



Legislation Text

File #: 0574-2013, **Version:** 1

BACKGROUND:

Columbus has become host city to over fifty race events per year, with both local organizers and national race promoters holding walks, runs, and bicycle races. In order to meet the demands this growing industry has on our local community and ensure that adequate notice is given to residents and businesses that may be affected by a race event, it is necessary to define a race event, differentiate it from a parade, and give the Director of Recreation and Parks the authority to promulgate rules regarding the issuance of race event permits.

This ordinance exempts a race event from the definition of a parade, gives authority to the Department of Recreation and Parks to exempt so permitted race events from community noise provisions, and creates Chapter 924 Race Events. Chapter 924 defines a race event as any organized activity where participants register for a competitive, timed, or fundraising event and which participants follow a predetermined course upon any street, public thoroughfare, and/or shared use path which is approved for use by the City. Race events include any combination of walking, running, skating, cycling, or operation of a non-motorized vehicle.

AJG:kcp

FISCAL IMPACT: No funding is required for this legislation.

To amend Chapters 2111, Parades Processions and Other Moving Assemblages and 2329 Health, Safety and Sanitation; Felon Registration of the Columbus City Codes, 1959, and enact a new a Chapter 924 Race Event Permits.

WHEREAS, to address the needs arising from the growing number of race events in the City of Columbus with a goal of being customer friendly to race event coordinators, participants, and the local businesses and citizens impacted by race events; and

WHEREAS, the community impact of race events, as well as the staffing needs to support and process a race event is different than parades, processions, and other moving assemblages; and

WHEREAS, The Department of Recreation and Parks is well positioned to issue Race Event Permits and The Director of Recreation and Parks to promulgate rules regarding Race Event Permits due to their role promoting an active lifestyle, purview over shared use paths, and regulation of other outdoor gatherings and festivals; and

WHEREAS, this ordinance includes changes to Chapter 2111 Parades, Processions and Other Moving Assemblages, to exempt race events from the provisions of said chapter and changes to 2329 Health, Safety and Sanitation; Felon Registration to include permits issued by Department of Recreation and Parks for special provisions of the community noise ordinance; and

WHEREAS, this ordinance creates Chapter 924 Race Event Permits to allow The Department of Recreation and Parks, based on coordination with Departments of Public Service and Public Safety, to process and issue race event permits;

now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. That the existing section 2111.01 of Columbus City Code, 1959, is hereby amended to read as follows:

2111.01 - Definition.

For purposes of this chapter, "parade" shall mean any procession or moving assemblage upon any street or public thoroughfare other than routine vehicular traffic, a race event as defined in Section 924.01(A), or a funeral procession.

Section 2. That the existing section 2329.11 of Columbus City Code, 1959, is hereby amended to read as follows:

Definitions. All definitions/terminology used in this chapter, not defined below, shall be in conformance with applicable standards of the American National Standards Institute (ANSI) or its successor body. For the purpose of this chapter certain words and phrases used herein are defined as follows:

- (1) "Auditory device" means any device that can be used to create a sound that can be heard.
- (2) "Average sound level" means a sound level typical of the sound levels observed at a certain place during a given period of time averaged by the general rule of combination for sound levels, said general rule being set forth in ANSI specifications for sound level meters. Average sound level is also called equivalent continuous sound level.
- (3) "Decibel" means a unit for measuring the intensity of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals. Decibel is denoted as "dB."
- (4) "Device" means any system or machine devised or constructed to perform one or more tasks.
- (5) "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.
- (6) "Health commissioner" means the health commissioner of the city of Columbus or his authorized representative.
- (7) "Musical Instrument" means any device designed to produce music.
- (8) "Land use category" means those land uses defined and established by the Zoning Code and all subsequent changes and additions.
- (9) "Loud or raucous noise" means any noise or sound that emanates in such manners and/or volume and is of such intensity, character and duration to be offensive or disturbing to a person of ordinary sensibilities.
- (10) "Machine" means any system or device together with its power source and auxiliary equipment used to accomplish a specific objective.
- (11) "Person" means any public corporation, private corporation, individual, firm, partnership, association or other entity.

- (12) "Property line" means the line along the ground surface, and its vertical extension, which separates the real property owned, rented, leased or occupied by one or more persons from that owned, rented, leased or occupied by another person and the imaginary line which represents the legal limits of property of any person who owns, rents, leases, or otherwise occupies an apartment, condominium, hotel or motel room or any other type of occupancy.
- (13) "Property zoned residential" means any area zoned or utilized for residential purposes.
- (14) "Safety director" means the director of the department of public safety of the city of Columbus or authorized representative.
- (15) "Sound amplification system" means any device used for the amplification of the human voice, music, or other sound and includes, but is not limited to, any radio, tape player, compact disc player or loud speaker.
- (16) "Stationary sound source" means a machine or device capable of creating a noise level at the property upon which it is regularly located, including, but not limited to standing motor vehicles, industrial and commercial process machinery and equipment, pumps, fans, air-conditioning apparatus or refrigeration machines.
- (17) "Warning device" means any device, which signals an unsafe or potentially dangerous situation.

(B)

Sound levels for land use districts.

