

**A BILL FOR AN ORDINANCE AMENDING)
LEBANON MUNICIPAL CODE CHAPTER)
8.10, NOISE REGULATIONS)**

**Ordinance Bill No. 5
for 2008
Ordinance No. 2754**

THE PEOPLE OF THE CITY OF LEBANON DO ORDAIN AS FOLLOWS:

Section 1. Chapter 8.10 is hereby amended to read as follows:

8.10.010 Purpose.

The ordinance codified in this chapter 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.

8.10.020 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.

8.10.030 Scope.

The ordinance codified in this chapter 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.

8.10.040 Definitions.

For the purposes of this chapter, the following definitions apply:

- A. "A-scale" (dBA) means 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) means the unit for measuring the volume of a sound.
- C. "Impulse Sound" means either a single pressure peak or a single burst (multiple pressure peaks) for a duration of less than one second as measured on a peak unweighted sound pressure measuring instrument or "C" weighted, slow response instrument and specified by dB and dBC respectively.
- D. "Noise sensitive unit" means any authorized land use of a hospital, rest home, retirement home, group care home, or other use of the same general type, and rights-of-way appurtenant thereto, whether publicly or privately owned.

E. "Sound level meter" means a sound measuring device, either Type 1 or Type 2, as defined by American National Standard Specification for sound level meters.

F. "Sound producing device" means 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.

8.10.050 Sound measurements.

A. When sound measurements are made for the enforcement of this chapter, 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.

8.10.060 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 is not the source of the sound, and exceeds the following levels to be measured over an hour period of time:

Residential and Noise Sensitive Uses

	<u>7 a.m. to 10 p.m.</u>	<u>10 p.m. to 7 a.m.</u>
Level of noise for 50% of the Time (L50)	50 dBA	45 dBA
L10(10%of the time)	55 dBA	50 dBA
L1(1% of time)	60 dBA	55 dBA

Commercial and Industrial Uses

	<u>7 a.m. to 10 p.m.</u>	<u>10 p.m. to 7 a.m.</u>
L50	70 dBA	65 dBA
L10	75 dBA	60 dBA
L1	80 dBA	70 dBA

In areas where the commercial or industrial use is abutting a residential or sensitive use, an additional 10 dBAs will be allowed.

B. In addition to Section 8.10.060A, any person producing or permitting to be produced the following noise disturbances, shall be found in violation of the ordinance codified in this chapter, 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 nine p.m. and seven 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 twenty 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 seven a.m. and nine 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 days

8.10.070 Exceptions.

The following constitute exceptions to this chapter 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 seven am. and nine 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 seven a.m. to nine p.m. of he 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 chapter have been complied with.

L. Impulse sounds of no more than one per ten minutes.

M. Any noise resulting from activities of a temporary duration which is otherwise permitted by law

8.10.075 Variance

A. Conditions for Granting. The Planning Commission may grant specific variances from the particular requirements of any rule, regulation, or order to such specific persons or class of persons or such specific noise source upon such conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with such rule, regulation, or order is inappropriate because of conditions beyond the control of the persons granted such variance or because of special circumstances which would render strict compliance unreasonable, or impractical due to special physical conditions or cause, or because strict compliance would result in substantial curtailment or closing down of a business, plant, or operation, or because no other alternative facility or method of handling is yet available. Such variances may be limited in time and shall be considered after a public hearing on the request..

B. Procedure for Requesting. Any person requesting a variance shall make his request in writing to the Planning Commission for consideration by the Commission and shall state in a concise manner the facts to show cause why such variance should be granted.

C. Revocation or Modification. A variance granted may be revoked or modified by the Planning Commission after a public hearing held upon not less than 21 days notice. Such notice shall be served upon the holder of the variance by certified mail and all persons who have filed with the Planning Commission a written request for such notification.

8.10.080 Authority for enforcement.

The ordinance codified in this chapter 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.

8.10.090 Penalty.

Each violation of any provision of this chapter constitutes a violation under the Lebanon Municipal Code, subject to a maximum penalty of a fine of up to six hundred dollars. 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.

8.10.100 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 chapter as additional remedy.

8.10.110 Ordinance additional to other law.

The provisions of this chapter 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.

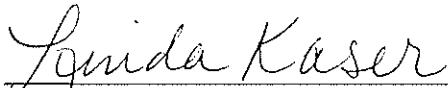
Passed by a vote of 5 for and 0 against by the Lebanon City Council on this 28th day of May, 2008.



Kenneth I. Toombs, Mayor

Bob Elliott, Council President

ATTEST:



Linda Kaser, City Clerk / Recorder