

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 5-99

) IN THE MATTER OF AMENDING CHAPTERS 5 AND 6  
) OF LANE CODE TO REVISE THE PROHIBITED NOISE  
) PROVISIONS DEALING WITH RAILROADS AND TO  
) ESTABLISH NOISE INFRACTIONS AND PROCEDURES  
) AND DECLARING AN EMERGENCY  
) (LC 5.600 - 5.635, 5.990, 6.500 - 6.535, 6.995)

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

Chapters 5 and 6 of Lane Code are hereby amended by removing and substituting the following pages:

REMOVE THESE PAGES

INSERT THESE PAGES

5.800(1) - 5.990  
i.e. 5-47  
(a total of 1 page)

5.600 - 5.605 to  
5.630 - 5.635(5)  
i.e. 5-41a to 5-41e  
(a total of 5 pages)

6.500 - 6.505 to  
6.525(1) - 6.535(2)  
i.e. 6-10 to 6-13  
(a total of 4 pages)

5.800(1) - 5.990(2)  
i.e. 5-47  
(a total of 1 page)

none

6.995(1) - 6.995(3)  
i.e. 6-18  
(a total of 1 pages)

6.995(1) - 6.995(2)  
i.e. 6 - 18  
(a total of 1 pages)

Said pages are attached hereto and incorporated herein by reference. The purpose of these substitutions is to add to Lane Code Chapter 5 the prohibited noise provisions dealing with railroads, and to establish noise infractions, penalties, and declare an emergency (LC 5.600 - 5.635, 5.990), and to remove from Lane Code Chapter 6 the prohibited noise provisions (LC 6.500 - 6.535, 6.995(3)).

An emergency is hereby declared to exist and this Ordinance, being enacted by the Board in the exercise of its police power of the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, shall take effect immediately upon adoption.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Enacted this 28<sup>th</sup> day of July, 1999

[Signature]  
Chair, Lane County Board of Commissioners

[Signature]  
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 6-14-99 lane county

[Signature]  
OFFICE OF LEGAL COUNSEL

PROHIBITED NOISE

5.600 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.

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

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

Manager. The Manager of the Land Management Division of the Department of Public Works, or the Manager's designee.

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.

(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.

5.610 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 and C-weighted scale and both fast and slow meter response capability and the capability to perform time averaged sound measurement.

(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.

5.615 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

(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 5.615(1) above shall supersede LC 5.615(2) above and shall be used to determine if a violation exists.

5.620 Exceptions. Notwithstanding LC 5.615 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 11:00 p.m. of the same day; provided, however, that this exception shall not impair the Manager'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. Notwithstanding anything within LC 5.600 et seq. to the contrary, it shall be unlawful for any railroad "retarder" as that is defined in 40 CFR 201.1(y), to be used, unless such retarder has shielding sufficient to prevent both

(a) impulse sounds, defined as a single pressure peak or a single burst (multiple pressure peaks), as measured on a C weighted meter with fast response, and

(b) sounds in octave bands of 2000 Hz and above,

where either of such sounds exceed either 10 db between the hours of 10:00 p.m. and 7:00 a.m. of the following day, or 12 db between the hours of 6:00 p.m. to 10:00 p.m., over the ambient noise level within a sound sensitive unit with a window ajar and measured from no closer than three (3) feet of the window. The ambient noise level is the total of all noise in the environment, other than noise from railroad operations, averaged over 10 minutes in C weighted decibels.

(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 Manager as provided in LC 5.625.

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

5.625 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 Manager for a variance from such provision.

(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 Manager may reasonably require.

(2) Review Considerations. The Manager 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) Manager's Action. Within 10 days of receiving the application, the Manager shall deny it, approve it, or approve it subject to conditions. The Manager'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 Manager may at any time before or during the operation of a variance granted by the Manager revoke the variance for good cause.

5.630 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. In the case of an adjudicated conflict between the provisions of this subchapter and any Federal statute or regulation promulgated thereunder, such statute or regulation shall supersede the provisions of this subchapter and may be enforced, to the fullest extent allowed by law, by Lane County.

5.635 Initiation of Noise Infraction Proceeding by Private Party.

(1) A person other than the Manager or designee may commence a noise infraction proceeding for a violation of LC 5.600 et seq., by filing a complaint with the Manager.

(2) The filing of the complaint is subject to section LC 5.020, and must contain at least:

(a) The name and address of the person bringing the action, and the name and address of the defendant.

(b) A statement or designation of the infraction that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the infraction is alleged to have occurred.

(c) A certificate signed by the complainant stating that the complainant believes that the named defendant committed the infraction specifically identified in the complaint and that the complainant has reasonable grounds for that belief. A certificate conforming to this section shall be deemed equivalent of a sworn complaint. Complaints filed under this section are subject to the penalties provided in ORS 153.990 for false certification.

(3) Upon the filing of a complaint under this section, the Manager shall cause a summons to be delivered to the defendant.

