

ORDINANCE NO: 19-0-09
SPONSOR: MAYOR ADAMSON
INTRODUCED: JUNE 5, 2019

AN ORDINANCE AMENDING ORDINANCE 05-65 BY PROHIBITING EXCESSIVE VEHICLE ENGINE IDLING AND DECLARING THAT THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON PASSAGE.

WHEREAS, the City of New Franklin incorporated and adopted the Noise Ordinance first adopted by the Village of New Franklin in Ordinance 05-65, and subsequently amended that Ordinance by Ordinance 14-0-01; and

WHEREAS, New Franklin has received complaints regarding noise from excessive non-emergency engine idling; and

WHEREAS, it is in the best interest of the public health, safety and welfare of New Franklin residents to regulate and restrict the noise emanating from excessive non-emergency engine idling; and

WHEREAS, New Franklin Council wishes to incorporate a provision prohibiting excessive non-emergency engine idling into the previously adopted Noise Ordinance by insertion of that prohibition as new Section Nine, renumbering previous Section Nine as amended Section Ten, and otherwise incorporating all of the provisions of prior Ordinance 05-65 as previously amended by Ordinance 14-0-01.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEW FRANKLIN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE:

Noisy Advertising. No person shall, by ringing a bell or gong, or by using phonograph or other instrument for producing or reproducing sounds, or by using loud or boisterous language or by any unusual or unreasonable noise, advertise goods, ware or other merchandise for sale, either at auction or in any other manner, or by any such means advertise any show, theater, exhibition, or entertainment to the annoyance and discomfort of persons of ordinary sensibilities.

SECTION TWO:

Noisy Machinery. No person shall maintain, run, or operate any steam, gas, gasoline, or other engine, boiler, press, machine, or other apparatus so constructed or operated as to make excessive

noise, to the annoyance and discomfort of persons of ordinary sensibilities.

SECTION THREE:

Noise-producing Instruments. The use of any device, apparatus, radio ticker or other noise-making and noise-emitting device for general advertising purposes, or for the purpose of soliciting trade or attracting attention to any wares, goods, merchandise, instrument or device offered for sale is prohibited.

SECTION FOUR:

Noise-producing Vehicles. No person shall operate on private property or permit to be operated on private property a snowmobile, all-purpose vehicle, off-highway motorcycle or other similar vehicles which creates such a noise, smoke, or dust, as to cause inconvenience, annoyance, or discomfort to any person of ordinary sensibilities.

SECTION FIVE:

Sound Amplifying Devices. No person shall generate or permit to be generated an unreasonable noise or sound which is likely to cause inconvenience or annoyance to a person of ordinary sensibilities by means of a radio, phonograph, television, tape player, loud speaker or any other sound amplifying device, or by any horn, drum, piano or any other musical or percussion instrument. This section is not intended to apply to any person, association, firm or corporation who operates, pursuant to a permit or license issued by a governmental agency, a restaurant, hotel, summer garden or other place of refreshment or entertainment in the municipality.

SECTION SIX:

Noisy Animals. No person shall keep, harbor or maintain any animal out of doors within the municipality which, by loud, frequent or habitual barking, yelping or howling, disturbs the peaceful living of any person or makes such a noise as is likely to cause inconvenience or annoyance to persons of ordinary sensibilities. This section is not intended to apply to any person, association, firm or corporation who keeps, harbors, or maintains livestock animals as part of a farm or other agricultural business.

SECTION SEVEN:

It is prima facie unlawful for a person to generate or permit to be generated sound in violation of Sections One through Six of this Ordinance between the hours of 10:00 p.m. and 6:00 a.m. the following day in a predominantly residential area where the sound

is audible ten (10) feet from the property line on which the source of the sound is located.

SECTION EIGHT:

No person, being the owner or person in possession of a premises, or being the person in control of the premises by reason of employment, agency or otherwise, whether such ownership, possession, or control is exclusive or joint, shall permit a violation of this Ordinance.

SECTION NINE:

Excessive Idling. Except as provided in division (4) of this section:

(1) The owner or operator of a vehicle shall not cause or allow a vehicle to idle for more than 5 minutes;

(2) The owner or operator of a vehicle that is loading or unloading at a loading dock or loading/unloading area, and the owner or operator of the loading dock or loading/unloading area, shall not cause or allow a vehicle to idle in that loading/unloading area for more than 10 minutes.

(3) As used in this section, "vehicle" has the same meaning as in Ohio Revised Code Section 4511.01.

(4) The provisions of section (1) and (2) above do not apply when:

(a) The outdoor temperature is below 32 degrees Fahrenheit or above 85 degrees Fahrenheit, provided idling under these circumstances shall be limited to 20 minutes.

(b) To prevent a safety or health emergency, a vehicle is idling when operating defrosters, heaters, or air conditioners, or when installing equipment.

(c) A vehicle idles while forced to remain motionless because of on-highway traffic, an official traffic control device or signal, or the direction of a law enforcement official.

(d) A police, fire, ambulance, public safety, military, other emergency law enforcement vehicle, or any vehicle being used in an emergency capacity, is idling while in an emergency or training mode, or to maintain communications or other essential on board equipment, and not solely for the convenience of the vehicle operator.

(e) The primary propulsion engine is idling for maintenance, servicing, repair, or diagnostic purposes if idling is required for such activity, or is idling as part of a state or federal inspection to verify that all

equipment is in good working order, provided idling is required as part of the inspection.

(f) Idling of the primary propulsion engine is necessary to power work-related mechanical or electrical operations other than propulsion (e.g., mixing or processing cargo or straight truck refrigeration). This exemption does not apply when idling for cabin comfort or to operate non-essential on-board equipment.

(g) An armored vehicle is idling when a person remains inside the vehicle to guard the contents, or while the vehicle is being loaded or unloaded.

(h) A vehicle is idling due to mechanical difficulties over which the driver has no control.

(i) A vehicle is idling while actively engaged in work upon the surface of a street or highway, including construction, cleaning, and snow removal activities, and the operator is in the vehicle.

SECTION TEN:

Penalty. Whoever violates any of the provisions of this Ordinance is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.

SECTION ELEVEN:

The City of New Franklin finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberation of this Council and any other Committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION TWELVE:

Council declares this to be an emergency immediately necessary for the preservation of the public peace, health, safety and welfare of the citizens of New Franklin. Provided that this legislation receives the affirmative vote of three-fourths of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

ADOPTED:

July 3, 2019

Kelly Kepler
Kelly Kepler, Clerk

David Stock
David Stock, President
19-0-09

APPROVED: July 3, 2019

Paul F. Adamson
Paul F. Adamson, Mayor

ENACTED EFFECTIVE:

July 3, 2019

ON ROLL CALL:

Cotts
Fetterman
Norris

Yes
Yes
Yes

Jones Absent
Stock Yes

Harget
Hawk

Yes
Yes

Publications on

July 12, 2019 and July 19, 2019

Kelly Kepler
Kelly Kepler, Clerk