

A BILL FOR AN ORDINANCE AMENDING)
PROVISIONS OF THE LEBANON)
MUNICIPAL CODE, ADDING CHAPTER)
8.10, REGULATING NOISE WITHIN THE)
CITY, PROVIDING FOR ENFORCEMENT)
OF NOISE REGULATIONS)
REPEALING SECTIONS 8.04.230 AND)
8.04.240 OF THE LEBANON MUNICIPAL)
CODE, AND DECLARING AN EMERGENCY)

ORDINANCE BILL NO. 17
FOR 2002
ORDINANCE NO. 2304

WHEREAS, the City of Lebanon has the legal authority to adopt an ordinance regulating, restricting, or prohibiting the production or emission of noise, amplified speech, music or other sounds that tend to annoy, disturb, or frighten its residents; and

WHEREAS, excessive sound and inadequately controlled noise are serious hazards to the public health; safety, and welfare; and

WHEREAS, City residents have a right to an environment free from excess sound that would jeopardize their health and welfare and degrade the quality of life; and

WHEREAS, it is the policy of the City to limit and regulate noise deemed to be hazardous to the public health, safety, and welfare;

NOW, THEREFORE, THE CITY OF LEBANON ORDAINS AS FOLLOWS:

There shall be added to the Lebanon Municipal Code a chapter 8.10, which shall read as follows:

Section 1. Purpose. This ordinance is enacted to protect, preserve, and promote the health, safety, and welfare of the residents of the City of Lebanon through the reduction, control, and prevention of loud raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.

Section 2. Findings.

- A. Loud and raucous noise degrades the environment of the City of Lebanon because it is harmful to the health, welfare, and safety of its inhabitants and visitors; it interferes with comfortable enjoyment of life and property; it interferes with the well-being, tranquility, and privacy of the home; and it can cause and aggravate health problems.
- B. The effective control and elimination of loud and raucous noise are essential to the health and welfare of the City of Lebanon's inhabitants and visitors to conduct the normal pursuits of life, including recreation, work, and communications.

- C. The use of sound amplification equipment creates loud and raucous noise that may, in a particular manner and in a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of the inhabitants and visitors to the City of Lebanon.
- D. Some flexibility in noise restrictions is essential in order to allow for the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial well-being of the City of Lebanon.

Section 3. Scope. This Ordinance shall be known as the Lebanon Noise Ordinance and will apply to control all sound originating within the jurisdictional limits of the City of Lebanon.

Section 4. Definitions. For the purposes of this ordinance, the following definitions apply:

- A. A-SCALE (dBA). The sound level in decibels measured using the A-weighted network as specified in the American National Standard Specification for Sound Level Meters.
- B. DECIBEL (Db). The unit for measuring the volume of a sound.
- C. NOISE SENSITIVE UNIT. Any authorized land use of a church, temple, synagogue, day care center, hospital, rest home, retirement home, group care home, school, dwelling unit (single-family dwelling, duplex, triplex, multi-family dwelling, or mobile home) or other use of the same general type, and rights-of-way appurtenant thereto, whether publicly or privately owned.
- D. SOUND LEVEL METER. A sound measuring device, either Type 1 or Type 2, as defined by American National Standard Specification for Sound Level Meters.
- E. SOUND PRODUCING DEVICE. A sound producing device includes, but is not limited to, the following:
 - (1) Loudspeakers;
 - (2) Radios, tape players, compact disc players, phonographs, boom boxes, television sets, or stereo systems, including those installed in a vehicle;
 - (3) Musical instruments;
 - (4) Sirens, bells or whistles;
 - (5) Engines or motors;
 - (6) Air, electrical, or gas-driven tools, including, but not limited to, drills, chainsaws, lawn mowers, saws, hammers or similar tools;

- (7) Motor vehicles, including automobiles, motorcycles, motorbikes, trucks, buses, snowmobiles, boats or any similar piece of equipment equipped with a propelling device;
- (8) Persons or animals causing sound to emanate.

Section 5. Sound Measurements.

- A. When sound measurements are made for the enforcement of this Ordinance, they shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type 1 or Type 2 meter and shall contain at least an A-weighted scale, and both fast and slow meter response capability.
- B. If sound measurements are made, the person making those measurements shall have completed training in the use of the sound level meter, and shall use measurement procedures consistent with that training.
- C. Measurements may be made at or within the boundary of the property on which a noise sensitive unit is located which is not the source of the sound.

Section 6. Noises Prohibited.

