



April 16, 2026

Betsy Logan, Bureau Chief
Bureau of Planning
Department of Community Planning & Economic Development
City of Lancaster



Barry N. Handwerger, Solicitor
City of Lancaster



Re: Unconstitutional Application of Lancaster Noise Control Ordinance, Chapter 198, to the Religious Street Ministry of Jeff Russell

Sent via FedEx and electronic mail

Dear Ms. Logan and Mr. Handwerger,

The American Center for Law & Justice¹ writes on behalf of our client, Jeff Russell, a Christian street minister and resident of Lancaster County, Pennsylvania. Mr. Russell seeks to exercise his constitutionally protected right to share his religious faith through amplified speech on the public streets and sidewalks of the City of Lancaster. The City of Lancaster informed him, through the correspondence of Betsy Logan on March 2, 2026, that the use of any “noise-creating device” on a

¹ By way of introduction, the ACLJ is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States in a number of significant cases involving the freedoms of speech and religion. *See Pleasant Grove City v. Summum*, 129 S. Ct. 1523 (2009) (unanimously holding that the Free Speech Clause does not require the government to accept counter-monuments when it has a war memorial or Ten Commandments monument on its property); *McCannell v. FEC*, 540 U.S. 93 (2003) (unanimously holding that minors enjoy the protection of the First Amendment); *Lamb’s Chapel v. Center Moriches Sch. Dist.*, 508 U.S. 384 (1993) (unanimously holding that denying a church access to public school premises to show a film series on parenting violated the First Amendment); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (holding by an 8-1 vote that allowing a student Bible club to meet on a public school’s campus did not violate the Establishment Clause); *Bd. of Airport Comm’rs v. Jews for Jesus*, 482 U.S. 569 (1987) (unanimously striking down a public airport’s ban on First Amendment activities).

public right-of-way is categorically prohibited regardless of the First Amendment exemption the City's own Noise Control Ordinance purports to provide. This instruction rests upon a reading of Chapter 198 that renders the Ordinance's First Amendment savings clause a nullity, exposes the core prohibition of § 198-4(C)(7) as unconstitutionally vague and overbroad, and operates in a manner that is neither content-neutral nor narrowly tailored. The ACLJ hereby demands that the City of Lancaster acknowledge that Mr. Russell's amplified religious street ministry is exempt from the Ordinance's permitting requirements pursuant to the plain language of § 198-6(H). If the City cites or prosecutes Mr. Russell for this protected activity, we will pursue all available legal remedies.

Statement of Facts

Mr. Russell is a devout Christian with a background in pastoral ministry who, beginning in late December 2025, began conducting outdoor street ministry on the public sidewalks and squares of Lancaster, Pennsylvania. Recognizing that other municipalities have subjected street preachers to unlawful harassment over the use of amplified sound, Mr. Russell proactively contacted the City—specifically Zoning Officer Jameel Thrash—to understand and comply with any applicable requirements. Although he received a temporary permit and was able to engage in his constitutionally protected activity once, he was told he must file a variance application in order to regularly utilize amplified sound. He did so.

Rather than receiving a straightforward application of the Ordinance's terms, Mr. Russell received a denial of his request to use any amplification at all. When he inquired about the First Amendment exemption expressly written into § 198-6(H) of Chapter 198—which exempts “[e]xpression or communication protected by the United States Constitution, including the First Amendment”—he was told by Bureau Chief Logan, relaying the City Solicitor's position, that while “the ordinance exempts the sound created by exercising one's freedom of speech, the use of noise-creating devices in the public right-of-way is not exempt” under § 198-4(C)(7).

In other words, the City's official position is that Mr. Russell may preach, so long as he does so without amplification. Neither the First Amendment nor Lancaster's own Noise Ordinance countenances such a construction. A hearing is currently set for April 21, 2026, before the City of Lancaster Board of Appeals.

