

ORDINANCE NO. 827

AN ORDINANCE REGULATING EXCESSIVE NOISE; ESTABLISHING EXEMPTIONS THEREFORE; PROVIDING PENALTIES FOR A VIOLATION HEREOF AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to the provisions of ORS 467.100(1), the Town of Lakeview has the authority, in order to protect the health, safety and welfare of its citizens, to adopt and enforce a noise ordinance; and

WHEREAS, the Town Council of the Town of Lakeview finds that loud noises degrade the environment of the Town to a degree that the same is harmful to the health and welfare of the Town's citizens as well as interferes with the comfortable enjoyment of life and property, now, therefore,

THE COUNCIL OF THE TOWN OF LAKEVIEW ORDAINS AS FOLLOWS:

Section 1. - Purpose: The purpose of this Ordinance is to protect, preserve and promote the health, safety, welfare and peace of the citizens of the Town of Lakeview through the reduction, control, and prevention of loud noise or any noise which unreasonably disturbs, injures, or endangers the comfort, health, peace, or safety, or causes public inconvenience, annoyance or alarm to reasonable persons of ordinary sensitivity.

Section 2. - Definitions: For the purpose of this Ordinance, the following definitions are hereby established:

(a) **Audio or Visual Equipment.** Includes, but is not limited to, compact disc players, phonographs, radios, stereo systems, tape recorders, tape players, televisions, video cassette players, video cassette recorders, drums, and musical instruments.

(b) **Noise Sensitive Property.** Real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries.

(c) Plainly Audible Sound. Any sound that can be detected by a reasonable person of ordinary sensitivity using unaided hearing faculties.

(d) Public Right of Way. Any street, avenue, road, highway, sidewalk or alley normally accessible to the public which is owned or controlled by a governmental entity.

(e) Sound Producing Source. Anything that is capable of making sounds, including, but not limited to the following:

Air conditioning or heating units, heat pumps, refrigeration units (including those mounted on vehicles), and swimming pool or hot tub pumps;

Air horns, bells, or sirens;

Audio or visual equipment;

Domestic tools, including chain saws, electric drills, electric saws hammers, lawn mowers, leaf/snow blowers, and similar tools;

Loudspeakers or public address systems;

Musical instruments;

Spoken speech;

Vehicle engines or exhaust systems, other than regular traffic upon a highway, road or street;

Vehicle tires, when caused to squeal by excessive speed acceleration;

Residential parties in a place of residence that are plainly audible to noise sensitive properties that are not the source of the party.

(f) Vehicle. Any device in, upon, or by which any person, animal, or property is or may be transported or drawn upon the highway and includes vehicles that are propelled or powered by any means.

Section 3. - Scope: This Ordinance applies to the control of all sound originating within the jurisdictional limits of the Town of Lakeview.

Section 4. - General Prohibitions: No person shall make, continue or cause to be made or continued any of the following:

- (a) Any unreasonably loud or raucous noise;
- (b) Any noise which unreasonably disturbs, injures, or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensitivity within the Town of Lakeview.
- (c) Any noise from any sound producing source which is so harsh, prolonged, unnatural, or unusual in time or place as to cause an reasonable discomfort to any persons within the neighborhood from which said noise emanates, or unreasonably interferes with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or which detrimentally or adversely affects such residences or places of business.

Section 5. - Specific Noises Prohibited: The following acts or noises are declared to be violations of this Ordinance and the enumeration of such act or noises shall not be deemed to 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 or vibration.
- (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 in the Town, for more than 10 consecutive seconds.
- (c) Non-Emergency Signaling Devices. The sounding or permitted sounding of any amplified signal from any bell, siren, whistle or similar device not being utilized for

emergency purposes.

(d) Audio or Visual Equipment. The use or operation of any audio or visual equipment that produces or reproduces sound in a manner that is plainly audible to any person which unreasonably disturbs the peace, quiet and comfort of neighbors or is plainly audible at a distance of 50 feet which unreasonably disturbs the peace, quiet in comfort of neighbors and residential or noise sensitive areas, including multi-family or single family dwellings.

(e) Loud Speakers, Amplifiers, Public Address Systems and Similar Devices. The unreasonably loud and raucous use or operation of a loud speaker, amplifier, public address system or other device for producing or reproducing sound between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and 10:00 p.m. and 9:00 a.m. on weekends and holidays within or adjacent to residential or noise sensitive areas.

(f) Yelling, Shouting and Similar Activities. The yelling, shouting, including whistling or singing in residential or noise sensitive areas or in public places between the hours of 10:00 p.m. and 7:00 a.m. or at any other time or place so as to unreasonably disturb the quiet or comfort 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 factors not based on contact.

(g) Animals and Birds. Unreasonably loud and raucous noises emitted by any animal or bird for which a person is responsible. A person is responsible for an animal or bird if that person owns, control or otherwise cares for the same.

(h) Construction or Repair of Building or Excavation. The construction, demolition, alteration or repair of any building and non-emergency excavations of any streets or highways other than between the hours of 7:00 a.m. and 7:00 p.m.

(i) Noise Sensitive Areas. The creation of any unreasonably loud or raucous noise adjacent to any noise sensitive area which is in use, which unreasonably interferes with the workings conducted thereon or therein.

Section 6. - Exemptions. Sounds caused by the following sources or events are exempt from the prohibitions as set forth in this Ordinance:

(a) Sounds caused by ordinary athletic or other group activities when such activities are conducted on property generally used for such purposes.

(b) Sounds caused by regular vehicular traffic in or upon public rights of way.

(c) Sounds caused by the repair of utility structures which pose a clear and immediate danger to the life, health or significant loss of property.

(d) Sounds caused by emergency vehicles related to fire, ambulance or police activity.

(e) Sounds caused by the repair or excavation of bridges, streets or highways by or on behalf of the Town, the County, the State or the federal government.

(f) Sounds regulated by federal law including sounds caused by railroads or aircraft or other sounds which are not subject to regulation due to the provisions of the constitutions of the United States or the State of Oregon.

Section 7. - Enforcement. The Town's Police Chief, or his designee, will have primary responsibility for the enforcement of the noise regulations as contained in this Ordinance. Nothing in this Ordinance shall prevent the Police Chief from obtaining voluntary compliance by way of warning, notice or education.

Section 8. - Penalty. A violation of this Ordinance shall be commenced by the issuance of a citation and shall be prosecuted in the Lake County Circuit Court as a Class B Violation pursuant to the provisions of ORS 153.008, ORS 153.012 and ORS 153.018 as now in effect or as may be

amended from time to time.

Section 9. - Severability: If any section, sub-section or provision of this Ordinance shall be declared unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this Ordinance.

Section 10. - Emergency and Effective Date. This Ordinance and its purposes being necessary for the preservation of the public peace, health and safety of the citizens of the Town of Lakeview, an emergency is hereby declared to exist and this Ordinance shall take effect immediately upon its adoption by the Town Council.

A motion was made to read this Ordinance by title only and such motion passed unanimously. Thereafter, the Ordinance was read by title only and was adopted as indicated below.

Passed by the Town Council by a vote as follows:

5 In Favor

0 Opposed

Adopted this 10th day of July, 2007.


Rick Watson, Mayor

Attest:


Christy Pavola, Town Recorder