

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 4-89) IN THE MATTER OF AMENDING CHAPTER 6 OF)
) LANE CODE TO ENACT PROHIBITED NOISE)
) REGULATIONS, EXCEPTIONS AND VARIANCE)
) PROCEDURES (LC 6.500 - 6.535) AND)
) SET PENALTIES (LC 6.995(3))

The Board of County Commissioners of Lane County ordains as follows:

Chapter 6 of Lane Code is hereby amended by adding, removing and substituting the following pages:

<u>REMOVE THESE PAGES</u>	<u>INSERT THESE PAGES</u>
-----	6.500 - 6.505 to 6.525(1) - 6.535(2), i.e. 6-9a to 6-9d (a total of four new pages)
6.995(1) - 6.995(3), i.e. 6-11 (a total of one page)	6.995(1) - 6.995(3), i.e. 6-11 (a total of one page)

Said pages are attached hereto and incorporated herein by reference. The purpose of these additions is to enact prohibited noise regulations, exceptions and variance procedures (LC 6.500 - 6.535) and set penalties (LC 6.995(3)).

Enacted this 12th day of April, 1989.

Steve DeGroot
Chair, Lane County Board of Commissioners

Judy Halderman
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM
Date 3-20-89 Lane County
Stephen J. Vokes
OFFICE OF LEGAL COUNSEL

FILED
ATO'CLOCK.....M
APR 13 1989
County Clerk
for Lane County, Oregon
BY *James Dubois*
DEPUTY

1 - IN THE MATTER OF AMENDING CHAPTER 6 OF LANE CODE TO ENACT PROHIBITED NOISE REGULATIONS, EXCEPTIONS AND VARIANCE PROCEDURES (LC 6.500 - 6.535) AND SET PENALTIES (LC 6.995(3))
bcj/2200

6.500

Lane Code

6.505

PROHIBITED NOISE

6.500 Findings and Purpose. The Board of Commissioners of Lane County finds that excessive sound can and does constitute a hazard to the health, safety, welfare and quality of life of citizens of the County. While certain activities essential to the economic, social, political, educational and technical advancements of the citizens of the County necessarily require the production of sounds which may offend, disrupt, intrude or otherwise create hardship among the citizenry, unregulated sound is a nuisance and some limitation and regulation must be imposed upon the production of excessive sound to reduce the deleterious effects of those sounds. It is, therefore, the policy of Lane County, Oregon, to prevent and regulate excessive sound wherever it is deemed to be harmful to the health, safety, welfare and quality of life of the citizens of Lane County. This subchapter shall be liberally construed to effectuate that purpose.

6.505 Definitions. For purposes of this subchapter the following terms and definitions shall apply unless the context requires otherwise:

Director. Director of the Department of Public Safety for Lane County, Oregon or the Director's designee.

Idling Speed. That speed at which an engine will run when no pressure is applied to the accelerator or accelerator linkage.

Noise Sensitive Unit. Any building or portion thereof, vehicle, boat or other structure adapted or used for the overnight accommodation of persons, including, but not limited to individual residential units, individual apartments, trailers, hospitals and nursing homes.

Person. Includes, in addition to any individual, any public or private corporation, association, partnership, or other legally recognized public or private entity.

Plainly Audible Sound. Any sound which is clearly distinguishable from other sounds, such as, but not limited to, sound for which the information content of that sound is unambiguously communicated to the listener, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.

Sound Producing Device: Includes but is not limited to:

- (a) Loudspeakers, public address systems.
- (b) Radios, tape recorders and/or tape players, phonographs, television sets, stereo systems including those installed in a vehicle.
- (c) Musical instruments, amplified or unamplified.
- (d) Sirens, bells or steam whistles attached to a stationary device.

6.505

Lane Code

6.515(1)

(e) Vehicle engines or exhausts discharging into open air, when the vehicle is not on a public right-of-way, particularly when the engine is operated above idling speed.

(f) Vehicle tires, when caused to squeal by excessive speed or acceleration.

(g) Domestic tools, including electric drills, chain saws, lawn mowers, electric saws, hammers and similar tools, but only between 10:00 p.m. and 7:00 a.m. of the following day.

(h) Heat pumps, air conditioning units and refrigeration units, including those mounted on vehicles. Vehicle. Includes automobiles, motorcycles, motorbikes, trucks, buses and snowmobiles.

6.510 Sound Measurement.

(1) If sound measurements are made, 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 I or Type II meter, as specified in ANSI Standard 1.4-1971. For purposes of this subchapter, a sound level meter shall contain at least an A-weighted scale and both fast and slow meter response capability.

(2) If measurements are made, personnel making those measurements shall have completed training in the techniques of sound measurement and the use of the sound level meter from the Oregon Department of Environmental Quality personnel or other competent training personnel. Measurement procedures consistent with that training shall be followed.