- (1) The maximum allowable hourly average sound level, emitted from any stationary sound source, auditory device, or sound amplification system shall not exceed the limits set forth in Table I for the respective categories of receiving land use. The actual sound level shall be determined during any measurement period, which shall not be less than sixty (60) consecutive minutes, and shall be measured at the property boundary affected by the sound.

Table I

Receiving Land Use Category	Time		1 hr. Average Sound Level (dB A)
Institutional	10 p.m.	7 a.m.	60
	7 a.m.	10 p.m.	65
Residential (all categories)	10 p.m.	7 a.m.	60
	7 a.m.	10 p.m.	65
Commercial	10 p.m.	7 a.m.	70

	7 a.m.	10 p.m.	75
Manufacturing	Anytime		80

(2) New Structures and Development. Prior to the approval of a zoning change, the noise impact of the zoning change may be reviewed by the director of the department or his designee, identifying existing and projected noise sources and their associated sound level. Such review shall include, but is not limited to, air transportation and land transportation noise sources as well as stationary noise sources. Adequate control measures may be recommended to mitigate the impact of those identified noise sources to effect compliance with this code.

(C) Prohibited sounds:

(1) No person shall make or allow to be made any unreasonably loud and/or raucous noise in such a manner or at such a volume as to disturb the quiet, comfort, or repose of a person of ordinary sensibilities. Strict liability is intended to be imposed for this section.

(2) In addition to the prohibition set out in (C)(1), the following specific acts are declared to be in violation of this ordinance:

(a) No person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source from real property that is zoned residential in a manner as to be heard at a distance of fifty (50) feet beyond the property line of the property from which the sound emanates. Strict liability is intended to be imposed for this section.

(b) Where there are two (2) or more residential units contained within one (1) structure within a property zoned residential, no person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source in a manner as to be heard within said structure at a distance of twenty-five (25) feet beyond the property line of the residential unit from which the sound emanates. Strict liability is intended to be imposed for this section.

(c) Where there are adjoining properties that are zoned residential, each of which has a residential unit, and where the residential units are located within fifty (50) feet of one another, no person shall operate or permit the operation of any sound amplification system, auditory device, or stationary sound source in a manner as to be heard at a distance of twenty-five (25) feet onto the adjoining residential property. Strict liability is intended to be imposed for this section.

(D) Special provisions (exemptions).

(1) The provisions of Section 2329.11 shall not apply to the following:

(a) The emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.

(b) Warning devices necessary for the protection of public safety.

(c)

Outdoor gatherings, public dances, shows, and sporting and entertainment events, provided these events are conducted pursuant to a permit or license issued by the ~~section~~ Section of the Department of Public Safety or The Special Events Section of The Department of Recreation and Parks.

(d)

Public works projects as authorized by the State and/or other political subdivisions

~~(d)~~ (e)

The emission of sound from property zoned residential that is periodically generated by activities required to maintain the property in compliance with housing, building, zoning, fire, safety, health or sanitation codes and which occurs between the hours of 7 a.m. to 10 p.m.

(E)

Inspection.

(1)

The appropriate authority may inspect upon consent, at any reasonable time and in a reasonable manner, any device or mechanism, which creates any disturbing noise, including but not limited to the premises where such device or mechanism is used.

(2)

If entry to the premises is denied or refused, the appropriate authority shall obtain an inspection warrant from a court of competent jurisdiction.

(F)

Variance Procedure

(1)

Any person who violates any provision of Section ~~2329.11~~(B)(1) and (2) not covered by permit or license, may file an application with the Columbus board of health for a variance.

The board of health may grant a variance in a specific case and from a specific provision of any regulation, order or notice subject to appropriate conditions and provided the board makes specific findings of fact based on evidence relating to the following:

(a)

That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any regulation, order or notice; and

(b)

That the effect of the application of the provisions would be arbitrary in the specific case; and

(c)

That an extension would not constitute an appropriate remedy for these practical difficulties or unnecessary hardships and this arbitrary effect; and

(d)

That such variance is in harmony with the general purpose and intent of the board in securing the public health, safety and general welfare.

The application shall be accompanied by a fee in the amount of one hundred dollars (\$100). A separate application shall be filed for each noise source; however, several mobile sources under common ownership, or several fixed sources on a single property may be combined into one (1) application. Upon receipt of said application and fee, the board will render a decision within thirty (30) calendar days.

(2)

Any person who violates any provision of Section ~~2329.11~~ other than those specified in Section ~~2329.11~~(F)(1) which is not covered by permit or license may file an application with the Director of Public Safety for a variance. The applicant shall set forth all actions taken to comply with said provision, the reasons why compliance cannot be achieved, the proposed method for achieving

compliance, and the proposed time schedule for its accomplishment. The application shall be accompanied by a fee in the amount of one hundred dollars (\$100). A separate application shall be filed for each noise source; however, several mobile sources under common ownership, or several fixed sources on a single property may be combined into one (1) application. Upon receipt of said application and fee, the safety director will render a decision within thirty (30) calendar days.

(G)

Issuance of orders.

