

ORDINANCE NO. 1174

AN ORDINANCE OF THE COMMISSIONERS OF CAMBRIDGE, MARYLAND AMENDING CHAPTER 8 (HEALTH AND SANITATION) OF THE CODE OF THE CITY OF CAMBRIDGE, MARYLAND FOR THE PURPOSES OF PROHIBITING SPEAKERS AND SIMILAR DEVICES THAT AMPLIFY THE HUMAN VOICE AND EXEMPTING THE PRODUCTION OF AMPLIFIED SOUND FROM MUSICAL INSTRUMENTS AND SIMILAR DEVICES AT A RESTAURANT, BAR, BREWERY OR SIMILAR ESTABLISHMENT FROM THE NOISE PROHIBITIONS SET FORTH IN § 8-21 OF THE CITY CODE, EACH SUBJECT TO CERTAIN LIMITATIONS, AMENDING THE TERMS AND CONDITIONS FOR OBTAINING AND APPLYING FOR A NOISE VARIANCE, AMENDING THE PENALTIES FOR VIOLATION OF § 8-21 OF THE CITY CODE, AND AUTHORIZING THE CITY'S CODE ENFORCEMENT OFFICIALS TO ENFORCE § 8-21 OF THE CITY CODE; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY AND GENERALLY RELATING TO NOISE IN THE CITY OF CAMBRIDGE.

WHEREAS, pursuant to Md. Code Ann., Environment § 3-105, the Commissioners of Cambridge are authorized and empowered to pass noise control ordinances, rules, and regulations; and

WHEREAS, pursuant to § 3-27(1) of the Charter of the City of Cambridge (the "Charter"), the Commissioners of Cambridge are authorized and empowered to pass all ordinances not contrary to the Constitution and laws of the State of Maryland or the Charter as they may deem necessary for the preservation of peace and good order and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the City of Cambridge (the "City"); and

WHEREAS, pursuant to the foregoing authority, the Commissioners of Cambridge have enacted § 8-21 (Unreasonable Noise Levels) of the Code of the City of Cambridge (the "City Code") for the purpose of regulating noise in the City; and

WHEREAS, the Commissioners of Cambridge are desirous of amending § 8-21 for the purposes of prohibiting speakers and similar devices that amplify the human voice and exempting the production of amplified sound from musical instruments and similar devices at a restaurant, bar, brewery or similar establishment from the noise prohibitions set forth in § 8-21 of the City Code, subject to certain limitations, amending the terms and conditions for obtaining and applying for a noise variance, amending the penalties for violation of § 8-21 of the City Code, and authorizing the City's code enforcement officials to enforce § 8-21 of the City Code; and

WHEREAS, the Commissioners of Cambridge find that the amendments set forth herein are necessary to promote and protect the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of Cambridge, that:

SECTION 1. Section 8-21 (Unreasonable Noise Levels) of the Code of the City of Cambridge, Maryland is hereby amended as follows:

Sec. 8-21. - Unreasonable noise levels.

- (a) *Declaration of policy.* It is hereby declared to be the policy of the mayor and commissioners of the city to prevent any unreasonable, loud, disturbing and unnecessary noise. Noise of such character, intensity and duration as to be detrimental to the life, health, safety and general welfare of any individual, which annoys or disturbs a reasonable person or normal sensibilities, or which is contrary to the public welfare is prohibited as hereinafter provided.
- (b) *Noise prohibited.*
- (1) *General prohibitions.* It shall be unlawful for any person or persons or make, continue or cause to be made a noise disturbance within the limits of the city after having been directed or ordered by a police officer **or code enforcement officer** to desist in creating such disturbance, except as provided in this section.
- (2) *Specific prohibitions.* The following acts, among others, are hereby declared to be unreasonably loud noises in violation of this section:
- a. *Horns and signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle, boat or other vehicle in the city, except as a danger warning, for any unnecessary or unreasonable length of time.
- b. *Radios, television sets, phonographs, musical instruments, speakers and similar devices.*
1. Operating or permitting the use or operation of any such device for the production or reproduction of sound **or amplifying the human voice** in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants.
2. It shall be prima facie evidence of the violation of this section to operate any such device in a manner whereby the noise is plainly audible across real property boundaries and/or through partitions common to parties within a building, or plainly audible at a distance of 50 feet from such device or the building, structure or vehicle in which it is located.
- c. *Motor vehicles.* Operating any vehicle or motorcycle which is out of repair or does not have a muffler operating within the manufacturer's specifications in such a manner as to cause a noise disturbance.
- d. *Construction equipment.* Operating or causing to be operated any equipment used in commercial construction, repair, alteration or demolition work on buildings, structures, streets, alleys, lanes or appurtenances thereto between the hours of 8:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance, except as permitted or sanctioned by the mayor and commissioners.

- e. *Power equipment.* Operating or causing to be operated any power saw, sander, drill, grinder, garden equipment or tools of a similar nature outdoors between the hours of 8:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance.
- f. *Unamplified human voice.* Using the unamplified human voice by yelling, shouting or by any other means in such a manner as to cause a noise disturbance.
- g. *Security alarms.* Activation of an audible security alarm for a period in excess of 15 minutes.
- h. *Marine vessels.* The operation of any boat with a motor, or other marine vessel, unless equipped with an adequately muffled exhaust system, or the use of any siren or other noise-producing or noise-amplifying instrument or mechanical device on a boat in such a manner that the peace and good order of the neighborhood is disturbed; provided, however, that nothing in this section shall be construed to prohibit the use of whistles, bells or horns as signals as required by the United States Motor Boat Act or other state or federal laws for the safe navigation of motor boats or vessels.