Statement of Law

Public streets and sidewalks occupy a special position under the First Amendment. Traditional public forums include streets, sidewalks, and parks—spaces that “have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions.” *Perry Education Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45 (1983) (citation omitted). “[S]peech in public areas is at its most protected on public sidewalks, a prototypical example of a traditional public forum.” *Schenck v. Pro-Choice Network of W. N.Y.*, 519 U.S. 357, 377 (1997). In such forums, content-based restrictions on speech are subject to strict scrutiny, and viewpoint-based restrictions are categorically prohibited. *Pleasant Grove City v. Summum*, 555 U.S. 460, 469 (2009). Time, place, and manner restrictions may be imposed only if they are content-neutral, narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication. *McCullen v. Coakley*, 573 U.S. 464, 477 (2014); *see, e.g., Heffron v. International Society for Krishna Consciousness, Inc.*, 452 U.S. 640, 647, 654 (1981);

Grayned v. City of Rockford, 408 U.S. 104, 115 (1972). A regulation that, in practical effect, eliminates a speaker’s ability to be heard at all—by prohibiting the very means by which effective communication becomes possible in an outdoor, urban environment—satisfies none of these requirements.

Mr. Russell’s activities—preaching and sharing his religious beliefs—constitute core protected speech under the First Amendment. *See, e.g., Heffron v. Int’l Soc. for Krishna Consciousness, Inc.*, 452 U.S. 640, 647 (1981) (“[T]he oral and written dissemination of . . . religious views and doctrines is protected by the First Amendment.”).

The use of sound amplification equipment to carry one’s message to an audience in the open air is also protected. In *Saia v. New York*, 334 U.S. 558 (1948), the Supreme Court of the United States struck down a municipal ordinance that required permission from the Chief of Police before using a sound amplification device in public. The Court recognized that the right to reach an audience—not merely the right to speak into an empty void—is constitutionally protected. The Supreme Court recognized that “[l]oud-speakers are today indispensable instruments of effective public speech.” *Id.* at 561. In *Saia*, the Court encouraged “narrowly drawn statutes” to deal with “[a]ny abuses which loud-speakers create.” *Id.* at 562. Mr. Russell is not seeking the right to operate a deafening, indiscriminate sound truck through residential neighborhoods at midnight. He seeks only to use a small, handheld amplification device during daylight hours on the public streets of Lancaster to share his sincerely held religious beliefs, as is fully protected by *Saia*.

There are several major constitutional defects with the City’s interpretation of the Ordinance. First, a statute can be impermissibly vague where it either (1) “fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits” or (2) “authorizes or even encourages arbitrary and discriminatory enforcement.” *Hill v. Colorado*, 530 U.S. 703, 732 (2000). The Supreme Court has regularly warned against vagueness as a particular danger to First Amendment rights. *Smith v. Goguen*, 415 U.S. 566, 573 (1974) (“Where a statute’s literal scope, unaided by a narrowing state court interpretation, is capable of reaching expression sheltered by the First Amendment, the [vagueness] doctrine demands a greater degree of specificity than in other contexts.”). The City’s documented interpretation of Chapter 198 fails this standard dramatically.

Section 198-6(H) of the Ordinance unambiguously states that the following sounds are “exempted from the provisions of this chapter”:

Expression or communication protected by the United States Constitution, including the First Amendment, or by the Pennsylvania Constitution.

This language appears to be clear on its face: if activity is constitutionally protected, such as the use of amplification, then it is exempt. Yet the City Solicitor’s interpretation, as communicated to Mr. Russell, draws a distinction that the Ordinance’s text does not support and that the Constitution cannot sustain: the exemption protects the “sound” of protected speech, but the City asserts that § 198-4(C)(7) independently prohibits the “noise-creating device” used to produce that sound. Under this reading, the First Amendment exemption saves nothing. A speaker who communicates protected religious expression through a megaphone produces both “sound”—supposedly exempt—and operates a “noise-creating device”—supposedly not exempt. The two are physically inseparable. The City’s construction does not limit the exemption; it destroys it.