(1)

The health commissioner, safety director or their designee may issue orders requiring the abatement of all violations of this chapter and the correction of any condition, which may result in a violation of this chapter. Failure to act upon such order within the time limit set forth therein or within the time extension granted by the commissioner, director or their designee, may result in revocation of any existing permit issued under this chapter.

(H)

Severability. If any provision of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.

(I)

Penalty.

(1)

Whoever violates division (C)(1) of this section is guilty of unreasonably loud and/or raucous noise. Except as otherwise provided in this division, unreasonably loud and/or raucous noise is a minor misdemeanor. If the offender persists in making or allowing to be made unreasonably loud and/or raucous noise after reasonable warning or request to desist within a twelve (12) hour period, unreasonably loud and/or raucous noise is a misdemeanor of the fourth degree.

(2)

Whoever violates division (C)(2) of this section is guilty of prohibited sound. Except as otherwise provided in this division, prohibited sound is a minor misdemeanor. If the offender persists in operating or permitting the operation of a sound amplification system, auditory device, or stationary sound source in violation of the prohibitions contained in division (C)(2) after reasonable warning or request to desist within a twelve (12) hour period, prohibited sound is a misdemeanor of the fourth degree.

(3)

If the offender has previously been convicted of a violation of C.C.C. Section 2329.11, a violation of this section is a misdemeanor of the fourth degree.

Section 3. That a new section 924 of Columbus City Code, 1959, is hereby created and reads as follows:

Chapter 924 Race Event Permits

924.01 Definitions

924.02 Authority

924.03 Race Event Street Closures

924.04 Division of fire and Division of Police personnel.

924.05 - Clean-up costs and city services.

924.06 - Indemnification and hold harmless agreement.

924.07 - Notice of rejection of application for a permit.

924.08 - Penalty

924.01 - Definitions.

(A)

For the purposes of this chapter "race event" shall mean any organized activity where participants register for a

competitive, timed, or fundraising event and which participants follow a predetermined course upon any street, public thoroughfare, and/or shared use path which is approved for use by the City. For the purposes of this chapter, "race event" shall include any combination of walking, running, skating, cycling, or operation of a non-motorized vehicle.

924.02 - Authority

(A)

The director of recreation and parks shall promulgate reasonable rules and regulations to carry out the provisions of this chapter.

(B)

Every law enforcement officer may enforce the provisions of this chapter and rules adopted by the Director of Recreation and Parks pertaining to this chapter.

924.03 - Race Event Street Closures.

(A)

No person shall use any public street to conduct a race event, as defined in Section 924.01 without first obtaining a race event permit.

(B)

No person shall use any public street to conduct a race event, as defined in Section 921.04, without first closing the public street by the use of barricades meeting the standards set forth by the director of public service and/or their designee.

(C)

No permit shall be issued for a race event requiring the closing of a public thoroughfare as set forth in the City of Columbus thoroughfare plan without first obtaining the documented approval of the Columbus Division of Police, the Columbus Division of Fire and the Columbus Department of Public Service.

(D)

No race event activity shall be conducted between the hours of 12:01 a.m. and 6:00 a.m. without the written permission from the director of recreation and parks.

(E)

Application for a race event permit shall be made through the department of recreation and parks upon the forms provided. The application shall be filed not less than thirty (30) days before the date of the race event, or with the permission of the director and payment of penalty fees.

924.04 - Division of Fire and Division of Police personnel.

In reviewing the application for a race event permit, the Director of Public Safety shall determine if personnel from the division of Fire and division of Police are necessary to the safe conduct and operation of the race event. In making that determination, the Director of Public Safety shall consider the time, date, route and length of the race event; the likelihood of fires or explosions during the race event or the need for emergency and medical services; the anticipated attendance at the race event by both participants and observers; and the ability of the division of Fire and division of Police to respond to a call for services from a location outside the race event route.

If the Director of Public Safety determines that division of Fire and division of Police personnel are necessary to the safe conduct and operation of the race event, then the applicant for the race event permit shall be informed of the necessary number and cost of division of Fire and division of Police personnel.

924.05 - Clean-up costs and city services.

The applicant shall provide for the collection and removal of all trash, garbage, and litter caused by or arising out of the race event. The city may impose a service fee for any clean-up costs incurred by the city as a result of the race event.

924.06 - Indemnification and hold harmless agreement.

The applicant shall agree in writing to hold the city of Columbus, its employees, agents, servants, boards and commissions harmless from liability arising from the issuance of the race event permit and from the conduct of the participants of the race event.

924.07 - Notice of rejection of application for a permit.

If the Director of Recreation and Parks disapproves the application, he shall make a reasonable effort to notify the applicant, either by personal delivery or certified mail, a copy of the notice of rejection and the reason therefor shall be available in the office of the Special Events Section, within twenty-four (24) hours of his actions.

924.08 - Penalty

Whosoever violates Section 924.01 is guilty of conducting a race event without a permit, a misdemeanor of the fourth degree.

SECTION 4. That prior existing sections 2111.01 and 22329.11 of the ColumbusCity Codes, 1959, are hereby repealed.

SECTION 5. That this ordinance shall take effect and be in force from and after the earliest period provided by law.