



City Of Scio, Oregon



ORDINANCE NO. 591

AN ORDINANCE ESTABLISHING NOISE REGULATIONS AND REPEALING SECTION 9 OF ORDINANCE NO. 446

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THE CITY OF SCIO DOES ORDAIN AS FOLLOWS:

Section 1. Title. This ordinance shall be known as the “Sound Ordinance” of the City of Scio, Oregon.

Section 2. Purpose. This ordinance is enacted to protect, preserve, and promote the health, safety, and welfare of the residents of the City of Scio through the reduction, control, and prevention of loud raucous sounds or any sound which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.

Section 3. Findings.

- (1) Loud and raucous sound degrades the environment of the City of Scio because it is harmful to the health, welfare, and safety of its inhabitants and visitors; it interferes with comfortable enjoyment of life and property; it interferes with the well-being, tranquility, and privacy of the home; and it can cause and aggravate health problems.
- (2) The effective control and elimination of loud and raucous sounds are essential to the health and welfare of the City of Scio’s inhabitants and visitors to conduct the normal pursuits of life, including recreation, work, and communications.

- (3) The use of sound amplification equipment creates loud and raucous sound 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 the City of Scio.
- (4) Some flexibility in sound restrictions is essential in order to allow for the construction and maintenance of structures, infrastructure, and other elements necessary for the physical commercial well-being of the City of Scio.

Section 4. Scope. This ordinance will apply to control all sound originating within the jurisdictional limits of the City of Scio.

Section 5. Definitions. For the purposes of this ordinance, the following definitions apply:

- (1) A-scale (dBA). The sound level in decibels measured using the A-weighted network as specified in the American National Standard Specifications for sound level meters.
- (2) Decibel (Db). The unit for measuring the volume of a sound.
- (3) Impulse Sound. This means either a single pressure peak or a single burst (multiple pressure peaks) for a duration of less than one second as measured on a peak unweighted sound pressure measuring instrument or "C" weighted, slow response instrument and specified by dB and dBC respectively.
- (4) Sound Level Meter. A sound measuring device, either Type 1 or Type 2, as defined by the American National Standard Specification for sound level meters.
- (5) Sound Producing Device. Includes but is not limited to the following:
 - a. Loudspeakers;
 - b. Radios, tape players, compact disc players, phonographs, boom boxes, television sets, or stereo systems, including those installed in a vehicle;
 - c. Musical instruments;
 - d. Sirens, bells or whistles;
 - e. Engines or motors;
 - f. Air, electrical, or gas-driven tools including but not limited to: drills, chainsaws, lawn mowers, saws, hammers or similar tools;
 - g. Motor vehicles, including automobiles, motorcycles, motorbikes, trucks, busses, snowmobiles, boats or any similar pieces of equipment equipped with a propelling device;
 - h. Persons causing sound to emanate.

Section 6. Sound Measurements.

- (1) When sound measurements are made for the enforcement of this ordinance, they shall be made with sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type 1 or Type 2 meter and shall contain at least an A-weighted scale and both fast and slow meter response capability.
- (2) If sound measurements are made, the person making those measurements shall have the completed training in the use of the sound level meter (as described on the packaging and manufacturer directions), and shall use the meter procedures consistent with that training.

Section 7. Sounds Prohibited.

- (1) It shall be unlawful for any person to produce or permit to be produced, with any sound producing device which when measured at or within the boundary of the property on

which is not the source of the sound, and exceeds the following levels to be measured over an hour period of time.

Residential and Sound Sensitive Uses		
	7 am to 10 pm	10 pm to 7 am
Level of sound for 50% of the time (L50)	55 dBA	50 dBA
L10 (10% of the time)	60 dBA	55 dBA
L1 (1% of the time)	65 dBA	60 dBA

Commercial Uses				
	Sunday - Thursday		Friday-Saturday	
	7 am to 10 pm	10 pm to 7 am	7 am to 11 pm	11 pm to 7 am
Level of sound for 50% of the time (L50)	70 dBA	50 dBA	70 dBA	50 dBA
L10 (10% of the time)	75 dBA	55 dBA	75 dBA	55 dBA
L1 (1% of the time)	80 dBA	60 dBA	80 dBA	60 dBA
In areas where the commercial use is abutting a residential or sensitive use, an additional 10 dBAs will be allowed.				

Industrial Uses		
	7 am to 10 pm	10 pm to 7 am
Level of sound for 50% of the time (L50)	70 dBA	50 dBA
L10 (10% of the time)	75 dBA	55 dBA
L1 (1% of the time)	80 dBA	60 dBA
In areas where the industrial use is abutting a residential or sensitive use, an additional 10 dBAs will be allowed.		

