

ORDINANCE NO. 45-14

By: Deneese Owen

AN ORDINANCE MODIFYING CHAPTER 648.11 OF THE BEXLEY CODIFIED ORDINANCES, SPECIFYING PARAMETERS AROUND COMMUNITY NOISE AND DISTURBING THE PEACE

WHEREAS, The City of Bexley is committed to promoting the peace and quite enjoyment of our neighborhoods;

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

Section 1.

That Chapter 648.11 shall be modified in the Bexley Codified Ordinances and shall be as follows:

648.11 COMMUNITY NOISE AND DISTURBING THE PEACE

(a) Definitions. All definitions and terminology used in this chapter, not defined below shall be in conformance with applicable standards of the American National Standards Institute (ANSI) or its successor body. For the purpose of this chapter, certain words and phrases used herein are defined as follows:

(1) "Average sound level" means a sound level typical of the sound levels observed at a certain place during a given period of time averaged by the general rule of combination for sound levels, said general rule being set forth in ANSI specifications for sound level meters. Average sound level is also called equivalent continuous sound level.

(2) "Decibel" means a unit for measuring the intensity of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals. Decibel is denoted as "dB."

(3) "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

(4) "Emergency vehicle" means any emergency vehicle of municipal or county departments of public utility corporations when identified as such as required by law, the Ohio Director of Transportation or Director of Public Safety of the City of Bexley and motor vehicles when commandeered by a police officer.

(5) "Land use category" means those land uses as defined and established by the Planning and Zoning Code and all subsequent changes and additions

(6) "Musical instrument" means any device designed to produce music.

(7) "Person means any public or private corporation, individual, firm, partnership, association, or other entity.

(8) "Property boundary or property line" means the surveyed line along the ground surface, and its vertical extension which separates the real property owned, rented or leased by one or more persons, but not including intrabuilding real property divisions.

(9) "Stationary noise source" means a machine or device capable of creating a noise level at the property upon which it is regularly located, including, but not limited to standing motor vehicles, industrial and commercial process machinery and equipment, pumps, fans, air-conditioning apparatus, or refrigeration machines.

(10) "Warning device" means any device, which signals an unsafe or potentially dangerous situation.

(b) Sound Levels.

(1) The maximum allowable two (2) minute average sound level emitted from any stationary noise source, shall not exceed the limits set forth in Table 1 for the respective categories of emanating land use. The two (2) minute average sound levels shall be measured at the property boundary affected by the sound.

TABLE 1

Land Use Category	Time	2 Minute Average Sound Level (dBA)
Institutional	9 pm – 7 am	50
	7 am – 9 pm	60
Residential	9 pm – 7 am	50
	7 am – 9 pm	60
Commercial	9 pm – 7 am	65
	7 am – 9 pm	70

(2) New Structures and Development. In conjunction with the approval of any development plan, the noise impact of said plan shall be included in the staff review process. Such review shall include but is not limited to air transportation and land transportation noise sources as well as stationary noise sources. Adequate control measures shall be recommended to mitigate the impact of those identified noise sources to effect compliance with this code. This review shall be forwarded to the Planning Commission for their consideration in any approval process for new structures or construction.

(c) Prohibited Sounds.

(1) No person shall make, allow to be made, continue or cause to be made or continued any unreasonably loud, unusual, and/or raucous noise in such a manner or at such a volume as to annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others, within the limits of the City.

(2) In addition to the prohibition setout in (c)(1), the following specific acts are declared to be in violation of this ordinance.

(A) Unnecessary sounding of horns:

1. Sounding of any horn or other signal device on any motor vehicle or motorcycle except as a warning of danger.

(B) Radios, television sets, musical instruments, loudspeakers, loudspeaker systems, and similar devices:

1. Operating, playing, or permitting the operation or playing of any radio, television set, phonograph, drum, musical instrument, loudspeaker and loudspeaker system, or similar device in such a manner as to violate dBA levels in section 648.11 (b).
2. Loudspeakers, amplifiers for advertising

(C) Loudspeakers, amplifiers for advertising:

1. The using, operating or permitting to be played, used, or operated of any radio or television set, musical instrument, phonograph, loudspeaker, sound amplifier, or other similar machine or device for the purpose of 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.

(D) Yelling, shouting, etc.:

1. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m. of the following day or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any person in the vicinity.

(E) Noisy Animals or Fowl:

1. Negligently keeping or harboring any animal or fowl which howls, barks, or emits audible sounds that are unreasonably loud or disturbing and which are of such character, intensity, and duration as to disturb the peace and quiet of the neighborhood or to be detrimental to the life and health of any individual.

