

IN THE COUNCIL OF THE VILLAGE OF NEW CONCORD, OHIO

ORDINANCE NO. B-4-95-1

AN ORDINANCE TO AMEND ORDINANCE B-4-60-1 PROHIBITING UNNECESSARY NOISES IN THE VILLAGE OF NEW CONCORD AND REGULATING THE USE AND OPERATION OF MUFFLERS ON MOTOR VEHICLES.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF NEW CONCORD, STATE OF OHIO:

SECTION 1. DEFINITIONS. For purposes of these regulations, unless otherwise defined in other sections of these regulations, the following terms, phrases and words shall have the meaning herein given:

(A) **CONTINUOUS SOUND.** Any sound that exists, essentially without interruption, for a period of ten minutes or more.

(B) **CYCLICALLY VARYING NOISE.** Any sound that varies in sound level so that the same level is obtained repetitively at reasonable uniform levels of time.

(C) **DEVICE.** Any mechanism that is intended to produce or that actually produces noise when operated or handled.

(D) **DYNAMIC BRAKING DEVICE.** A device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes, commonly referred to as "Jacob's Brake" or "Jake Brake".

(E) **EMERGENCY.** A situation or occurrence, which in the opinion of the Mayor, Police Chief, Fire Chief or Village Administrator, presents an imminent threat to the health, safety or welfare of any person, place or property.

(F) **EMERGENCY WORK.** Work required to restore property to a safe condition following a public calamity or to protect persons or property from an imminent exposure to danger.

(G) EMERGENCY VEHICLE. A motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger or to assist persons who are injured or ill.

(H) IMPULSIVE NOISE. A noise containing excursions usually less than one second.

(I) MOTOR VEHICLE. Any vehicle that is self-propelled by mechanical power, including, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, motorcycles, mini-bikes, go-carts, snowmobiles and racing vehicles.

(J) MUFFLER. An apparatus consisting of a series of chambers or baffle plates designated to transmit gases while reducing sound.

(K) NOISE DISTURBANCE. Any sound that annoys or disturbs a reasonable person(s) with normal sensitivities or that injures or endangers the comfort, repose, health, hearing, peace or safety of another person(s).

(L) NOISE. Any sound that is unwanted and causes or tends to cause an adverse psychological or physiological effect on human beings.

(M) PLAINLY AUDIBLE NOISE. Any noise for which the information content of that noise is unambiguously transferred to the listener, including, but not limited to the understanding of spoken speech, comprehension or whether a voice is raised or normal, or comprehensive of musical rhythms.

(N) PROPERTY BOUNDARY. An imaginary line at the ground surface, and its vertical extension that separates the real property owned by one person from that owned by another person.

(O) SOUND. A temporal and spatial oscillation in pressure or other physical quantity with interval forces that cause compression or rarefaction of the medium and that propagates at finite speed to distant points.

(P) STATIONARY NOISE SOURCE. Any device, fixed or movable, that is located or used on property other than a public right-of-way.

SECTION 2. PURPOSE. These regulations establish minimum standards to:

(A) Reduce the making and creation of excessive, unnecessary or unusually loud noises within the limits of New Concord.

(B) Prevent the making, creation, or maintenance of such excessive, unnecessary, or unusually loud noises that are prolonged, unusual or unreasonable in their time, place or use that affect and are a detriment to public health, comfort, convenience, safety, or welfare of the resident of the Village; and

(C) Secure and promote the public health, comfort, convenience, safety, welfare and the peace and quiet of the residents of the Village.

SECTION 3. JURISDICTION. All noise control in this Chapter shall be subject to the direction and control of the Police department.

SECTION 4. POWERS AND DUTIES. The Police Department shall be responsible for the administration of these rules and regulations and any other powers vested in it by law and shall make inspections of any premises and issue orders as necessary to effect the purposes of these regulations, and do any and all acts permitted by law that are necessary for the successful enforcement of these regulations.

SECTION 5. SCOPE. It shall be unlawful for any person(s) not to comply with any rule or regulation promulgated by this Chapter, unless expressly waived by these rules and regulations.