- A. It shall be unlawful for any person to produce or permit to be produced, with any sound producing device which when measured at or within the boundary of the property on which a noise sensitive unit is located which is not the source of the sound exceeds the following levels:
 - (1) 60 dBA at any time between 9:00 p.m. and 7:00 a.m. of the following day where the property receiving the noise has a residential zoning designation.
 - (2) 70 dBA at any time between 7:00 a.m. and 9:00 p.m. of the same day where the property receiving the noise has a residential zoning designation.
 - (3) 65 dBA at any time between 9:00 p.m. and 7:00 a.m. of the following day where the property receiving the noise has a zoning designation which is not residential.
 - (4) 80 dBA at any time between 7:00 a.m. and 9:00 p.m. of the same day where the property receiving the noise has a zoning designation which is not residential.
- B. In addition to Section 6A, any person producing or permitting to be produced the following noise disturbances, shall be found in violation of the Ordinance, regardless

of the decibel level of the disturbance:

- (1) Repair and testing of a motor vehicle or other engine which is plainly audible within a noise sensitive unit between the hours of 9:00 p.m. and 7:00 a.m. of the following day.
- (2) The operation of any gong, bell or siren upon any vehicle, other than police, fire or other emergency vehicle.
- (3) The sounding of any motor vehicle audible anti-theft alarm system for a period of more than 20 minutes.
- (4) The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled.
- (5) The detonation of a blasting or explosive device, except as allowed under a permit issued by the appropriate governmental authority.
- (6) The keeping of an animal which by loud and frequent or continued noise disturbs the comfort and repose of a person in the vicinity.
- (7) The erection, including excavation, demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 9:00 p.m. except in the case of urgent necessity in the interest of the public welfare and safety and then only with a permit granted by the City Administrator for a period not to exceed ten (10) days.

Section 7. Exceptions. The following constitute exceptions to this Ordinance and shall not be construed as violations:

- A. Sounds created by organized athletic or other group activities, when such activities are conducted on public property generally used for such purposes, such as stadiums, schools, and athletic fields.
- B. Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus.
- C. Sounds caused by bona fide use of emergency warning devices and properly functioning alarm systems.
- D. Sounds regulated by federal law, including but not limited to, sounds caused by railroads or aircraft.
- E. Sounds caused by demolition activities when performed under a permit issued by appropriate governmental authorities.

- F. Sounds caused by construction activity during the hours of 7:00 a.m. and 9:00 p.m. of the same day.
- G. Sounds caused by regular vehicular traffic upon premises open to the public.
- H. Sounds caused by air, electrical or gas-driven domestic tools, including but not limited to, lawn mowers, lawn edgers, saws, drills, blowers, and/or other similar lawn or construction tools, during the hours of 7:00 a.m. to 9:00 p.m. of the same day.
- I. Bells, chimes and carillons while being used for religious purposes or in conjunction with religious services, or for national celebrations or public holidays.
- J. Parades for which a City permit has been issued.
- K. Sounds resulting from an event conducted in a City park where a park use permit has been issued and the conditions of that permit and this Ordinance have been complied with.
- L. Any noise resulting from activities of a temporary duration which is otherwise permitted by law.

Section 8. Authority for Enforcement. This Ordinance shall be enforced by the Lebanon Police Department. In the event that the offending party is a corporation, the corporation shall be subject to fine or abatement or other penalties allowed by Oregon law. In such case where a corporation is the offending party, a citation may be served upon the corporation by serving an officer of the corporation, or a person in charge of the premises at the time the citation is issued with a citation requiring a representative of the corporation to appear in court at the time indicated on the citation. The corporation shall be named as the defendant on the citation. In the event that a representative fails to appear as required by the citation, the City Attorney may seek appropriate remedies for the failure to appear against the officers of the corporation as allowed by law. For the application of this section, the term "corporation" shall also include partnerships, limited liability companies or partnerships, associations, sole proprietorships and other similar forms of business entities.

Section 9. Penalty. Each violation of any provision of this Ordinance constitutes a violation under the Lebanon Municipal Code, subject to a maximum penalty of a fine of up to \$500.00. Such penalty is in addition to any legal proceedings which may be brought by the City Attorney according to any other provision of the Lebanon Municipal Code or Oregon law.

Section 10. Institution of Legal Proceedings. The City Attorney, acting in the name of the City, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Ordinance as additional remedy.

Section 11. Ordinance Additional to Other Law. The provisions of this Ordinance shall be cumulative and nonexclusive and shall not affect any other claim., cause of action or remedy, nor,

unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise or sound, but shall be deemed additional to existing legislation and common law on such subject.

Section 12. Severability Clause. If a portion of this Ordinance is for any reason held to be invalid, such decision shall not affect validity of the remaining portions of this Ordinance.

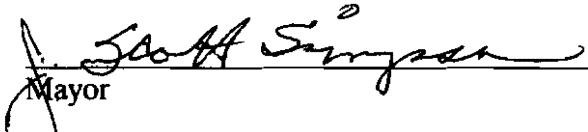
Section 13. Repeal. Section 8.04.230 and 8.04.240 are hereby repealed.

Section 14. Saving Clause. The repeal of any ordinance by this Ordinance shall not preclude any action against any person who violated the ordinance prior to the effective date of this Ordinance.

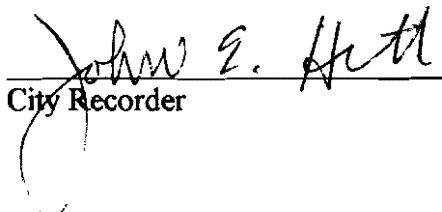
Section 15. Emergency Clause. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this Ordinance shall take effect immediately upon passage by the Council and approval by the Mayor.

Approved as to form:  Date: 6/12/02
Thomas A. McHill, City Attorney

Passed by the City Council on the 12th day of June, 2002 by a vote of 5 for and 0 against.


Mayor

ATTEST:


City Recorder