

A BILL FOR AN ORDINANCE AMENDING 08.10 OF) ORDINANCE BILL NO. 2020- 07
THE LEBANON MUNICIPAL CODE RELATING TO)
NOISE)
) ORDINANCE NO. 2947

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.

THE CITY OF LEBANON ORDAINS AS FOLLOWS:

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

8.10.010 Purpose.

This Ordinance is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of Lebanon through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety; or causes public inconvenience, annoyance or alarm to reasonable persons of ordinary sensitivity.

8.10.020 Findings.

- A.** Loud and raucous noise degrades the environment of Lebanon to a degree that:
 - 1.** Is harmful to the health, welfare, and safety of its inhabitants and visitors;
 - 2.** Interferes with comfortable enjoyment of life and property;
 - 3.** Interferes with the well-being, tranquility, and privacy of the home; or
 - 4.** Causes and aggravates health problems.

- B.** The effective control and elimination of loud and raucous noise are essential to the health and welfare of Lebanon's inhabitants and visitors, and to the conduct of 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 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 Lebanon.
- E. The obligation to draft regulations that affect speech in a content-neutral fashion is of paramount importance to protect the freedom of expression guaranteed by Article I, section 8, of the Oregon Constitution and the First Amendment to the United States Constitution. This ordinance enacts narrowly drawn; content-neutral regulations that are to be interpreted as such so as not to infringe upon constitutionally protected rights.

8.10.030 Scope.

This ordinance applies to the control of all sound originating within the jurisdictional limits of Lebanon.

8.10.040 Definitions.

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

- A. “Emergency” means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.
- B. “Emergency Work” means any work performed to prevent or Alleviate physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.
- C. “City” means City of Lebanon, Oregon.
- D. “City Manager” means the City Manager of the City or the City Manager's designee.
- E. “Noise Sensitive Area” includes, but is not limited to, real property normally used for sleeping, or normally used as a school, church, hospital or public library.
- F. “Person” means any individual, firm, association, partnership, joint venture, or corporation.
- G. “Plainly audible” means any sound that can be detected by a reasonable person of ordinary sensitivities using his or her unaided hearing faculties.
- H. “Public right-of-way” means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.

- I. “Public space” means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.
- J. “Residential area” means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the City's zoning ordinance.
- K. “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.
- L. “Utility Service” means the normal operation of utilities within the City, whether provided by the City or by another entity, including but not limited to water, wastewater, electricity, natural gas, telecommunications and garbage hauling.

8.10.050 - Noise Prohibited.

No person shall create, or assist in creating, or permit the continuance of unreasonable noise which annoys disturbs, injures or endangers the comfort, repose, health, safety or peace of others. The following acts are declared to be per se violations of this ordinance. This enumeration does not constitute an exclusive list:

- A. Unreasonable Noises: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous, or unusual noise, disturbance, commotion, or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.
- B. Vehicle Horns, Signaling Devices, and Similar Devices: The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle or other vehicle on any right of way or in any public space of the City, for more than ten consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.
- C. Non-Emergency Signaling Devices: Sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten consecutive seconds in any hourly period.
- D. Emergency Signaling Devices: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle or similar emergency signaling device, except in an emergency or except as provided in the following:

- a. The testing of any emergency signaling device shall occur between 7 a.m. and 7 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.
 - b. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within 15 minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this ordinance.
- E. Radios, Televisions, Boomboxes, Phonographs, Stereos, Musical Instruments and Similar Devices: The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device, including but not limited to computers, mp3 players, and cellular phones, that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boombox, stereo, musical instrument or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings.
- F. Loudspeakers, Amplifiers, Public Address Systems and Similar Devices: The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system or other device for producing or reproducing sound between the hours of 10 p.m. and 7 a.m. on weekdays, and 10 p.m. and 10 a.m. on weekends and recognized city holidays in the following areas:
- a. Within or adjacent to residential or noise sensitive areas; or
 - b. Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous.
- This provision shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the City or for which the City is hosting.
- G. Yelling, Shouting and Similar Activities: Yelling, shouting, hooting, whistling or singing in residential or noise sensitive areas or in public places, between the hours of 10 p.m. and 7 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities. This section is to be applied only to those situations where the disturbance is not a result of the content of the communication but due to the volume, duration, location, timing, or other factors not based on content.

