

NOTICE

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CHAPTER 648
Peace Disturbances

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CROSS REFERENCES

- See section histories for similar State law.
- Power to regulate peace disturbances - see Ohio R.C. 715.49, 715.55 et seq.
- Cordoning off riot areas; prohibiting sales of firearms and explosives - see Ohio R.C. 3761.16
- Suspension of beer and liquor sales by Ohio Director of Liquor Control during emergency - see Ohio R.C. 4301.251
- Riot and civil disorder assistance by State Highway Patrol - see Ohio R.C. 5503.02(B)
- Sirens; whistles and bells on motor vehicles - see TRAF. 438.19
- Noisy mufflers - see TRAF. 438.20
- Definitions generally - see GEN. OFF. 606.01
- "Force" defined - see GEN. OFF. 606.01(a)
- "Deadly force" defined - see GEN. OFF. 606.01(b)
- Resisting arrest - see GEN. OFF. 606.16
- Interfering with civil rights - see GEN. OFF. 606.20
- Liquor sale to intoxicated person - see GEN. OFF. 612.03
- Assault - see GEN. OFF. 636.02, 636.03
- Menacing - see GEN. OFF. 636.04, 636.05
- Arson - see GEN. OFF. 642.07
- Criminal trespass - see GEN. OFF. 642.10
- Desecration - see GEN. OFF. 642.21
- Fireworks - see GEN. OFF. 672.12, 672.13
- Emergency powers of Mayor - see GEN. OFF. 606.27
- Disorderly persons on premises where alcoholic beverages are sold - see GEN. OFF. 612.11

- 648.01 RIOT.
- (a) No person shall participate with four or more others in a course of disorderly conduct in violation of Section 648.04:
- (1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;

- (2) With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder, impede or obstruct a function of government;
- (3) With purpose to hinder, impede or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at such institution.

(b) No person shall participate with four or more others with purpose to do an act with unlawful force or violence, even though such act might otherwise be lawful.

(c) Whoever violates this section is guilty of riot, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.
(ORC 2917.03)

648.02 FAILURE TO DISPERSE.

(a) Where five or more persons are participating in a course of disorderly conduct in violation of Section 648.04, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance or alarm, a law enforcement officer or other public official may order the participants and such other persons to disperse. No person shall knowingly fail to obey such order.

(b) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (Ord. 2844-79. Passed 5-8-79.)

648.03 JUSTIFIABLE USE OF FORCE TO SUPPRESS RIOT.

A law enforcement officer or fireman engaged in suppressing riot or in protecting persons or property during riot:

- (a) Is justified in using force, other than deadly force, when and to the extent he has probable cause to believe such force is necessary to disperse or apprehend rioters;
- (b) Is justified in using force, including deadly force, when and to the extent he has probable cause to believe such force is necessary to disperse or apprehend rioters whose conduct is creating a substantial risk of serious physical harm to persons. (ORC 2917.05)

648.04 DISORDERLY CONDUCT.

(a) No person shall recklessly cause inconvenience, annoyance or alarm to another, by doing any of the following:

- (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
- (2) Making unreasonable noise or offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person;

- (3) Insulting, taunting or challenging another under circumstances in which such conduct is likely to provoke a violent response;
 - (4) Hindering or preventing the movement of persons on a public street, road, highway or right of way, or to, from, within or upon public or private property, so as to interfere with the rights of others and by any act which serves no lawful and reasonable purpose of the offender;
 - (5) Creating a condition which is physically offensive to persons or which presents a risk of physical harm to persons or property by any act which serves no lawful and reasonable purpose of the offender.
- (b) No person, while voluntarily intoxicated shall do either of the following:
- (1) In a public place or in the presence of two or more persons engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if he were not intoxicated, should know is likely to have such effect on others;
 - (2) Engage in conduct or create a condition which presents a risk of physical harm to himself or another, or to the property of another.
- (c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (b) hereof.
- (d) When to an ordinary observer a person appears to be intoxicated, it is probable cause to believe such person is voluntarily intoxicated for purposes of subsection (b) hereof.
- (e) Whoever violates this section is guilty of disorderly conduct, a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (Ord. 2699-76. Passed 7-13-76.)