(4) The Manager may, acting in his or her sole discretion, amend a complaint filed under the provisions of this section.

(5) The Hearings Officer shall dismiss a complaint filed under this section upon motion from either the Manager or the defendant if:

(a) The Manager has brought or intends to bring a proceeding against the defendant named in the complaint by reason of the same conduct alleged, or

(b) Another citizen initiated complaint has been brought against the defendant named in the complaint by reason of the same conduct alleged.

Littering5.800 Littering and Penalty.

(1) Any person who throws or places, or who directs or permits another person to throw or place, other than in receptacles provided therefor, upon the private land or waters of another person without the permission of the owner, or upon public lands or waters, or upon any public place, any rubbish, trash, garbage, debris or other refuse, commits the infraction of littering.

(2) A violation of this section constitutes a County Infraction and is subject to the administrative civil penalty procedures set forth in LC 5.017. The imposition of a penalty does not relieve a person responsible of the duty to abate the nuisance.

(3) Evidence of a name found on an item in a deposit of illegally dumped rubbish, which would ordinarily denote ownership of the item, such as the name of an addressee on an envelope, shall constitute prima facie evidence that the person whose name appears on the item has violated LC 5.800.

5.990 Infractions, Violations.

(1) Violation of any provision of LC Chapters 5, 9, 10, 11, 13, 15, or 16 constitutes a County Infraction. The commission of a County Infraction, unless otherwise specified, is subject to the administrative civil penalty procedures set forth in LC 5.017. A Summons and Complaint alleging violation of LC 5.400, 5.500 through 5.547, 5.700 through 5.745 and 5.800 may be signed, issued and served by any officer, employee or designated agent of the County.

(2) Violation of LC 5.600 et seq. is an infraction punishable by a fine of not more than \$500. However, in the event that the infraction has been committed by a corporation, partnership, firm, association or other business entity, violation of LC 5.600 et seq. shall be punishable by a fine of not more than \$1,000.00. Violation of LC 5.600 et seq. is also subject to the administrative civil penalty procedures set forth in LC 5.017. Any enforcement proceedings allowed herein may be commenced by the Manager. The imposition of a penalty does not relieve a person responsible of the duty to abate the nuisance. For purposes of this section a separate violation will be deemed to have occurred for every violation occurring more than 15 minutes from the previous violation.

12-77; 10.14.77

5-47

WP Vcc/00014/T

17-77; 11.18.77

WP Vcc/99019/T

8-81; 6.3.81

2-82; 4.9.82

21-83; 11.29.83

11-87; 9.17.87

6-89; 5.24.89

1-93; 4.16.93

## PENALTIES

6.995 **Penalties.**

(1) Violation of LC 6.025, 6.030, 6.610 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.

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  
 10-88; 1.4.89  
 4-89; 5.12.89  
 5-90; 7.6.90

6-18

WP Vco/00017/T  
 WP Vcr/99018/T

5.600 Lane Code 5.605

PROHIBITED NOISE

5.600 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.

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

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

Manager. The Manager of the Land Management Division of the Department of Public Works, or the Manager's designee.

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 and is audible spoken speech, comprehension of whether a voice is raised for normal or comprehensible musical rhythms.

Sound-producing device includes but is not limited to:

- (a) Loudspeakers, public address systems,
- (b) Radios and recorders and/or tape players, piano or other electric or electronic systems having tone installed in a building,
- (c) Musical instruments, including but not limited to, hand-held instruments,
- (d) Meters, bells or steam whistles, attached to a stationary device.

(e) ~~Vehicle engines or exhausts discharging into open air when the vehicle is 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.

#### 5.610 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 and C-weighted scale and both fast and slow meter response capability and the capability to perform time averaged sound measurement.~~

(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.~~

#### 5.615 Prohibitions. It shall be unlawful for any person to produce or permit to be produced, with a sound-producing device, sounds 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) at any time between 10:00 p.m. and 7:00 a.m. of the following day;~~

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

5.615(2) ~~...~~ Lane Code ~~...~~ 5.620(3)

(2) Is plainly audible at any time between 6:00 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 5.615(1) above shall supersede LC 5.615(2) above and shall be used to determine if a violation exists.

5.620 Exceptions. Notwithstanding LC 5.615 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 11:00 p.m. of the same day; provided, however, that this exception shall not impair the Manager'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. Notwithstanding anything within LC 5.600 et seq. to the contrary, it shall be unlawful for any railroad retarder that is defined in 40 CFR 201.1(y), to be used unless such retarder has a shield sufficient to prevent both

(a) ~~...~~ impulse sounds, defined as a single pressure peak or a single burst (multiple pressure peaks) as measured on a C-weighted meter with a fast response; and

(b) ~~...~~ sounds in octave bands of 2000 Hz and above; where either of such sounds exceed 115 dBA between the hours of 9:00 p.m. and 6:00 a.m. of the following day, or 115 dBA between the hours of 6:00 p.m. and 9:00 p.m. over the ambient noise level within a sound sensitive and suitable property, as measured from the exterior of the window of the building. The ambient noise level is the total of all noise in the environment, other than noise from rail operations, reported over a 10-minute interval, weighted decibels.