According to the City’s interpretation, a citizen of ordinary intelligence reading Chapter 198 cannot determine, from the text of the Ordinance itself, whether his or her amplified speech on a public sidewalk is lawful or unlawful. The existence of § 198-6(H) affirmatively suggests it is lawful. The City’s secret interpretive gloss—revealed only after Mr. Russell applied for a variance—says it is not. This is precisely the kind of trap for the unwary that the vagueness doctrine exists to prevent. Where, as here, the ambiguity operates in the domain of First Amendment expression, the Ordinance must be struck down unless it can be authoritatively construed to eliminate the constitutional problem. The City’s own interpretation forecloses that possibility. See *Papachristou v. City of Jacksonville*, 405 U.S. 156, 170 (1972) (“Where, as here, there are no standards governing the exercise of the discretion granted by the ordinance, the scheme permits and encourages an arbitrary and discriminatory enforcement of the law.”). Generally, a “law subjecting the exercise of First Amendment freedoms to the prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional.” *Shuttlesworth v. City of Birmingham*, 394 U.S. 147, 150–51 (1969). That is precisely the problem here; what activities are and are not subject to the exception are left to the City’s discretion.

Moreover, Section 198-4(C)(7) provides that “[n]o person, while occupying any public right-of-way in the City, shall operate any noise-creating device in such a manner that the public’s attention is drawn to the source of the noise.” This standard is devoid of any limiting principle capable of fair and consistent application. Consider what “drawing the public’s attention” means in practice: every effective act of communication in a public space is designed to draw the listener’s attention. A street musician draws attention. A political canvasser with a bullhorn draws attention. A pastor with a megaphone draws attention. The Ordinance provides no guidance whatsoever as to the level of “attention” that crosses the threshold from permissible to prohibited, the geographic area within which attention is measured, the number of persons whose attention must be drawn, or any temporal, volumetric, or geographic metric that would give a speaker fair notice of where the line falls. Critically, the provision contains no volume threshold or objective measurement. Having stripped out every objective, measurable standard, the City now wields § 198-4(C)(7) as a standardless, content-susceptible veto over any expressive conduct that an enforcement officer subjectively deems to have “drawn” sufficient attention. This is a textbook grant of unbounded official discretion over the exercise of First Amendment rights—precisely what the vagueness doctrine forbids. The City’s categorical prohibition, as applied to Mr. Russell’s conduct, is constitutionally indistinguishable from the ordinance condemned in *Saia*: “We hold that § 3 of this ordinance is unconstitutional on its face, for it establishes a previous restraint on the right of free speech in violation of the First Amendment which is protected by the Fourteenth Amendment against State action. To use a loudspeaker or amplifier one has to get a permit from the Chief of Police. There are no standards prescribed for the exercise of his discretion.” 334 U.S. at 559-560.

Even if § 198-4(C)(7) were not void for vagueness under the City’s interpretation, it would still be, under that interpretation, unconstitutional as a facial matter under both the overbreadth doctrine and the narrow tailoring requirement. A law is substantially overbroad, and therefore facially invalid, when it prohibits a substantial amount of constitutionally protected expression, relative to its legitimate sweep. *Broadrick v. Oklahoma*, 413 U.S. 601 (1973). In such circumstances, a “statute’s very existence may cause others not before the court to refrain from constitutionally protected speech or expression.” *Id.* at 612. The overbreadth doctrine is particularly robust in the context of public fora, where a law that chills protected speech causes the greatest constitutional harm. The text of § 198-4(C)(7) sweeps within its ambit every instance of amplified expression—religious, political, artistic, or commercial—that successfully communicates to an audience on any public right-of-way in the City of

Lancaster. There is no exception for low-volume amplification. There is no exception for speech that is entirely peaceful and orderly. There is no exception for expression on matters of the highest public concern. There is no exception for religious exercise. The prohibition is absolute: if any member of the public takes notice of the source of the noise, the speaker has violated the Ordinance. Under the City's interpretation, any amplified noise is per se a violation.

