

City of Elyria Ordinance

Bookmark 509.08 NOISE DISTURBANCES.

(a) No person shall unreasonably make or continue, or cause to be made or continued, or permit, any noise disturbance.

(b) As used in this section, "noise" means any sound which annoys or disturbs persons or which causes or tends to cause an adverse psychological or physiological effect on persons. "noise disturbance" means any sound which:

- (1) Endangers or injures the safety or health of persons or animals;
- (2) Annoys or disturbs a reasonable person of normal sensibilities; or
- (3) Endangers or injures personal or real property.

(Ord. 86-31. Passed 2-3-86.)

(c) The following acts, and the causing or permitting thereof, are hereby declared to be violations of this section, but such enumerations are neither deemed to be exclusive of nor limited to:

(1) Radios, television sets, musical instruments, and similar devices which produce, reproduce, or amplify sound in such a manner or which such volume as to annoy or disturb the peace, quiet, comfort or repose of persons where such a noise is plainly audible at a distance of more than fifty feet within the city from 12:00 p.m. midnight until 8:00 a.m. For the purpose of this subsection, "plainly audible" means any sound which clearly can be heard, by unimpaired auditory senses based on a direct line of sight of fifty or more feet, however, words or phrases need not be discernible and said sound shall include bass reverberation.

(1A) Radios and sound-producing devices such as "boom boxes".

A. No person shall play any radio, music player such as a "boom box", tape cassette, disc player, television, audio system, musical instrument or any other type of sound device upon any public road, street, highway or private property within the City in a manner or at a volume as to disturb the peace, quiet, comfort or repose of other persons. An exception is made for organized events which have received a valid permit from the City as set forth in Section 311.02 of the Traffic Code and any other applicable section.

B. No person shall play any radio, music player such as a "boom box", tape cassette, disc player, television, audio system, musical instrument or any other type of sound device in a manner or at a volume as to disturb the peace, quiet, comfort or repose of neighboring inhabitants or at a volume which is plainly audible to persons other than those who are in the room in which such device or instrument is played and who are voluntary listeners thereto.

C. No person shall play any radio, music player or audio system in a motor vehicle at such volume as to disturb the peace, quiet, comfort or repose of other persons or at a volume which is plainly audible to persons other than the occupants of said vehicle.

(2) Animals and birds. Keeping any bird or animal 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 at a distance of more than fifty feet from its source;

(3) Signal devices. Sounding of any horn, bell or other signal or warning device on any motor vehicle, motorcycle, bus or other vehicle in such a manner as to create a noise disturbance, except as a danger or warning signal;

(4) Vehicles. Using or operating any motorcycle or other vehicle so out of repair, so loaded or in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise so as to cause a noise disturbance;

(5) Vehicle or motorboat repairs and testing. Repairing, rebuilding, modifying or testing of any motor vehicle, motorcycle, motorized vehicle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary;

(6) Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects in such a manner as to cause a noise disturbance across a residential real property boundary;

(7) Heavy vehicles; racing engines. Operating or permitting the operation of any motor vehicle with a gross weight rating in excess of 10,000 pounds, or any auxiliary equipment attached to such vehicle, for longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, except while loading and unloading perishables, where such noise creates a noise disturbance across a residential real property boundary; or racing the motor of any vehicle unnecessarily or operating any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the pavement or other surface, commonly known as "peeling";

(8) Construction. Operating or permitting the operation of any tools, other than domestic power tools, or equipment used in construction, drilling or demolition work, between 8:00 p.m. and 7:00 a.m. of the following day, such that the sound creates a noise disturbance across a residential real property boundary, except for emergency work of public service utilities or by a special permit by the Safety-Service Director's office;

(9) Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawnmower or similar device used outdoors, other than powered snow removal equipment, in residential areas between 8:00 p.m. and 8:00 a.m. of the following day; and

(10) Vibration. Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of any individual at or beyond the property boundary of the source. For the purpose of this section, "vibration perception threshold" means the minimum ground or structure-born vibrational motion necessary to cause a normal person to be aware of the vibration by direct means, such as, but not limited to, sensation by touch or visual observation of moving objects.

(Ord. 92-146. Passed 7-13-92; Ord. 2001-171. Passed 10-1-01.)

(d) This section shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, or to the emission of sound in the performance of emergency work. Noncommercial public speaking and public assembly activities conducted on any public space or public right of way are also exempt from this section.

(Ord. 86-31. Passed 2-3-86.)

(e) Whoever willfully or knowingly violates any of the provisions of this section for which no penalty is otherwise provided, is guilty of a minor misdemeanor. Whoever willfully or knowingly persists in violating any of the provisions of this section, for which no penalty is otherwise provided, is guilty of a misdemeanor of the fourth degree. A separate offense shall be deemed committed each day, or part thereof, during or on which a violation occurs or continues.

(1) Whoever violates paragraph (c)(1A)A., B. or C. hereof shall, upon a first offense, be fined seventy-five dollars (\$75.00), which fine shall not be suspended, waived or otherwise reduced below that amount. In addition the equipment or device used in the commission of a violation of paragraph (c)(1A)A., B. or C. hereof may be seized and held as evidence. After disposition of any charges thereunder, said equipment or devices shall be returned to the owner thereof. In the case of any violation of paragraphs (c)(1A)C. and (4) through (11) hereof, the arresting or citing officer may cause said vehicle or equipment to be towed, impounded or stored and held for a period not to exceed twenty-four hours; and the owner of any such vehicle or equipment so towed, impounded, stored or held may, upon proof of ownership and payment of towing charges and any accrued storage charges, regain possession of such vehicle or equipment.

(2) In addition to any other method of enforcement provided for in this chapter, paragraphs (c)(1A)A., B. and (4) through (11) hereof may be enforced by the issuance of a citation in compliance with Rule 4.1 of the Ohio Rules of Criminal Procedure, and paragraph (c)(1A)C. hereof may be enforced by the issuance of an Ohio Uniform Traffic Ticket in compliance with the Ohio Traffic Rules promulgated by the Ohio Supreme Court pursuant to Ohio R.C. 2935.17 and 2937.46.

(3) Whoever violates paragraph (c)(1A)A., B. or C. hereof within thirty-six hours of having been charged with a first offense thereof or within thirty-six hours of having been warned by a police officer to desist from violating one of those sections is guilty of a misdemeanor of the third degree.

(4) Whoever violates paragraph (c)(1A)A., B. or C. hereof shall, upon any subsequent offense, be fined not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00).

(5) Each day upon which a violation occurs or continues shall be a separate offense and punishable as such hereunder.

(Ord. 92-146. Passed 7-13-92; Ord. 2003-203. Passed 12-1-03.)