- H. Animals and Birds: Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls, or otherwise cares for the animal or bird.
- I. Loading or Unloading Merchandise, Materials, Equipment: The creation of unreasonably loud, raucous and excessive noise relating to the loading or unloading of any vehicle at a place of business or residence.
- J. Construction or Repair of Buildings, Excavation of Streets and Highways: The construction, demolition, alteration, or repair of any building or the excavation of streets and highways other than between the hours of 7 a.m. and 7 p.m. on weekdays. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, the City Administrator/Manager may issue a permit, upon application, if the City Administrator/Manager determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways between the hours of 7 p.m. and 7 a.m. will not be impaired, and if the City Administrator/Manager further determines that loss or inconvenience would otherwise result. The permit shall grant permission in non-emergency cases for a period of not more than thirty days. The permit may be renewed once for a period of thirty days or less.
- K. Blowers, and Similar Devices: In residential or noise sensitive areas, between the hours of 9 p.m. and 7 a.m., the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.

8.10.60 - Sound Measurements

- A. While not required for a violation to occur, sound measurements may be used to aid in enforcement of this chapter. 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, 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.

8.10.065 – Sound measurement scale.

- A. When sound measurements are made for the enforcement of this chapter, they shall be measured at or within the boundary of a property which is not the source of the sound

over an hour period of time. Noise levels above the listed range, will be per se evidence of a violation of this chapter.

Residential and Noise Sensitive Uses

	7 a.m. to 10 p.m.	10 p.m. to 7 a.m.
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

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

8.10.070 - Exceptions. Sounds caused by the following are exempt from the prohibitions set out in Section 8.10.060 and are in addition to exemptions specifically set forth in Section 8.10.060.

- A. Motor vehicles on traffic ways of the City, provided that the prohibitions of section 8.10.060(B) and 8.10.060(D)(2) continue to apply.
- B. Repairs of utility structures that pose a clear and immediate danger to life, health, or significant loss of property.
- C. Sirens, whistles or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibition contained in section 8.10.060(D) continues to apply.
- D. The emission of sound to alert persons to the existence of an emergency or the emission of sound in the performance of emergency work.
- E. Repairs or excavations of bridges, streets or highways by or on behalf of the City, the State, or the federal Government, between the hours of 7 p.m. and 7 a.m., when the

public welfare and convenience renders it impractical to perform the work between 7 a.m. and 7 p.m.

- F. Reasonable activities conducted on public playgrounds and public or private school grounds that are conducted in accordance with the way such spaces are generally used, including but not limited to school athletic and school entertainment events.
- G. Outdoor gatherings, public dances, shows, sporting events and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority or is being sponsored by the City.
- H. Noise emanating from the combustion, detonation, or concussion caused by using fireworks or other similar devices, from July 1 until July 5 of each year.

8.10.75 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 twenty-one (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 Enforcement.

The City Administrator/Manager, Police Chief, Noise Enforcement Officer, or any designee(s) thereof will have primary responsibility for the enforcement of the noise regulations contained in this ordinance. Nothing in this ordinance shall prevent the City Administrator/Manager, Police

Chief or Noise Enforcement Officer from obtaining voluntary compliance by way of warning, notice, or education.

8.10.090 Penalty.

- A. A person who violated a provision of this ordinance is guilty of a violation, which is punishable by a fine not to exceed \$600.00.
- B. Each occurrence of a violation, or in the case of continuous violations, each day a violation occurs or continues, constitutes a separate infraction, and may be punished separately.
- C. 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 Appeals. Any person found to have violated any provision of this ordinance under Section 8 and assessed a penalty under Section 9 has the right to appeal that determination to the City Council. Notice of an appeal under this Section must be filed within 30 days of a finding under Section 8 or the assessment of a penalty under Section 9, whichever is later.

8.10.110. Severability Clause. A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this ordinance shall not affect the validity of the remaining parts to this ordinance.

8.10.120. Savings Clause. A prosecution that is pending on the effective date of this ordinance and arose from a violation of an ordinance repealed by this ordinance, or a prosecution started within one year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.

8.10.110 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.

8.10.120 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.

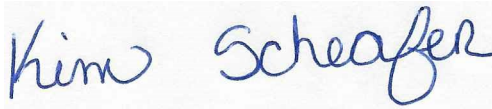
Passed by the Lebanon City Council and executed by the Mayor on this 10th day of June 2020 by a vote of 6 yeas and 0 nays.

CITY OF LEBANON, OREGON



Paul R. Aziz, Mayor	<input checked="" type="checkbox"/>
Jason Bolen, Council President	<input type="checkbox"/>

ATTESTED BY:



Kim Scheafer, MMC, City Recorder