

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2013-64

By Dean W. Van Dress Sponsored By Dean W. Van Dress
Cheryl A. Banaszak
Nick Haschka

AN ORDINANCE

AMENDING BERA CODIFIED ORDINANCE SECTIONS 911.02, 911.03, AND 911.99 OF CHAPTER 911, NOISE CONTROL, IN PART NINE, GENERAL OFFENSES CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF BERA, OHIO, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Berea Zoning Code has been recently amended, and Council therefore deems it appropriate to update the Noise Control section of the Codified Ordinances of the City of Berea in conjunction with the aforementioned changes and for the purposes of clarity and uniformity; and

WHEREAS, Council finds that the amended portions are both responsible and necessary to accommodate the goals of the community at large.

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

SECTION 1. That current Sections 911.02, 911.03, and 911.99 which have heretofore read as follows:

911.02 DEFINITIONS.

The following words and terms shall, throughout this chapter, have the meaning given as hereinafter set forth and defined. All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- (a) "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(a) or dBA.
- (b) "Construction" means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or on public or private rights of way, structures, utilities or similar property.
- (c) "Decibel" or "db" means a unit for measuring the volume of a sound, equal to twenty 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 (20 micronewtons per square meter).
- (d) "Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.
- (e) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.
- (f) "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.

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(g) "Gross vehicle weight rating" means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

(h) "Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

(i) "Industrial area" means those areas specified in Article IV of the Zoning Code of the Codified Ordinances.

(j) "Motor vehicle" means every vehicle specified in Section 701.20 of the Traffic Code.

(k) "Motorcycle" means every motor vehicle specified in Section 701.19 of the Traffic Code.

(l) "Motorized bicycle" means every motor vehicle specified in Section 701.04(b) of the Traffic Code.

(m) "Muffler or sound dissipative device" means a device for abating the sound of escaping gases of an internal combustion engine.

(n) "Noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

(o) "Noise disturbance" means any sound which:

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

(p) "Person" means any individual, association, partnership or corporation and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

(q) "Place of public entertainment" means any commercial facility open to the general public for purposes of entertainment.

(r) "Powered motor vehicle" means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle which is not designated to carry persons including, but not limited to, model airplane, boat, car or rocket.

(s) "Public right of way" means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

(t) "Public space" means any real property or structures thereon which are owned or controlled by a governmental entity.

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(u) "Real property boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

(v) "Residential area" means those areas specified in Article II of the Zoning Code of the Codified Ordinances.

(w) "Retail area" means those areas specified in Article III of the Zoning Code of the Codified Ordinances.

(x) "RMS sound pressure" means the square root of the time averaged square of the sound pressure, denoted Prms.

(y) "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of sound, including duration, intensity and frequency.

(z) "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequently weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971), or the latest approved revision thereof. If the frequency weighting employed is not indicated, the A-weighting shall apply.

(aa) "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.

(bb) "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

(cc) "Sound pressure level" means twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals ($20 \times 10^{-6} \text{N/m}^2$). The sound pressure level is denoted Lp or SPL and is expressed in decibels.

(dd) "Vibration" means an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

(ee) "Weekday" means any day Monday through Saturday.

(Ord. 1983-54. Passed 6-6-83.)

911.03 NOISE DISTURBANCES PROHIBITED.

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

(b) Noncommercial public speaking and public assembly activities conducted on any public space or public right of way shall be exempt from the operation of this section.

(Ord. 1983-54. Passed 6-6-83.)

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911.99 PENALTY.

(a) Except as otherwise provided for, any person who violates any provision of this chapter is guilty of a minor misdemeanor for a first offense; and for a second or subsequent offense within one year be deemed guilty of a misdemeanor of the fourth degree.

(b) Any person who willfully or knowingly violates any provision of this chapter is guilty of a misdemeanor of the fourth degree.

(c) Each day or part thereof of violation of any provision of this chapter constitutes a separate offense.