- (2) In addition to Section A above, any person producing or permitted to be produced the following sound disturbances, shall be found in violation of the ordinance, regardless of the decibel level of the disturbance:
- a. Repair and testing of a motor vehicle or other engine which is plainly audible between the hours of nine (9:00) p.m. and seven (7:00) a.m. of the following day;
 - b. The operation of any gong, bell, or siren upon any vehicle, other than police, fire or other emergency vehicle;
 - c. The sounding of any motor vehicle audible anti-theft alarm system for a period of more than twenty (20) minutes;
 - d. The use of a mechanical device operated by compressed air, steam or otherwise, unless the sound created thereby is effectively muffled;
 - e. The detonation of blasting or explosive device, except as allowed under a permit issued by the appropriate governmental authority;
 - f. The erection, including excavation, demolition, alternation or repair of any building between the hours of nine (9:00) p.m. and seven (7:00) a.m. except in the case of urgent necessity in the interest of the public welfare an safety and then only with a permit granted by the city manager for a period not to exceed ten days.

Section 8. Exceptions. The following constitute exceptions to this ordinance and shall not be construed as violations:

- (1) Sounds created by organized athletic or other group activities, when such activities are conducted on public property generally used for such purposes, such as stadiums, schools, and athletic fields;
- (2) Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus;
- (3) Sounds caused by bona fide use of emergency warning devices and properly functioning alarm systems;
- (4) Sounds caused by demolition activities when performed under a permit issued by appropriate governmental authorities;
- (5) Sounds caused by construction activity during the hours of seven (7) a.m. and nine (9) p.m. of the same day;
- (6) Sounds caused by regular vehicular traffic upon premises open to the public;
- (7) Sounds caused by air, electrical or gas-driven domestic tools, including but not limited to: lawnmowers, lawn edgers, saws, drills, blowers, and/or other similar lawn or construction tools, during the hours of seven (7) a.m. and nine (9) p.m. of the same day;
- (8) Bells, chimes and carillons while being used for religious purposes or in conjunction with religious services, or for national celebrations or public holidays;
- (9) Parades for which city permission has been granted;
- (10) Impulse sounds of no more than one per ten minutes;
- (11) Any sound resulting from activities of a temporary duration which is otherwise permitted by law.

Section 9. Variance.

- (1) Conditions for Granting. The City Council may grant specific variances from a 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.
- (2) Procedure for Requesting. Any person requesting a variance shall make his request in writing to the City Council for consideration by the council and shall state in a concise manner the facts to show cause why such variance should be granted.
- (3) Revocation of Modification. A variance granted may be revoked or modified by the City Council after a public hearing held upon not less than a twenty-one (21) day notice. Such notice shall be served upon the holder of the variance by certified mail and all persons who have filed with the City Council a written request for such notification.

Section 10. Authority for Enforcement.

The ordinance shall be enforced by authorized law enforcement agency designated by the City of Scio. The occupant/lessee/renter will be cited for violations of this code and may be subject to the fines provided in Section 12.

In the event that the offending party is a corporation, the corporation shall be subjected to fine or abatement or other penalties allowed by Oregon law. In such case where a corporation is the offending party, a citation may be served upon the corporation by serving an officer of the corporation, or a person in charge of the premises at the time the citation is issued with a citation requiring a representative of the corporation to appear in court at the time indicated on the citation. The corporation shall be named as a defendant on the citation. In the event that a representative fails to appear as required by the citation the city attorney may seek appropriate remedies for the failure to appear against the officers of the corporation as allowed by law. For the application of this section, the term "corporation" shall also include partnerships, limited liability companies or partnerships, associations, sole proprietorships and other similar forms of business entities.

Section 11. Enforcement.

After receiving an initial complaint regarding an alleged excessive sound infraction, a law enforcement officer, will measure the reading on the appropriate calibrated sound meter (provided by the City of Scio) at or within the boundary of the adjacent properties and determine if an infraction of the Scio Sound Ordinance exists. If the measurement is greater than the ordinance allows the officer will issue a written warning to the occupant/lessee/renter and if compliance is maintained by the occupants "adjusting the sound to an acceptable level" the officer will leave the premises. If the officer is called back to the same infraction/warning area (after a one hour time period) the officer will take another measurement to determine if the infraction has been continued. If the occupant/lessee/renter is still non-compliant with the code the non-compliant individual will be issued a citation for court appearance.

Section 12. Penalty.

Each violation of any provision of this chapter constitutes a violation under the ordinances of the City of Scio, subject to a maximum penalty of a fine of up to two hundred fifty dollars (\$250.00). Such penalty is in addition to any legal proceedings which may be brought by the city attorney according to any other provision under the ordinances of the City of Scio, or Oregon law.

Section 13. Institution of legal proceedings.

The city attorney, acting in the name of the City of Scio, 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.

Section 14. 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 to sound, but shall be deemed additional to existing legislation and common law on such subject.

Section 15. Effective Date. This ordinance shall be effective January 10, 2013.

This Ordinance was read for the first time by title only on this 10th day of December, 2012.

This Ordinance was read by title only for the second time on this 10th day of December, 2012.

This Ordinance was passed on the 10th day of December, 2012 by the City Council and executed by the Mayor this 25th day of January, 2013.

Date: 1-25-13

By: Earl D Wilson
EARL D. WILSON, Mayor

Date: 1-25-13

Attest: Virginia A. Griffith
VIRGINIA GRIFFITH, City Manager

APPROVED AS TO FORM

Date: 2-18-13

By: John E. Kennedy
JOHN E. KENNEDY, City Attorney