(c) *Exemptions.* The following shall be exempt from the provisions of this section.

- (1) The sounding of safety signals and warning devices as a danger warning in such a manner as would otherwise cause a noise disturbance.
- (2) The operation by the United States government, the State of Maryland, Dorchester County, Maryland, the mayor and commissioners of the city, a volunteer fire company, a volunteer ambulance corps or other local government agency or a public service company as defined by Ann. Code of Md. art. 78 of a vehicle or equipment in response to an emergency in such a manner as would otherwise cause a noise disturbance.
- (3) Producing or emitting noises generated from the provision of municipal services by the mayor and commissioners of the city or its agents in such a manner as would otherwise cause a noise disturbance.
- (4) Producing or emitting noise generated by parades, public gatherings and any other activity which is permitted or sanctioned by the mayor and commissioners of the city in such a manner as would otherwise cause a noise disturbance.
- (5) The sounding of bells, chimes or carillons while being used for religious purposes or in conjunction with religious services or for natural or state celebrations or public holidays in such a manner as would otherwise cause a noise disturbance.
- (6) Operation between the hours of 7:00 a.m. and 8:00 p.m. of lawn maintenance equipment when it is functioning within manufacturer's specifications and with all mufflers and noise-reducing equipment in use and in proper operating condition, in such a manner as would otherwise cause a noise disturbance.

- (7) The production or generation of nonamplified crowd noises resulting from activities such as those conducted by day care centers, schools, governmental or community groups, in such a manner as would otherwise cause a noise disturbance.
- (8) The production or generation of electronically amplified announcements at athletic events in such a manner as would otherwise cause a noise disturbance.
- (9) The production of amplified sound from musical instruments and similar devices at a restaurant, bar, brewery or similar establishment between the hours of 8:00 a.m. to 10:00 p.m.**
- (d) *Responsibility of owner of premises.* It shall be unlawful for any person to knowingly permit the making, creation or maintenance of unreasonably loud noises upon any premises owned or possessed by, or under the control of, such person ~~him or under his control~~. **Any such person who has received two notices of a violation of this section shall be deemed to have knowingly permitted any subsequent violations on such premises.**
- (e) *Variances.* The commissioners shall have the authority to grant variances from the literal enforcement of this ~~article~~ **section**. **In considering whether to grant such a variance, the commissioners may impose limitations on the time, place, duration and noise level of the activity for which a variance is sought as they deem necessary to protect the public health, safety, and welfare.**
- (1) *Written application.* Any person seeking a variance from this article shall file a written application with the ~~city clerk~~ **City Manager and pay a filing fee as established and amended from time to time by resolution of the commissioners.** **The application must be signed by the property owner, if other than the applicant.**
- ~~(2) *Appeals.* Any party aggrieved by a decision of the commissioners may appeal to the Circuit Court for Dorchester County in the manner set forth in the applicable sections of the Annotated Code of Maryland, as amended.~~
- (f) *Enforcement/violations and penalties.* ~~Violations of this section shall constitute a municipal infraction.~~ Any person, persons or group of persons who shall violate this ~~article~~ **section, including the terms of any variance granted hereunder,** shall, upon conviction thereof, be deemed guilty of a misdemeanor **municipal infraction, the fine for which** and shall be fined \$100.00 for any single, initial violation, or \$200.00 for each repeat or continuing violation and/or shall be sentenced to no more than five days of incarceration. Each day that such a violation continues or reoccurs shall be deemed a separate offense **and subject to a separate citation and fine.** The commission of such violation by a corporation, firm or partnership shall be construed, insofar as is legally permissible, as the commission of such ~~offenses~~ **violation** by any and all officers and/or partners of such corporation, firm or partnership.

(g) *Enforcement officials.* Pursuant to section 1-9(b) of the Code, the commissioners hereby designate the chief of police, and the city police and the city's code enforcement officials as the ~~code enforcement officials~~ individuals authorized by the commissioners to issue citations for infractions hereof.

SECTION 2. The recitals to this Ordinance are incorporated herein and deemed a substantive part of this Ordinance.

SECTION 3. In this Ordinance, unless a section of the City Code is expressly repealed in its entirety and reenacted, new or added language is underlined and in boldface type, and deleted text is crossed out with a single strikethrough. With respect to the substantive provisions of this Ordinance set forth in Section 1, language added after the date of introduction is in bold, italicized font and language deleted after the date of introduction is crossed out with a double strikethrough.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Commissioners of Cambridge that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

SECTION 5. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. They title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

AND BE IT FURTHER enacted and ordained that this Ordinance shall become effective immediately upon passage.

ATTEST: THE COMMISSIONERS OF CAMBRIDGE

Patrick C. Comiskey, City Manager

By: _____
Andrew Bradshaw, Mayor

Introduced the __ day of _____, 2021
Passed the __ day of _____, 2021
Effective the __ day of _____, 2021