This means that a street preacher with a small personal amplifier, a political organizer with a handheld bullhorn at a permitted rally, and a musician performing for tips are all equally subject to citation under § 198-4(C)(7)—despite the fact that some engage in expression at the very core of the First Amendment's protection. The provision cannot be saved by the existence of the First Amendment exemption in § 198-6(H) because, as demonstrated above, the City has interpreted those provisions as applying in irreconcilable conflict. The overbreadth of § 198-4(C)(7) is not cured by an exemption the City refuses to give effect.

Furthermore, the Ordinance is not narrowly tailored. It contains no time, place, or manner components that might narrow its reach. In a traditional public forum such as this one, the government may enforce content-neutral time, place, and manner regulations only if they are “narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication.” *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 45 (1983). In this context, “the requirement of narrow tailoring is satisfied so long as the . . . regulation promotes a substantial government interest that would be achieved less effectively absent the regulation,” and does not “burden substantially more speech than is necessary to further the government's legitimate interests.” *Ward v. Rock Against Racism*, 491 U.S. 781, 799 (1989) (quotation marks and citations omitted). Unlike the ordinance sustained in *Ward*—which was a narrow, content-neutral, and genuinely tailored regulation of sound levels at a specific venue—§ 198-4(C)(7) applies, according to the City, at all hours, in all locations, to all persons, for all forms of expression, so long as any noise-creating device is involved and anyone notices it. Such a sweeping prohibition cannot survive First Amendment scrutiny. Even the most minuscule of noises are swept up within it.

Finally, Mr. Russell's counsel is in possession of documentation proving that other gatherings have been held in the public spaces of Lancaster—including Lancaster Square—during which demonstrators used amplified sound devices, occupied roadways, blocked traffic and pedestrian access, and engaged in conduct constituting, by the Ordinance's own definitions, a noise disturbance, and that such large gatherings, despite the City's current position, were provided a permit authorizing their use of amplification. The denial of Mr. Russell's application—who sought, in good faith, to comply with the City's permitting processes before conducting any amplified ministry—while permitting large-scale amplified demonstrations to proceed, raises a serious equal protection concern. The First Amendment and the Equal Protection Clause of the Fourteenth Amendment require that the City apply its noise ordinance in a content-neutral, evenhanded manner. A regulatory scheme that, in practice, insulates politically favored expression while burdening disfavored religious speech is constitutionally impermissible.

The First Amendment is not a bureaucratic inconvenience to be managed through permit denials; it is the supreme law of the land, and it belongs to every person—including a street preacher with a megaphone on a public sidewalk in Lancaster, Pennsylvania. “The very purpose of the First Amendment is to foreclose public authority from assuming a guardianship of the public mind through regulating the press, speech, and religion.” *Riley v. Nat'l Fed'n of Blind*, 487 U.S. 781, 791 (1988).

Demand

In light of the foregoing, we respectfully demand that the City of Lancaster, pursuant to the First Amendment and the plain language of the Ordinance, refrain from citing, prosecuting, or otherwise penalizing Mr. Russell for engaging in amplified religious street ministry on any public right-of-way in Lancaster, recognizing that such conduct is exempt under § 198-6(H) of the Noise Control Ordinance.

We believe this matter can be resolved amicably without the need for litigation. However, should we receive any indication that our client has been unlawfully cited, we will have no choice but to pursue all available legal remedies on behalf of our client.

We look forward to your prompt response and to working with you toward a mutually agreeable resolution. Should you have any questions or wish to discuss this matter further, please do not hesitate to contact me.

Respectfully,

/s/ Nathan J. Moelker

NATHAN J. MOELKER

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THE AMERICAN CENTER FOR LAW & JUSTICE

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