

ORDINANCE NO. 2017-54

INTRODUCED BY: VICE MAYOR PARDEE

AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 844.03 ENTITLED "MAINTENANCE OF CUSTOMER PARKING PLACE AND SURROUNDINGS" AND DECLARING AN EMERGENCY.

WHEREAS, the legislative history of Codified Ordinance Section 844.03 indicates the original rationale for the adoption of Section 844.03 was the elimination of excessive noise;

WHEREAS, under the ordinance as amended, the City will continue to have the right to prevent or prohibit patrons of restaurants from congregating outside of their automobiles or creating nuisances based upon excessive noise;

WHEREAS, existing drive thru establishments have not been deemed to be public nuisances and in fact have not created public nuisances;

WHEREAS, portions of Section 844.03 appear not to have been enforced for decades as that section would have applied or does apply to various activities throughout the City;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY HEIGHTS, OHIO THAT:

Section 1. Codified Ordinance Section 844.03 is hereby amended by amending subsection (c) thereof, and Codified Ordinance 844.03 shall read in its entirety as follows:

(a) Every person operating an outdoor parking place and any lessee or occupier of such premises shall keep and maintain the sidewalk surrounding the parking place free from debris, dirt, water, ice, sleet and snow, and shall keep the sidewalk and driveways in a safe condition for the traveling of pedestrians.

(b) The loading or unloading of passengers or drivers of cars across or upon a public sidewalk is hereby expressly prohibited, and any licensee, or employee of such licensee, who by receiving or delivering motor vehicles other than within the space provided by such parking place aids or assists in blocking any street or sidewalk shall be deemed to have violated the provisions of this chapter.

(c) The operator of every parking place operating under a license as provided herein and any lessee or other occupier of such premises shall at all times take whatever precautions are necessary to prevent the raising of dust and dirt by the movement of cars or persons on or across such parking place. Such licensee, lessee or occupier shall at all times keep, maintain and operate the parking place in good order and condition, and in a good state of repair, and free from nuisance. The creation of, or emission of unnecessary noise; noxious, offensive or toxic odors, fumes or smoke; dust; loose rags or papers; accumulation of debris, rubbish, refuse, garbage or other waste materials; and the parking or storage of customer automobiles within seventy-five feet of a residential district between the hours of 1:30 a.m. and 6:00 a.m. are hereby declared to be nuisances. These enumerations shall, however, not be deemed to be exclusive. Any licensee, lessee or occupier of the parking place who permits such noise, odors, fumes, smoke, dust, papers, rags, debris, refuse, garbage or waste material to be created or emitted, or who permits the parking or storage of customer automobiles within 75 feet of a residential district between the hours of 1:30 a.m. and 6:00 a.m. on any day shall be deemed to have violated the provisions of this chapter, provided, however, that the provisions of this section shall not apply to papers, rags, debris, rubbish or waste material placed in covered containers or receptacles, which containers or receptacles are kept on the premises awaiting collection by the Division of Collections of this City or by a private collections agency.

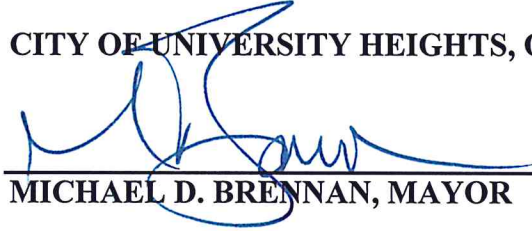
(d) No part of the premises shall be sublet to any person or any other business or purpose other than the business or purpose authorized for the building or structure for which the parking place license was issued, and no hawker or vendor shall be permitted on any part of the parking place.

Section 2. Codified Ordinance Section 844.03 as in existence immediately prior to the passage of this ordinance is hereby repealed.

Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 4. This Ordinance is declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of University Heights for the reason of clarifying that, consistent with custom and prior zoning decisions in the City, existing drive-thru restaurant and drive-in restaurant uses or methods of serving food and other ongoing food service activities within the City are not a nuisance and for the further reasons set forth in the recitals of this Ordinance and, therefore, shall take effect and be in force immediately upon its passage and approval by the Mayor.

CITY OF UNIVERSITY HEIGHTS, OHIO



MICHAEL D. BRENNAN, MAYOR

FIRST READING: 12/13/2017

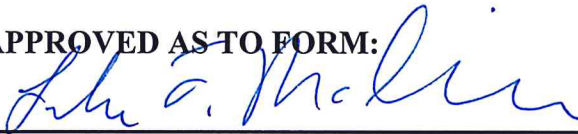
PASSED: 01/02/2018

ATTEST:



KELLY M. THOMAS, CLERK OF COUNCIL

APPROVED AS TO FORM:



LUKE F. MCCONVILLE, LAW DIRECTOR