(3) Measurements may be made at or within the boundary of the property on which a noise sensitive unit which is not the source of the sound is located, or within a noise sensitive unit which is not the source of the sound.

(4) All measurements made pursuant to this subchapter shall comply with the provisions of this section.

6.515 Prohibitions. It shall be unlawful for any person to produce or permit to be produced, with a sound producing device, sound which:

(1) When measured at or within the boundary of the property on which a noise sensitive unit which is not the source of the sound is located, or, within a noise sensitive unit which is not the source of the sound, exceeds:

(a) 50 dBA at any time between 10:00 p.m. and 7:00 a.m. of the following day, or

(b) 60 dBA at any time between 7:00 a.m. and 10:00 p.m. of the same day, or

6.515(2)

Lane Code

6.525

(2) Is plainly audible at any time between 10:00 p.m. and 7:00 a.m. of the following day:

(a) Within a noise sensitive unit which is not the source of the sound, or

(b) On a public right-of-way at a distance of 50 feet or more from the source of the sound.

(3) If a measurement of the sound is made, LC 6.515(1) above shall supersede LC 6.515(2) above and shall be used to determine if a violation exists.

6.520 Exceptions. Notwithstanding LC 6.515 above, the following exceptions from this subchapter are permitted when conditions therefor are met:

(1) Sounds caused by organized athletic, religious, educational, civic or other group activities, when such activities are conducted on property generally used for such purposes, including stadiums, parks, schools, churches, athletic fields, race tracks, airports and waterways between the hours of 7:00 a.m. and 10:00 p.m. of the same day; provided, however, that this exception shall not impair the Director's power to declare that such events or activities violate other applicable laws, ordinances or regulations.

(2) Sound caused by emergency work reasonably necessary to prevent injury to persons or property, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, whether or not such work is performed by a public or private agency, upon public or private property.

(3) Sounds caused by sources regulated as to sound production by federal law, including, but not limited to, sounds caused by railroad, aircraft or commercially licensed watercraft operations.

(4) Sound caused by bona fide use of emergency warning devices and alarm systems authorized by LC 3.400 through 3.460.

(5) Sound caused by blasting activities when performed under a permit issued by appropriate governmental authorities and only between the hours of 9:00 a.m. and 4:00 p.m. of the same day, excluding weekends, unless such permit expressly authorizes otherwise.

(6) Sounds caused by commercial, industrial, agricultural, timber harvesting, utility or construction organizations or workers during their normal operations.

(7) Sounds caused by a sound producing device used by a person pursuant to a variance issued by the Director as provided in LC 6.525.

(8) Sounds caused by motor vehicles operated on any highway and subject to ORS 815.250.

6.525 Variances. Any person who is planning the use of a sound producing device which may violate any provision of this subchapter may apply to the Director for a variance from such provision.

6.525(1)

Lane Code

6.535(2)

(1) Application. The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason for which the variance is sought and any other supporting information which the Director may reasonably require.

(2) Review Considerations. The Director shall consider:

(a) The nature and duration of the sound emitted.

(b) Whether the public health, safety or welfare is endangered.

(c) Whether compliance with the provision would produce no benefit to the public.

(d) Whether previous permits have been issued and the applicant's record of compliance.

(3) Time Duration of Variance. A variance may be granted for a specific time interval only.

(4) Director's Action. Within 10 days of receiving the application, the Director shall deny it, approve it, or approve it subject to conditions. The Director's decision shall be final for purposes of filing for review under ORS 34.010 through 34.100 when that decision is reduced to writing and signed.

(5) Revocation. The Director may at any time before or during the operation of a variance granted by the Director revoke the variance for good cause.

6.530 Subchapter Additional to Other Law. The provisions of this subchapter 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.

6.535 Administration and Enforcement.

(1) The Director of the Department of Public Safety for Lane County shall administer, supervise and perform all acts necessary to enforce this subchapter.

(2) Persons appointed or assigned by the Director, as deemed necessary to accomplish effective enforcement of this subchapter, may be peace officers or not, but if unsworn persons are selected and empowered to enforce violations of this subchapter, the Director shall exercise powers under ORS 204.635.

6.995(1)

Lane Code

6.995(3)

PENALTIES

6.995 Penalties.

(1) Violation of LC 6.025, 6.030 or 6.800 is punishable upon conviction by fine of not more than \$1,000 or by imprisonment in the County jail for not more than 30 days, or by both.

(2) Violation of LC 6.200, 6.710 or 6.715 is punishable upon conviction by a fine of not more than \$1,000 or by imprisonment in the County jail for not more than one year, or by both.

(3) Violation of LC 6.515 is an offense punishable upon conviction by a fine of not more than \$500 or by imprisonment in the County jail for not more than 30 days, or by both.

6-73; 5.30.73
 12-74, 8.7.74
 3-77; 5.25.77
 20-77; 12.21.77
 22-78; 10.13.78
 17-82; 7.16.82
 6.87; 7.3.87
 4-88; 6.1.88

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