(F) Stationary non-emergency signaling devices:

1. Sounding or permitting the sounding of any stationary bell, chime, siren, whistle, or similar device, intended primarily for nonemergency purposes in such a manner as to violate the provisions of Section 648.11 (b).
2. Houses of religious worship shall be exempt from the operation of this provision.

(G) Emergency signaling devices.

1. The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar device, except for emergency purposes or testing.

(H) Street sales.

1. Offering for sale, selling, or advertising an object or service within the City, its streets or sidewalks, by shouting or outcry in a louder voice than would be used in ordinary conversation in transacting any business in or about the places named herein.

(I) Loading and unloading and commercial vehicles.

1. Loading, unloading, opening, closing, or other handling of boxes, crates, containers, materials, or objects in such a manner as to violate the provisions of section 648.11 (b) including the collection of refuse or recycling, which must only occur between the hours of 7:00 a.m. and 6:30 p.m. weekdays.
2. 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 of length of time except for:

(?) Operation in connection with construction or demolition activity otherwise permitted by law.

(J) Domestic power equipment and construction/demolition of power equipment.

1. Domestic Power Equipment. Operating or permitting the operation of any power equipment used for home or minor building repair or grounds maintenance, including but not limited to any powered saw, sander, drill grinder, lawn mower or garden equipment, snow blower, or other similar power equipment in such a manner as to create noise across a residential or institutional property boundary in excess of 80 dBA for eight hours, 85 dBA for four hours, 90 dBA for two hours, and 95 dBA for one hour, 100 dBA for one-half hours, or 105 dBA for any time between 7:00 a.m. and 7:00 p.m. or in violation of the provisions of 648.11 (b) between 7:00 p.m. and 7:00 a.m. Any stationary motor, engine, machinery, pump or power generator shall be sufficiently enclosed or muffled and maintained so as not to violate the provisions of Section 648.11 (b).
2. Construction/Demolition Power Equipment. Operating or permitting the operation of any tools or equipment used in the construction, drilling, repair, alteration or demolition work on buildings structures, streets, alleys or appurtenances, for which a building permit is required between the hours of 6:00 p.m. and 7:00 a.m. on weekdays or for all other times, in such a manner as to create noise across a residential or institutional property boundary in excess of 90 dBA for 8 hours, 95 dBA for four hours, 100 dBA for two hours, 105 dBA for one hour, 110 dBA for one-half hour, or 115 dBA for any time, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Director of Public Safety, which permit may be granted for a period not to exceed three

days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the Director of Public Safety determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways between 6:00 p.m. and 7:00 a.m. on day(s) that fall on the weekend, and if s/he further determines that loss or inconvenience would result to any party in interest, s/he may grant permission for such work to be done between 6:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work. The Director of Public Safety has the right to further restrict weekend work hours at his/her discretion.

3. Any construction or demolition activity contiguous to commercial or manufacturing property boundaries only, or for emergency work of public service utilities or for which a variance has been issued by the Director of Public Safety or his/her designee shall be exempt from the operation of this provision.

(d) Special Provisions (Exemptions).

- (1) The provision of this section shall not apply to the following:

- (A) The emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.
- (B) Warning devices necessary for the protection of public safety.
- (C) Programs, activities or events, organized, sponsored, or sanctioned by either/or: a) a public or private school in the city limits, or b) the City.
- (D) Outdoor gatherings lasting no longer than 11:00 p.m. provided these events are conducted pursuant to a permit issued by the Office of the Mayor of the City of Bexley.

(e) Inspection.

1. The Director of Public Safety or his/her designee may inspect upon consent, at any reasonable time and in a reasonable manner, any device or mechanism which creates any disturbing noise, including but not limited to the premises where such device or mechanism is used.
2. If entry to the premises is denied or refused, the appropriate authority shall obtain an inspection warrant from a court of competent jurisdiction.

~~(f) Variance Procedure.~~

(f) Issuance of Orders. The Director of Safety or their designee may issue orders requiring the abatement of all violations of this chapter and the correction of any condition, which may result in a violation of this chapter. Failure to act upon such order within the time limit set forth therein or within the time extension granted by the Director or their designee may result in revocation of any existing permit issued under this chapter.

(g) Severability. If any provision of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated

(h) Penalty. 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 698.02 (Ord. 44-93 Passed 9-14-93.)

Section 2.

That this Ordinance shall go into effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2014

Richard Sharp, President of Council

Attest: _____
Clerk of Council

Approved: _____, 2014

Benjamin Kessler, Mayor

First Reading 8-12-14

Second Reading 8-26-14