648.05 DISTURBING THE PEACE.

- (a) No person shall disturb the good order and quiet of the Municipality by clamors or noises, by intoxication, drunkenness, fighting, quarreling, wrangling, committing assault, assault and battery, using obscene or profane language in the streets and other public places to the annoyance of the citizens, or otherwise violate the public peace by indecent and disorderly conduct, by lewd and lascivious behavior or by making, continuing to make or causing to be made any unreasonable and unnecessary noise of such a character, intensity and duration as to disturb the peace and quiet of the community or to be detrimental to the life or health of any individual. (Ord. 2437-72. Passed 12-12-72.)



(b) The following acts are declared to be unreasonable and unnecessary noises in violation of subsection (a) hereof, but this enumeration shall not be deemed exclusive:

- (1) Horns, Signaling Devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, trolley coach 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 device 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 signaling device except one operated by hand or electricity; the use of any horn, whistle or any other device operated by engine exhaust; and the use of any such signaling device when traffic is held up for any reason.
- (2) Radios, Phonographs, etc. 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 a manner as to disturb the peace, quiet and comfort of the 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 11:00 p. m. and 7:00 a. m. in such a manner as to be plainly audible at a distance of fifty feet from the building, structure or vehicle in which it is located shall be prima-facie evidence of a violation of Section 648.05.
- (3) Loudspeakers, Amplifiers for Advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure except by special permission of the City Manager.
- (4) Yelling, Shouting, etc. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p. m. and 7:00 a. m. of the following day, or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence or of any persons in the vicinity.
- (5) Animals, Birds, etc. The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort or repose of persons in the vicinity.
- (6) Steam Whistles. The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper City authorities.

- (7) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (8) Defect in Vehicle or Load. The use of any automobile, motorcycle or vehicle which is so out of repair, so loaded or used in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (9) Loading, Unloading, Opening Boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- (10) Construction or Repairing of Buildings; Permit. The erection, including excavating, demolition, alteration or repair of any building other than between the hours of sunrise until sundown on weekdays, except in case of urgent necessity in the interest of the public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the Building Inspection Superintendent 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 within the hours of sundown to sunrise, 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 within the hours of sundown to sunrise, upon application being made at the time the permit for the work is awarded or during the progress of the work.
- (11) Schools, Courts, Churches, 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 workings of such an institution or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- (12) Hawkers, Peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- (13) Drums. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.
- (14) Transportation of Metal Rails, Pillars and Columns. The transportation of rails, pillars or columns of iron, steel or other materials over and along streets and other public places upon carts, drays, cars, trucks or in any other manner or on conveyances so loaded as to cause loud noises or so as to disturb the peace and quiet of such streets or other public places.
- (15) Pile Drivers, Hammers, etc. The operation between the hours of 10:00 p. m. and 7:00 a. m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
- (16) Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
(Ord. 156. Passed 7-13-54.)

- (17) Profanity. The utterance of any obscene, insulting, abusive, threatening or other language that is reasonably likely to provoke immediate violent response or a breach of the peace. (Ord. 2437-72. Passed 12-12-72.)

(c) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (Ord. 2699-76. Passed 7-13-76.)

648.06 DISTURBING A LAWFUL MEETING.

(a) No person, with purpose to prevent or disrupt a lawful meeting, procession or gathering, shall do either of the following:

- (1) Do any act which obstructs or interferes with the due conduct of such meeting, procession or gathering;
- (2) Make any utterance, gesture or display which outrages the sensibilities of the group.

(b) No person shall display any placard, sign, leaflet, exhibit, nor audio or visual presentation within 150 feet of or inside the Kettering Municipal Building 30 minutes before, during or 30 minutes after a meeting of Council, a Municipal Board or Commission without that body's prior consent.

(c) Whoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (ORC 2917.12)

648.07 MISCONDUCT AT AN EMERGENCY.

(a) No person shall knowingly:

- (1) Hamper the lawful operations of any law enforcement officer, fireman, rescuer, medical person or other authorized person, engaged in his duties at the scene of a fire, accident, disaster, riot or emergency of any kind;
- (2) Fail to obey the lawful order of any law enforcement officer engaged in his duties at the scene of or in connection with a fire, accident, disaster, riot or emergency of any kind.

