pm on a Weekend night or prior to 9:00 am on a Weekday morning does not exceed 45dBA as measured at the property line or involve the outdoor use of power tools.

- D. **Maintenance of sites.** The maintenance of any site or site feature including landscaping, hardscaping, and tree care, other than between the Workweek Hours of 7:00 am and 6:00 pm, except in case of urgent necessity or in the interest of public health and safety, and then only with a permit from the Mayor or their designee.
- (i) **Exceptions for Low Impact Contractors.** “Low Impact Contractors” are authorized to provide landscape, hardscape, tree care, and site maintenance service between the Workweek Hours of 7:00 am and 7:00 pm, and between the hours of 9:00 am and 5:00 pm on Saturdays and Sundays. This provision shall not exclude Low Impact Contractors from using internal combustion powered work vehicles for the transport of equipment to and from a site.
 - (ii) **Exceptions for Homeowners.** This section shall not be construed to prohibit a homeowner or occupant from performing site improvement, site maintenance, or tree or landscape maintenance or improvement during the hours of 7:00 am and the later of 8:00 pm or sunset. For the provisions of this section, contractors who are individuals aged 21 and younger, not employed by a Commercial Contractor, and who provide services as an ancillary source of income, with a gross annual income as a landscape contractor of five thousand dollars (\$5,000) or less are permitted to perform this work during the same work hours as a homeowner.
- E. **Transportation of loads resulting in loud noise.** The transportation of rails, pillars or columns of iron, steel or other material, over and along streets and other public places upon trailers or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places other than between the Workweek Hours of 7:00 am and 6:00 pm, except in case of urgent necessity or in the interest of public health and safety, and then only with a permit from the Mayor or their designee.
- F. **Pile drivers, jackhammers, etc.** The operation of any pile driver, jackhammer, derrick, crane, hoist or other similar tool, the use of which is attended by loud or unusual noise, except during the Workweek Hours of 8:00 am to 6:00 pm, except in case of urgent necessity or in the interest of public health and safety, and then only with a permit from the Mayor or their designee.
- G. **Stationary operation of commercial vehicles.** The use or parking, within 175 feet of any residential property, of a vehicle, other than a passenger car, school bus, any mode of public transportation, or emergency or safety vehicle, which emits or

results in noise from any source, including, without limitation, an internal combustion engine, generator or refrigeration unit, for any purposes or length of time except for:

- (i) The expeditious unloading and delivery or pickup and loading of goods and materials including, without limitation, the collection of refuse or recycling, between the hours of 7:00 am and 6:30 pm on Monday through Friday; or
- (ii) Operation in connection with construction, demolition, or any other activity otherwise permitted by law.
- (iii) In cases of urgent necessity or in the interest of public health and safety, and then only with a permit from the Mayor or their designee.

H. **Nighttime noise generally.** Any activity, between the hours of 9:00 pm and 7:00 am for Weekday Hour Restrictions and 10:00 pm and 9:00 am for Weekend Hour Restrictions, which result in the production of noise of such a volume and/or duration that it disturbs the quiet, comfort or repose of a reasonable person in any neighboring dwelling or residential structure or otherwise in the vicinity of such activities. Noise from such activity which exceeds 60 dBA as measured at the property line or 40 dBA as measured within occupied space on an adjacent property constitutes prima facie evidence of such noise nuisance, but is not an exclusive indicator of such activity.

(3) Noise Permitting for Residential Property. In order to facilitate reasonable accommodation for gatherings and celebrations, occupants of properties within the R-1, R-2, R-3, R-6, and R-12 zoning districts may apply for noise permits, on a form and through a process specified by the administration, based upon the following criteria.

- A. **Initial Noise Permit.** An individual property may apply for and receive a permit, subject to approval by the administration, no more than once per calendar year, to extend Weekend Hour Restrictions to midnight on a form prescribed by the City. Such a permit shall not be construed to allow any noise which exceeds 70dBA as measured at the property line after the hour of 10:00 pm.
- B. **Subsequent Noise Permits.** An individual property may apply for and be provided with up to four (4) additional subsequent permits per calendar year to extend the Weekend Hour Restrictions to midnight, provided that the applicant receive consent from all adjacent property owners on a form prescribed by the City. Such a permit shall not be construed to allow any noise which exceeds 70dBA as measured at the property line after the hour of 10:00 pm.

(4) Chronic Violations

Three or more substantiated violations within a rolling 12-month period shall constitute a public nuisance.

(5) Exemptions for Community Events.

Community events sponsored by the City of Bexley and/or the Bexley Celebrations and

Events Team shall be exempt from the provisions of this Section, subject to the provision of a special permit, to be provided via a form and through a process specified by the administration.

(6) Emergency Utility Work

The provisions of this Section shall not apply to noise generated by emergency utility work when such work is necessary to restore, protect, or maintain essential services, including but not limited to electric, gas, water, sewer, telecommunications, or roadway infrastructure.

A. Notice to the City.

When practicable, the responsible public utility or contractor shall notify the City of Bexley Police Department or the Mayor's designee prior to commencing emergency work. If prior notice is not feasible due to the nature of the emergency, notice shall be provided as soon as reasonably possible.

B. Minimization of Noise.

All reasonable efforts shall be made to minimize noise during emergency utility work consistent with the safe and expeditious completion of the repair.

(7) Discretionary Determination of Nuisance Noise.

Notwithstanding any specific decibel limits, time-of-day restrictions, or permitted uses outlined in this section, any noise that is plainly audible and unreasonable in volume, duration, frequency, or character, as determined by a law enforcement officer or authorized city official, in their reasonable discretion, 40 may be deemed a prohibited nuisance noise and subject to enforcement under this chapter.

(d) Penalty.

(1) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. Punishment shall be as provided in Section 698.

(2) Chronic Violations

A. Three or more substantiated violations within a rolling 12-month period shall constitute a public nuisance.

Section 2.

That this Ordinance shall go into full force and effect at the earliest period allowed by law.

Passed _____, 2024

Monique Lampke, President of Council

Attest: _____, 2024
Matt McPeck, Clerk of Council

Approved: _____, 2024

Benjamin Kessler, Mayor