

1st Reading - Oct 1st, 2020
2nd Reading - Oct. 15th, 2020
3rd Reading - Nov. 5th, 2020
Sponsor: Hudson

ORDINANCE NO. 2020-47

AN ORDINANCE BY THE CITY OF WELLSTON LEGISLATIVE AUTHORITY AMENDING CHAPTER 93 OF THE WELLSTON CODE: NUISANCES

WHEREAS the City of Wellston Council has established rules and regulations for regulating nuisances and have codified those Rules as Chapter 93 of the Wellston Codified Ordinances; and

WHEREAS a standing committee has recommended various amendments to sections of Chapter 93: NUISANCES of the Wellston Codified Ordinances, specifically the addition of Section 93.05: Excessive Noise, a copy of the revised Rules and Regulations detailing the amendments to be made is attached hereto; and

WHEREAS the Council has reviewed and given input on the Rules; and

WHEREAS the Council has determined that it is in best interest of the health safety and welfare of the inhabitants of the City to adopt the Rules, a copy of which is attached as Exhibit A

NOW THEREFORE BE IT ORDAINED by the Council that:

Section One: Chapter 93: Nuisances, of the Wellston Codified Ordinances, specifically Section 91.02, is hereby amended and Section 93.05: Excessive Noise, is hereby adopted made a part of Chapter 93. Chapter 93 is hereby amended as detailed in attached Exhibit A with all other sections remaining unchanged.

Section Two: This Ordinance is hereby declared to be an emergency, necessary for the immediate preservation of the public peace, health or safety of the City of Wellston, in that it is necessary to approve this additional appropriation in order that expenses can be timely paid as incurred and in accordance with the city's obligations. Therefore, this Ordinance shall go into effect upon passage and approval by the Mayor, as provided in the Ohio Revised Code Section 731.30.

Section Three: In the event this Ordinance receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, the this Ordinance shall be deemed to have passed but with no emergency clause, and shall take effect at the earliest time permitted by law.

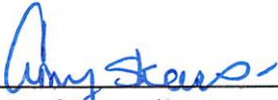
Section Four: It is hereby found and determined that all formal acts of this council concerning and relating to adoption of this Ordinance were adopted in an open meeting of this council and the deliberations of the council and any of its committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

PASSED AND ADOPTED by the legislative authority of the City of Wellston this 5th day of November, 2020.

Gonnie Felletta

Council President

ATTEST:



Clerk of Council

Approved this 5th day of November, 2020.



Mayor

Posted 11-6-20 through 11-20-20 at Pig, Wellston City Hall, Wellston Senior Citizens' Center, the Wellston Public Library and the Post Office.

Prepared by: Randy H. Dupree, Law Director, City of Wellston

Exhibit A

Section 93.05 Excessive Noise

Definitions:

"Property plane" means a vertical plane including the property line which determines the property boundaries in space.

"Residential zone" means all lands located within the following zones except "Downtown Enterprise Zone". "Residential Zone" also means and lands located within a planned unit development area actually used for authorized residential purposes. Any zoning district other than those defined as residential zones are classified as nonresidential zones for purposes of this chapter.

"Residential power equipment" means any mechanically powered saw, sander, drill, grinder, generator, lawnmower, leaf blower, hedge trimmer, edger, snow blower or any other similar tool or device.

A) No person, business establishment or organization shall recklessly make or cause to be made or continued, allow, or participate in the loud or unusual noise that disturbs the peace and quiet by means of any one or more of the following acts, which are hereby expressly prohibited:

B) Horns and signaling devices. The sounding of any horn or signaling device on any motor vehicle, motorcycle 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 devices of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up or delayed.

C) Radios and other devices. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 10:00 P.M. and 7:00 A.M. each day Sunday evening through Friday morning or between the hours of 12:00 A.M. and 7:00 A.M. Saturday and Sunday morning, in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located or exceeds 85 dB at any point outside the property plane shall be prima facie evidence of a violation of this section.

D) Construction or repairing of buildings. The erection, including excavating, demolition, alteration or repair of any building other than between the hours of 7:00 A.M. and 9:00 P.M. except in case of urgent necessity in the interest of public health and safety, and then only with written permission from the service-safety director which permit may be granted for a period not to exceed three days or while the emergency continues. If the service-safety director 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 the hours of 9:00 P.M. and 7:00 A.M., and if he further determines that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done between the hours of 9:00 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.

E) Schools, courts, churches and 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 working of such institutions, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same contains school, church, hospital or court.

F) Sales. The shouting and crying of peddlers, hawkers and vendors which unreasonably disturbs the peace and quiet of neighboring inhabitants.

G) Vocal noise between the hours of 10:00 P.M. and 7:00 A.M. each day Sunday evening through Friday morning or between the hours of 12:00 A.M. and 7:00 A.M. Saturday and Sunday morning, the shouting, yelling, chanting or making use of the human voice or vocal chords in a louder than normal conversational tone or pitch, escalating vocal noise, other than in an emergency situation, in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located.

H) Those businesses with outside operations that have noise or sound between the hours of 10:00 P.M. and 7:00 A.M. each day Sunday evening through Friday morning, or between the hours of 12:00 A.M. and 7:00 A.M. Saturday and Sunday mornings in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located or exceeds 85 dB at any point outside of the property plane, or source of the noise or sound, shall be prima facie evidence of a violation of this section.

I) The use or operation of any sound produced by any machine, animal, or device, except refuse/recycling trucks and residential power equipment in a residential zone.

K) Exemptions; The following uses and activities shall be exempt from this section;

- 1) Noises from safety, signals, warning devices, and emergency pressure relief valves.
- 2) Emergency vehicles
- 3) Emergency work
- 4) Any noise from activities of temporary duration permitted by law for which a license or permit has been granted by the City
- 5) Noises resulting from normal uses of Schools, Churches, athletic fields, fairgrounds and parks
- 6) City projects and work
- 7) Parade vehicles
- 8) Any other lawful activity authorized by permit through the City

Organizational liability as set forth in the Ohio Revised Code, Section 2929.31, shall be applied to violations of this section.

A first violation of this section shall be an administrative offense requiring a fine of \$100.00. Any person cited with a first offense of this section who does not pay the required administrative fine within 30 days shall receive a minor misdemeanor citation into court, providing notice and an opportunity to be heard, which shall serve as an appeals process. A second offense within six months of the first offense shall be a minor misdemeanor and any offender who persists in such violation after reasonable warning or request to desist by a member of the Wellston City Police Department shall be guilty of a misdemeanor of the fourth degree. Any subsequent offense within six months of the second offense shall be punishable as a misdemeanor of the fourth degree. In addition, any offender previously convicted of a violation of this section shall use temporary legal noise baffles to keep the noise level within the legal limits imposed above.

(Ord. No. 0-63-11, § I, 7-5-2011)