SECTION 6. EMERGENCY ORDERS. Whenever the Chief of Police, Fire Chief, Mayor or their official designees finds that an emergency exists requiring immediate action to protect the public health, safety, or well-being of the public, one or all of the following actions may be taken:

(A) **Public Calamity.** In time of a public calamity or disaster, emergency suspension of these rules and regulations may be ordered for the duration of 72 hours, at which time the incident will be assessed and further suspension of these rules ended or extended.

(B) **Approve Application for Exemption for Emergency Reason.** An individual may apply for emergency exemption to these rules and regulations based on good and reasonable cause due to emergency circumstances. See definitions.

SECTION 7. GENERAL PROHIBITION OF NOISE. It shall be unlawful for any person to produce, continue or cause to be produced or continued, any noise disturbance within the limits of New Concord as defined in this Chapter.

SECTION 8. SPECIFIC NOISE PROHIBITIONS. The following acts are declared to be in violation of these rules and regulations.

(A) **Horns and signaling devices.** The sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle, or other within the Village except as a danger warning signal as provided in the Vehicle Code of the State of Ohio.

(B) **Radios, television sets, tape players, compact disc players, musical instruments, and similar devices.** Using operation, or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum or other machine or device for the production of sound:

(1) between the hours of 10 p.m. and 7 a.m. in a way that is plainly audible beyond the property boundary of the source; or

(2) on public property, public rights-of-way, or private property at any time so as to be plainly audible 50 feet (15.25 meters) from the device. Permits to exceed the limits of Section 8-(b)(2) may be issued for special events on public property by the Chief of Police.

(C) **Public loudspeakers.** The use or operation of a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place or public or private property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmission of music to any persons or assemblages of persons in violation of Section 9, or cause a noise disturbance, unless a permit is first obtained as provided by Section 11 or approval is granted.

(D) **Hawkers and peddlers.** Selling anything by outcry within any area of the Village in such a manner as to violate Section 9. It shall be unlawful for any person to solicit from any motor vehicle.

(E) **Animals.** Owning, keeping, possessing, or harboring any animal or animals that, by frequent or habitual noise making, violates Section 9. The provision of this section shall apply to all private and public facilities, including any animal facilities that hold or treat animals.

(F) **Construction work.** It shall be unlawful for any person to perform or cause to be performed, any construction work on any construction site under his control or at which he is employed between the hours of 10 p.m. and 6 a.m. of the following day, or before 9 a.m. on Sundays. The Mayor or Police Chief may authorize extended hours for construction operations or procedures which, by their nature, require continuous operation, or modify or waive the hours of work for or on projects in generally isolated areas where the extended hours do no impact upon adjoining property occupants.

(G) **Domestic power equipment.** Operating or permitting the operation of any power equipment rated five horsepower or less in residential or commercial zones, including, but not limited to, power saw, sander, lawn mower, garden equipment snow removal equipment for home or building repair or ground maintenance outdoors between the hours of 10 p.m. and 7 a.m. of the following day or before 9 a.m. on Sunday.

(H) **Fireworks or explosives.** The use of explosives, fireworks, discharge guns or other explosive devices that are audible across a property boundary, public space, or right-of-way without first obtaining a permit as provided by Section 11. The provision shall not be construed to permit activities prohibited by other statutes, ordinances, or regulations governing such activity.

(I) **Liquor licensed premises:**

(1) Failure to control noise. Permitting or providing either live or recorded amplified music without first having closed all exterior doors and windows of the licensed premises to control noise. Doors may be opened to provide ingress and egress, but shall not be blocked in the open position to provide ventilation. Doors shall be equipped with automatic closing devices to keep them in the closed position except to permit ingress and egress of patrons.

(2) Outdoor speakers. Permitting or causing to exist any loud speaker or sound amplification equipment on any outdoor balcony deck, patio or garden associated with the licensed premises other than speaker systems or sound amplification equipment in conjunction with approved outdoor dining.

(J) **Racing events.** Permitting any motor vehicle racing event at any place in violation of Section 9, without first obtaining permission provided by Section 11.

(K) **Powered model mechanical devices.** Flying a model aircraft powered by internal combustion engines, whether tethered or not, or the firing or the operation of model rocket vehicles or other similar noise-producing devices, between the hours of 10 p.m. and 7 a.m. or in such a way as to violate Section 9.

