AN ORDINANCE

BY: MR. STEPHENS NO. 4808

TO REPEAL EXISTING CHAPTER 1331, *UNREASONABLE NOISES IN CONSTRUCTION,* OF THE OAKWOOD BUILDING CODE, AND TO ENACT NEW SECTION 509.13, *UNREASONABLE NOISES IN CONSTRUCTION,* OF THE OAKWOOD GENERAL OFFENSES CODE.

WHEREAS, the elected officials of the city of Oakwood, Ohio, are responsible for the health, safety and general welfare of the city; and

WHEREAS, while construction is necessary to maintain Oakwood's reputation as a first-class residential community, Council has determined that noise related to construction and the mobilization of equipment can disturb the peace and be injurious to the quiet enjoyment of our homes, our parks, our natural areas, and our community; and

WHEREAS, the City Manager has recommended updates to the existing construction noise ordinance that will balance the need for residential, commercial, roadway and utility construction with the need to provide for the general peace and welfare of the city, and has recommended that the same should be moved from the city's Building Code to the General Offenses Code; and

WHEREAS, Council has determined that the recommended updates will benefit the public health, safety and welfare of the citizens of Oakwood;

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

SECTION I.
Council, adopting the determinations recited above, hereby repeals existing Chapter 1331, *Unreasonable Noises in Construction*, of the Oakwood Building Code.

SECTION II.
New Section 509.13, *Unreasonable Noises in Construction,* of the Oakwood General Offenses Code is and shall be hereby enacted to read as follows:

509.13 UNREASONABLE NOISES IN CONSTRUCTION.

A. No person shall engage in any labor in the construction, maintenance, improvement or repair of any building, structure, right-of-way, or tract of land in the City during the following times:

   1. On a weekday or Saturday: after 9:00 p.m. or before 7:00 a.m., at the prevailing time;
   2. On a Sunday or holiday: after 9:00 p.m. or before 9:00 a.m., at the prevailing time;

   if in the performance of such labor any noise therefrom is audible outside the building, structure, or the borders of such right-of-way or tract of land, except emergency activities as described in Section 509.13(C).

   For purposes of this section, to "engage in any labor" shall include, without limitation, the actual performance of work; the use, mobilization, positioning or idling of trucks and/or equipment; and any other construction-related activity performed in furtherance or anticipation of the construction, maintenance, improvement or repair of a building, structure, right-of-way, or tract of land in the City.

B. No contractor, builder, foreman or other person directing the performance of labor upon any building, structure, right-of-way or tract of land in the City shall order, direct or permit any person under his control or direction to engage in any labor in the construction, maintenance, improvement or repair thereof during hours prohibited by Section 509.13(A) if, in the performance of such labor any noise therefrom is audible outside the building, structure, or the borders of such right-of-way or tract of land, emergency activities excepted.

C. For purposes of this section, "emergency activities" shall mean only the following:

1. The restoration of utility services that have been damaged or terminated due to material or equipment failure, accident, storm, falling tree, or similar catastrophic event, in circumstances where a utility provider holding a valid Certificate of Registration pursuant to Chapter 951 has determined that immediate action is warranted;
2. Activities by city personnel, or their designees, responding to an emergency involving city utilities, roadways, structures or other infrastructure; and
3. Other activities reasonably and immediately necessary to prevent loss of life or serious injury to persons or property.

The term "emergency activities" shall not be construed so as to allow any person to engage in labor of an ordinary or routine nature outside of permitted hours, or labor which could be deferred until permitted hours without undue risk to persons or property.

D. Whoever violates any provision of Section 509.13 shall be guilty of a minor misdemeanor and fined not less than $25, provided however that each subsequent violation within six (6) months shall constitute a misdemeanor of the fourth degree and shall be subject to a fine of not less than $150. Each calendar day during which such violation occurs shall be deemed a separate offense.

SECTION III.
The repeal of Chapter 1331 and enactment of new Section 509.13 shall be incorporated into the Codified Ordinances of the City of Oakwood, Ohio, as of the effective date of this ordinance.

SECTION IV.
It is found and determined that all formal actions of Council concerning and relating to the adoption of this Ordinance were conducted in open meetings of this Council, and that all deliberations of Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including but not limited to Section 121.22 of the Ohio Revised Code.

SECTION V.
This ordinance shall be and remain in force from and after the earliest date permitted by law.

PASSED BY COUNCIL OF THE CITY OF OAKWOOD, this 21st day of September, 2015.

Mayor William D. Duncan

ATTEST:

Clerk of Council Lori Stacel

TO THE CLERK:

Please publish by incorporating the foregoing into the Codified Ordinances of the city of Oakwood, Ohio.

City Attorney Robert F. Jacques

CERTIFICATION OF PUBLICATION:

I, Lori Stacel, Clerk of Council of the City of Oakwood, State of Ohio, do hereby certify that the foregoing ordinance was duly published by incorporating the same into the Codified Ordinances of the city of Oakwood, Ohio, and that said publication occurred on the date set forth below, subject to formal annual recodification.

Publication date:_____

_____
Clerk of Council Lori Stacel