(Ord. 1983-54. Passed 6-6-83.)

shall be, and are hereby amended, to read as follows:

911.02 DEFINITIONS.

The following words and terms shall, throughout this chapter, have the meaning given as hereinafter set forth and defined. All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

(a) "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(a) or dBA.

(b) "Construction" means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or on public or private rights of way, structures, utilities or similar property.

(c) "Decibel" or "db" means a unit for measuring the volume of a sound, equal to twenty 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 (20 micronewtons per square meter).

(d) "Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

(e) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.

(f) "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.

(g) "Gross vehicle weight rating" means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

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(h) "Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

(i) "Industrial area" means those areas specified in Article II of the Zoning Code of the Codified Ordinances.

(j) "Motor vehicle" means every vehicle specified in Section 701.20 of the Traffic Code.

(k) "Motorcycle" means every motor vehicle specified in Section 701.19 of the Traffic Code.

(l) "Motorized bicycle" means every motor vehicle specified in Section 701.04(b) of the Traffic Code.

(m) "Muffler or sound dissipative device" means a device for abating the sound of escaping gases of an internal combustion engine.

(n) "Noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

(o) "Noise disturbance" means any sound which:

- (1) Endangers or injures the safety or health of humans or animals; or
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property.
- (4) Would create a safety issue by interfering with or preventing a lawful order from being heard by any person.

(p) "Person" means any individual, association, partnership or corporation and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

(q) "Place of public entertainment" means any commercial facility open to the general public for purposes of entertainment.

(r) "Powered motor vehicle" means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle which is not designated to carry persons including, but not limited to, model airplane, boat, car or rocket.

(s) "Public right of way" means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

(t) "Public space" means any real property or structures thereon which are owned or controlled by a governmental entity.

(u) "Real property boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

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(v) "Residential area" means those areas specified in Article II of the Zoning Code of the Codified Ordinances designated as R-SF-A, R-SF-B, R-SF-T, and MFR.

(w) "Retail area" means those areas specified in Article II of the Zoning Code of the Codified Ordinances designated as TO, NC, CC, DT, and UT.

(x) "RMS sound pressure" means the square root of the time averaged square of the sound pressure, denoted Prms.

(y) "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of sound, including duration, intensity and frequency.

(z) "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequently weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI SI.4-1971), or the latest approved revision thereof. If the frequency weighting employed is not indicated, the A-weighting shall apply.

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(bb) "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

(cc) "Sound pressure level" means twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals ($20 \times 10^{-6} \text{N/m}^2$). The sound pressure level is denoted L_p or SPL and is expressed in decibels.

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(ee) "Weekday" means any day Monday through Saturday.

(Ord. 1983-54. Passed 6-6-83.)

911.03 NOISE DISTURBANCES PROHIBITED.

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

(b) Noncommercial public speaking and public assembly activities conducted on any public space or public right of way shall be exempt from the operation of this section unless such conduct poses an immediate risk to safety or injury.

(Ord. 1983-54. Passed 6-6-83.)

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911.99 PENALTY.

(a) Except as otherwise provided for, any person who violates any provision of this chapter is guilty of a minor misdemeanor for a first offense; and for a second or subsequent offense within one year be deemed guilty of a misdemeanor of the fourth degree.

(b) Any person who willfully or knowingly violates any provision of this chapter is guilty of a misdemeanor of the fourth degree.

(c) Each day or part thereof of violation of any provision of this chapter constitutes a separate offense.

(d) Any violation following an initial warning from a law enforcement official or violation shall constitute a separate offense whether or not said warning or violation occurred on the same day.

(Ord. 1983-54. Passed 6-6-83.)

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department, and for the further reason that the City must act immediately for the purpose of consistency, clarity, and a standardization of City law. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage an approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: September 16, 2013

ATTEST: Allyson Egan
Clerk of Council

Approved as to Form:

[Signature]
Director of Law

[Signature]
President of Council

APPROVED: September 16, 2013

[Signature]
Mayor