(L) **Dynamic braking devices.** Operating any motor vehicle with a dynamic braking device engaged, except for the avoidance of immanent danger.

(M) **Defect in vehicle.** Operating or permitting the operation or use of any truck, automobile, motorcycle, or other motor vehicle that because of disrepair or mode of operation violates Section 9.

(N) **Garbage collection.** Collecting garbage, waste, or refuse between the hours of 10 p.m. and 5 a.m. in any area zoned residential or within 300 feet of an area zoned residential.

(O) **Standing motor vehicles.** Operating, causing, or permitting the operation of any motor vehicle or any auxiliary equipment attached thereto either in violation of Section 9, or in such a way as to cause a disturbance in a residential zone for a consecutive period of 15 minutes or longer.

(P) **Bell and alarms.** Sounding, operating, or permitting the sounding or operation of an electronically amplified signal from any burglar alarm, bell, chime or clock, including but not limited to, bells, chimes or clocks in schools, houses of religious worship or governmental buildings that fail to meet the standards in Section 9 for longer than five minutes in any hour.

(Q) **Fixed siren, whistles, and horns.** Sounding or causing the sounding of any whistle, horn, or siren as a signal for commencing or suspending work or for any other purpose in violation of Section 9, except as a sound signal of imminent danger.

(R) **Recreation vehicles and snowmobiles.** Operating a recreational vehicle or snowmobile in a way that violates Section 9.

- (F) Any noise resulting from snow making activities at ski areas; and
- (G) Any noise resulting from the maintenance of golf courses;
- (H) Any noise resulting from snow plowing or removal services.

SECTION 11. RELIEF FROM RESTRICTIONS. Requests for relief from the noise restrictions in these rules and regulations may be made by the Chief of Police as it pertains to special events and community or private functions or events. Upon granting relief, any conditions outlined and agreed upon shall be complied by the applicant and failure to do so will cause the relief agreement to be suspended.

SECTION 12. MOTOR VEHICLE NOISE. No person shall operate or cause to be operated any motor vehicle unless the exhaust system is free from defects that affect sound reduction; equipped with a muffler or other noise dissipative device, and not equipped with any cut-out, by-pass or similar device.

SECTION 13. ENFORCEMENT RESPONSIBILITY. Enforcement responsibility will reside with the Police Department.

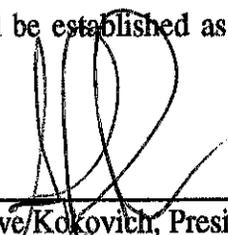
SECTION 14. ENFORCEMENT. The Police Department may, upon discovery or report of a violation or violations of this Chapter, issue a written citation for the violation requiring an appearance in court to answer the charges, or may file a report with Village Solicitor for review and issuance of any information and summons to court to answer the charges.

The Village Solicitor may initiate legal action, civil or criminal, requested by the Mayor or Police Department to abate any condition that exists in violation of these rules and regulations. In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating any of these rules and regulations shall be liable for all expenses incurred by the Department in removing or abating any nuisance or other noise disturbance.

SECTION 15. Whoever violates this ordinance is guilty of a minor misdemeanor on the first offense and shall be guilty of a 4th degree misdemeanor for any violations thereafter and may be punished as permitted by Section 501.99 of the General Offenses Code.

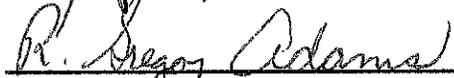
SECTION 16 That this ordinance shall be established as Section 509.08 of the General Offenses Code of the Village of New Concord.

PASSED: April 10, 1995

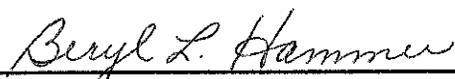


Steve Kokovich, President of Council

APPROVED: April 10, 1995



R. Gregory Adams, Mayor

ATTEST: 

Beryl L. Hammer, Clerk/Treasurer

I hereby certify that the above Ordinance No. B-4-95-1 was posted per Ordinance No. L-1-84-1 from April 17, 1995 to August 21, 1995.


_____, Clerk