

ORDINANCE NO. 4679

AN ORDINANCE AMENDING BEAVERTON CODE CHAPTER 5 BY INCLUDING BC CHAPTER 5.15 RELATING TO NOISE, REPEALING BC 5.05.130, AND DECLARING AN EMERGENCY

Whereas, the City's current noise ordinance—BC 5.05.130—does not adequately protect residents and visitors from unreasonably loud or raucous noise; and

Whereas, this ordinance provides objective factors for determining whether a noise is unreasonably loud or raucous noise and provides specific examples of what would be considered *per se* noise violations.

Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS

Section 1. Beaverton Code Chapter 5 is amended by including Chapter 5.15, which reads as follows:

5.15.005 Short Title.

BC 5.15.005 to 5.15.045 shall be known and may be cited as the "Noise Ordinance" and may be referred to herein as "this ordinance."

5.15.010 Legislative Findings.

The City Council finds that:

- A. Loud or raucous noise degrades the environment of the City to a degree that is harmful to the health, welfare, and safety of its residents and visitors; interferes with the comfortable enjoyment of life and property; interferes with the well-being, tranquility, and privacy of the home; and may cause or aggravate health problems.
- B. The effective control of loud or raucous noise is essential to the health and welfare of the City's residents and visitors, and to the conduct of normal pursuits of life, including recreation, work and communication.
- C. The use of sound-amplification devices may create loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and well-being of residents and visitors of the City.

D. The obligation to draft regulations that affect speech in a content-neutral fashion is of paramount importance to protect the freedom of expression under the Oregon and federal constitutions. This ordinance enacts narrowly-drawn, content-neutral regulations that are to be interpreted as such so as not to infringe upon constitutionally-protected rights.

5.15.015 Definitions.

A. "Alarm system" has the meaning as provided in BC 7.15.015.

B. "False alarm" has the meaning as provided in BC 7.15.015.

C. "Highway" means every public way, road, street, thoroughfare, and place, including bridges, viaducts, and other structures in the City, open, used, or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

D. "Noise-sensitive area" includes, but is not limited to, a sleeping facility, or real property normally used as a school, church, hospital, or public library.

E. "Person" has the meaning as provided in BC 1.01.020.

F. "Plainly audible" means any sound that can be heard by a reasonable individual of ordinary sensitivities using his or her unaided hearing faculties, including understandable spoken words, comprehensible musical rhythms, and vocal sounds other than words.

G. "Premises open to the public" includes any premises open to the general public for the use of motor vehicles whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises.

H. "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.

I. "Residential area" means an area of the City that is designated as a residential land use district under the City's Development Code.

J. "Residential care facility" means a living facility for more than five (5) non-related individuals, which provides specialized care, supervision, treatment or training, or a combination of these for residents.

This use classification includes, but is not limited to assisted living facilities, congregate care facilities, nursing homes, convalescent homes and sanatoriums.

K. "Sleeping facility" includes, but is not limited to, a residential dwelling, hotel, motel, or residential care facility.

5.15.020 Purpose.

This ordinance is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the residents and visitors of Beaverton 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 individuals of ordinary sensitivity.

5.15.025 Loud or Raucous Noise Prohibited.

A. No person shall make, continue, or cause to be made or continued:

1. Any unreasonably loud or raucous noise within the jurisdictional limits of the City; or
2. Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable individuals of ordinary sensitivity, within the jurisdictional limits of the City; or
3. Within the jurisdictional limits of the city, any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any individuals within the residential area from which said noises are heard, or as to unreasonably interfere with the peace and comfort of residents or their guests, or operators or customers in places of business.

B. Factors for determining whether a sound is unreasonably loud or raucous noise include, but is not limited to, the following:

1. The proximity of the sound to a sleeping facility;
2. The land use, nature, and zoning of the area from which the sound emanates and the area where it is heard;
3. The time of day or night the sounds occurs;

4. The duration of the sound;
5. Whether the sound is recurrent, intermittent, or constant;
6. Whether the sound is created by a sound-amplification device, or
7. If the sound occurs in a residential area between 10:00pm and 7:00am, whether the sound exceeds 50 dBA at a point within the property line of the noise-sensitive area nearest the noise source.

5.15.030 Specific Noises Prohibited.

The following acts are declared to be *per se* violations of this ordinance. It includes, but is not limited to:

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 residential dwelling, place of business, or upon any highway, 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 noise-sensitive areas or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.

B. Sound Amplification Devices. Except as allowed by a City special event permit, the unreasonably loud and raucous use or operation of a sound-amplifying device between the hours of 10:00pm and 7:00am on weekdays, and 10:00pm and 10:00am on weekends and holidays in the following areas:

1. Within or adjacent to a noise-sensitive area.
2. 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 or raucous.

C. Yelling, Shouting, and Similar Activities. Yelling, shouting, hooting, whistling, or singing in a residential area or in a public place, between the hours of 10:00pm and 7:00am, or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable individuals of ordinary sensitivities. This subsection 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.