~~(4) Sound caused by bonafide use of emergency permitted devices and alarm systems authorized by LC 5.620(4) through 5.620(8)~~

~~(5) Sound caused by blasting operations 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 Manager as provided in LC 5.625.~~

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

5.625 ~~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 Manager for a variance from such provision.

(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 Manager may reasonably require.

(2) ~~Review Considerations.~~ The Manager 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) Manager's Action.~~ Within 10 days of receiving the application the Manager shall deny, approve or approve it subject to conditions. The Manager's decision shall be final for purposes of final review under ORS 216.010 through 216.013 if the decision is signed and returned.

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

5.630 ~~Subchapter Additional to Other Laws~~ 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. In the case of an adjudicated conflict between the provisions of this subchapter and any Federal statute or regulation promulgated thereunder, such statute or regulation shall supersede the provisions of this subchapter and may be enforced to the fullest extent allowed by law, by Lane County.

5.635 Initiation of Noise Infraction Proceeding by Private Party.

(1) A person other than the Manager or designee may commence a noise infraction proceeding for a violation of LC 5.600 et seq., by filing a complaint with the Manager.

(2) The filing of the complaint is subject to section LC 5.020, and must contain at least:

(a) The name and address of the person bringing the action, and the name and address of the defendant.

(b) A statement or designation of the infraction that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the infraction is alleged to have occurred.

(c) A certificate signed by the complainant stating that the complainant believes that the named defendant committed the infraction specifically identified in the complaint and that the complainant has reasonable grounds for that belief. A certificate conforming to this section shall be deemed equivalent of a sworn complaint. Complaints filed under this section are subject to the penalties provided in ORS 163.990 for false certification.

~~(3) Upon the filing of a complaint under this section, the Manager shall cause a summons to be delivered to the defendant.~~

~~(4) The Manager may, acting in his or her sole discretion, amend a complaining filed under the provisions of this section.~~

~~(5) The Manager shall dismiss a complaint filed under this section upon motion for dismissal by the Manager or the defendant if:~~

~~(a) The Manager has brought or intends to bring a proceeding against the defendant named in the complaint by reason of the same conduct alleged;~~

~~(b) Another similar pending complaint has been brought against the defendant named in the complaint by reason of the same conduct alleged;~~

5.800(1)

Lane Code

5.990(2)

Littering

5.800 Littering and Penalty.

(1) Any person who throws or places, or who directs or permits another person to throw or place, other than in receptacles provided therefor, upon the private land or waters of another person without the permission of the owner, or upon public lands or waters, or upon any public place, any rubbish, trash, garbage, debris or other refuse, commits the infraction of littering.

(2) A violation of this section constitutes a County Infraction and is subject to the administrative civil penalty procedures set forth in LC 5.017. The imposition of a penalty does not relieve a person responsible of the duty to abate the nuisance.

(3) Evidence of a name found on an item in a deposit of illegally dumped rubbish, which would ordinarily denote ownership of the item, such as the name of an addressee on an envelope, shall constitute prima facie evidence that the person whose name appears on the item has violated LC 5.800.

5.990 Infractions, Violations.—

(1) Violation of any provision of LC Chapters 5, 9, 10, 11, 13, 15, or 16 constitutes a County Infraction. The commission of a County Infraction, unless otherwise specified, is subject to the administrative civil penalty procedures set forth in LC 5.017. A Summons and Complaint alleging violation of LC 5.400, 5.500 through 5.547, 5.700 through 5.745 and 5.800 may be signed, issued and served by any officer, employee or designated agent of the County.

~~(2) Violation of LC 5.600 is punishable by a fine of not more than \$500. However, if the violation has been committed by a corporation, partnership, firm, association or other business entity, violation of LC 5.600 as set shall be punishable by a fine of not more than \$1000. Violation of LC 5.600 as set is also subject to the administrative civil penalty procedures set forth in LC 5.017. Enforcement proceedings allowed herein may be initiated by the Manager. The imposition of a penalty does not relieve a person responsible of the duty to abate the nuisance. For purposes of this section, a violation will be deemed to have occurred for every violation occurring from a violation from the point of violation.~~

12-77; 10.14.77

5-47

WP 1/co/00014/T

17-77; 11.18.77

WP 1/cr/99019/T

8-81; 6.3.81

2-82; 4.9.82

21-83; 11.29.83

11-87; 9.17.87

6-89; 5.24.89

1-93; 4.16.93

~~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.~~

~~(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~~

~~(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 11:00 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.~~

~~(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(38)

### PENALTIES

6.995 Penalties.

(1) Violation of LC 6.025, 6.030, 6.610 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  
10-88; 1.4.89  
4-89; 5.12.89  
5-90; 7.6.90

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