(b) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of his duties.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in Section 698.02. (Ord. 2844-79. Passed 5-8-79.)

648.08 INDUCING PANIC.

(a) No person shall cause the evacuation of any public place or otherwise cause serious public inconvenience or alarm by doing any of the following:

- (1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that such report or warning is false;
- (2) Threatening to commit any offense of violence;
- (3) Committing any offense with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(b) Subsection (a)(1) hereof does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree, provided violation of this section does not result in physical harm to any person. Punishment shall be as provided in Section 698.02. (ORC 2917.31)

648.09 MAKING FALSE ALARMS.

(a) No person shall do any of the following:

- (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
- (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
- (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.

(b) This section does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (ORC 2917.32)

648.10 LOITERING.

(a) No person shall loiter or prowl in any public or private place at a time, in a manner or under circumstances which warrant alarm for the safety of persons or security of property in the surrounding area.

(b) Without limitation, the following circumstances may be considered in determining whether such alarm is warranted:

- (1) The flight of a person upon the appearance of a police officer;
- (2) Attempted concealment by a person upon the appearance of a police officer;
- (3) The systematic checking by a person of doors, windows or other means of access to buildings, houses or vehicles.

(c) Unless flight by the actor or other circumstances make it impracticable, a police officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true, and if believed by the police officer at the time, would have dispelled the alarm.

- (d) As used in this section:
- (1) "Loitering" includes the following activities: lingering, hanging around, delaying, sauntering and moving slowly about, where such conduct is not due to physical defects or conditions.
 - (2) "Private place" means and includes places privately owned but open to the public generally, such as shopping centers, retail stores, transportation terminals, movie theaters, office buildings, restaurants and all distinctly private places such as homes or private residences and apartment houses.
 - (3) "Public place" means and includes public streets and alleyways, public restrooms, public sidewalks, public parks, public buildings and Municipal airports.
 - (4) "Surrounding area" means that area easily and immediately accessible to the person under observation.

(e) Whoever violates this section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

648.11 PICKETING.

(a) Declaration. It is hereby declared that the protection and preservation of the home is the keystone of democratic government; that the public health and welfare and the good order of the community require that members of the community be able to enjoy in their homes and dwellings a feeling of well-being, tranquility, and privacy, and when absent from their homes and dwellings, carry with them the sense of security inherent in the assurance that they may return to the enjoyment of their homes and dwellings; that the practice of picketing that targets a particular individual at his residence or dwelling causes emotional disturbance and distress to the occupants, and obstructs and interferes with the free use of public sidewalks and public ways of travel; that such practice has as its object the harassing of such occupants; that without resort to such practice full opportunity exists, and under the terms and provisions of this ordinance will continue to exist, for the exercise of freedom of speech and other constitutional rights; and that the provisions of this section are necessary for the public interest to avoid the detrimental results set forth above. This section shall be enforced pursuant to the United States Supreme Court Opinion in Frisby v. Schultz, 487 U.S. 474 (1988), and the United States Court of Appeals for the Sixth Circuit opinion in Vittitow v. City of Upper Arlington, 43 F.3d 1100 (6th Cir. 1995), cert. denied, 1995 WL 231157.

(b) It is unlawful for any person to directly target an individual in the City of Kettering by engaging in picketing that takes place solely in front of the individual's residence or dwelling or in front of the residence, dwelling, or other property that abuts the individual's residence or dwelling on either side.

(c) Whoever violates this section shall be guilty of a misdemeanor of the fourth degree. Punishment shall be as provided in §698.02 of the Codified Ordinances.

Legislative history: Ord. 156; passed 7/13/54. Ord. 2437-72; passed 12/12/72. Ord. 2699-76; passed 7/13/76. Ord. 2844-79; passed 5/8/79. Ord. 3425-90; passed 1/23/90. Ord. 3683-95; passed 6/27/95.