D. Construction and Similar Activities.

1. The erection, excavation, demolition, alteration, or repair of a building in a residential area or within 300 feet of a noise-sensitive area, other than between the hours of 7:00 a.m. and 7:00 p.m., except in case of urgent necessity in the interest of the public welfare and safety, and then only with an emergency permit granted by the building official for a period not to exceed ten days. The permit may be renewed for periods of five days while the emergency continues to exist.

2. The owner of property may do work on property actually occupied by the owner between the hours of 7:00 a.m. and 10:00 p.m. without obtaining an emergency permit as required by this subsection;

E. Noise-Sensitive Areas. The creation of any unreasonably loud and raucous noise adjacent to any noise-sensitive area while it is in use, and which unreasonably interferes with the workings of the noise-sensitive area or which disturbs the individuals in the noise-sensitive area.

F. Blowers and Similar Devices. In a residential area or noise-sensitive area, between the hours of 7:00pm and 7:00am, the operation of any noise-creating blower; power fan; or any internal combustion engine, provided that the noise from the blower, power fan or internal combustion engine can be heard across the property line from which it emanates.

G. Commercial Establishments Adjacent to Residential Property. Unreasonably loud or raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00pm and 7:00am, which is plainly audible at the nearest property line of a noise-sensitive area.

H. Vehicle Horns, Signaling Devices and Similar Devices. The sounding of any horn, signaling device, or other similar device, on any motor vehicle on a highway or premises open to the public for more than 10 consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning, is exempt from this prohibition.

I. Loading or Unloading. The creation of unreasonably loud, raucous and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.

J. Non-Emergency Signaling Devices. Sounding or permitting the sounding of 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. The reasonable sounding of such devices by houses of religious worship, seasonal contribution solicitors, or by the City for traffic control purposes are exempt from the operation of this subsection:

K. Emergency Signaling Devices. The intentional sounding or permitting the sounding of any emergency signaling device, including fire, alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsections (1) and (2) below.

1. The testing of an emergency signaling device occurring between 7:00am and 7:00pm. 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 any calendar month.

2. Sounding or permitting the sounding of any alarm system that terminates within 15 minutes of activation unless an emergency exists. If a false alarm occurs more than twice in a calendar month, then the owner or person responsible for the alarm system shall be in violation of this ordinance.

L. Radios, Televisions, Boomboxes and Similar Devices. 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 individual other than the player or operator of the device, and those who are voluntarily listening to the sound, and:

1. which unreasonably disturbs the peace, quiet, and comfort of residents and passers-by, or is plainly audible at a distance of 50 feet from the device in a commercial area or public space; or

2. which unreasonably disturbs the peace, quiet, and comfort of residents in a residential area or noise-sensitive area.

M. 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.

5.15.035 Exemptions.

Sounds caused by the following are exempt from the provisions of BC 5.15.030 and are in addition to the exemptions specifically set forth in that section.

- A. Motor vehicles on highways or premises open to the public, provided that the prohibition in BC 5.15.030(H) continues to apply.
- B. Repairs of utility structures which 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 alarm systems used to signal an emergency, provided the prohibition under BC 5.15.030(K) continues to apply.
- D. The emission of sound for the purpose of alerting individuals 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 the behalf of the City, state, or federal government, between the hours of 7:00pm and 7:00am, when public welfare and convenience renders it impractical to perform the work between 7:00am and 7:00pm.
- F. Reasonable activities conducted on school playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.
- G. Outdoor gatherings, public dances, shows, and sporting events, and other similar outdoor events, provided that a special event permit has been obtained from the City beforehand.

5.15.040 Penalties.

- A. Violation of this ordinance constitutes a Class I Civil Infraction and shall be processed according to the procedure set forth in BC 2.10.010 through 2.10.050.
- B. Each violation of a separate provision of this ordinance shall constitute a separate civil infraction, and each day that a violation of a provision of this ordinance is committed or is permitted to continue shall constitute a separate civil infraction.
- C. A finding that a person has committed a Civil Infraction in violation of this ordinance shall not act to relieve the person from the provisions of this ordinance.

D. A Beaverton Municipal judge may impose a fine of not more than one thousand dollars if a judge determines that (1) the person violated this ordinance and (2) the person has violated this ordinance in the preceding twenty-four months. The fine may be adjusted by Council through resolution.

E. Any fines assessed pursuant to this ordinance are in addition to, and not in lieu of, any other civil or administrative penalty, sanction, or remedy otherwise authorized by law.

5.15.045 Severability.

The sections and subsections of this ordinance are severable. If any part of this ordinance is held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless:

A. The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or

B. The remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent.

Section 2. BC 5.05.130 is hereby repealed.

Section 3. This ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist, and this ordinance takes effect on its passage.

First reading this 23rd day of February, 2016.

Second reading and passage by this Council this 1st day of March, 2016.

Approved by the Mayor this 2nd day of March, 2016.

ATTEST:



CATHERINE L. JANSEN, City Recorder

APPROVED:



DENNY DOYLE, Mayor