

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Regulating)
Noise)
_____)

ORDINANCE NO. 91-8

The Board of County Commissioners for Columbia County, Oregon ordains as follows:

SECTION 1. TITLE.

This ordinance shall be known as Ordinance No. 91-8. Exhibit "A", which is attached hereto and incorporated herein by this reference, shall be known as the "Columbia County Noise Control Ordinance".

SECTION 2. AUTHORITY.

This ordinance is adopted pursuant to ORS 203.035 and 467.100(1)(1991).

SECTION 3. SCOPE.

This ordinance shall apply throughout the unincorporated areas of Columbia County.

SECTION 4. ADOPTION.

The document entitled "Columbia County Noise Control Ordinance", incorporated herein as Exhibit "A", is hereby adopted.

SECTION 5. SEVERABILITY.

If for any reason any court of competent jurisdiction holds any portion of this ordinance, including Exhibit "A", invalid, such portion shall be deemed a separate, distinct and independent portion, and any such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. EMERGENCY.

This ordinance being immediately necessary to maintain the public health, safety and welfare, an emergency is declared to exist and this ordinance shall take effect upon its adoption.

REGULARLY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON THIS 16th DAY OF October, 1991.

Approved as to form

By: Thomas A. Dennis
Office of County Counsel

Attest
By: Jan Suenkelgh
Recording Secretary

First Reading: 10/16/91
Second Reading: 10/16/91
Effective Date: 10/16/91

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: Michael J. Super
Chairman

By: Not present
Commissioner

By: J. R. Johnson
Commissioner

EXHIBIT "A"

COLUMBIA COUNTY

NOISE CONTROL ORDINANCE

Adopted by Ordinance No. 91-8 on October 16th, 1991.

COLUMBIA COUNTY NOISE CONTROL ORDINANCE

SECTION 1. TITLE.

This ordinance shall be known as the "Columbia County Noise Control Ordinance" and shall be cited herein as "this ordinance".

SECTION 2. FINDINGS, POLICY AND PURPOSE.

A. Findings.

- (1) Noise emissions in this County at excessive levels can and do constitute a threat to the health, safety, welfare and quality of life of County citizens.
- (2) While certain activities essential to the advancements of the citizens of the County necessarily require the production of noise which may intrude upon or otherwise create hardship among the citizenry, excessive noise is a nuisance and some limitation and regulation must be imposed upon the production of excessive noise to reduce the deleterious effects of such noise.

B. Policy.

It is in the best interest of the citizens of Columbia County to control the pollution created by excessive noise levels.

C. Purpose.

The purpose of this ordinance is to regulate noise wherever it is deemed to be harmful to the health, safety, welfare and quality of life of citizens of Columbia County. This ordinance shall be liberally construed to give full effect to that policy and purpose.

SECTION 3. DEFINITIONS.

As used in this ordinance the following terms and definitions shall apply unless the context requires otherwise:

- A. "ANSI" means the American National Standards Institute or its successor body.
- B. "A-Scale (dBA)" means the sound level in decibels measured using the A-weighting network as specified in ANSI S1.4-1971 (or as modified) for sound level meters.
- C. "Board" means the Board of County Commissioners for Columbia County, Oregon.
- D. "Decibel (dB)" means a unit of sound measurement.

- E. "Emergency Work" means work necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from imminent exposure to danger.
- F. "Excessive Noise" means any sound or sequence of sounds to which an individual is exposed and which exceeds the allowable noise level more than 10% of the time in any 20-minute period. For the purpose of this definition, any sound having a duration of less than one second shall be assumed to last one second.
- G. "Noise Sensitive Property" means any boat or other vehicle, any building or portion thereof or other structure adapted for overnight accommodation of persons, including but not limited to, individual residential units, individual apartments, trailers, hospitals and nursing homes.
- H. "Noise Source" includes, but is not limited to:
- (1) Loudspeakers and public address systems;
 - (2) Radios, tape recorders and/or tape players, phonographs, television sets and stereo systems, including those located in a vehicle, business, residential unit or other structure;
 - (3) Musical instruments, amplified or unamplified;
 - (4) Sirens, bells, alarms and other warning devices;
 - (5) Vehicle engines or exhaust systems when the vehicle is not on a public highway, as defined by ORS 801.305;
 - (6) Motorboats;
 - (7) Vehicle tires, when excessive speed, acceleration or cornering causes them to squeal;
 - (8) Heat pumps, air conditioning units and refrigeration units, including those equipped on vehicles; and
 - (9) Animals that are captive, or are otherwise subject to the control of their owner or keeper.
- I. "Person" means, in addition to any individual, any private or public corporation, association, partnership or other legally recognized public or private entity.
- J. "Sheriff" means the Sheriff of Columbia County or the Sheriff's designee.
- K. "Vehicle" includes, but is not limited to, automobiles, motorcycles, trucks, buses and snowmobiles.

SECTION 4. NOISE MEASUREMENTS.

A. Equipment.

- (1) For any noise measured for the purposes of this ordinance, the person performing the measuring shall use a noise level meter.
- (2) The noise level meter shall be a calibrated instrument in good operating condition and shall meet the requirements of a Type I or Type II meter, as specified in American National Standards Institute (ANSI) Standard 1.4-1971 or its subsequent revisions.
- (3) The noise level meter shall contain at least an A-weighted scale, with both fast and slow meter response capability. For the purposes of this ordinance, slow meter responses shall be the sole means of measurement.

B. Trained Personnel.

For any noise measured for the purposes of this ordinance, the person performing the measuring shall have successfully completed training approved by the Sheriff in the use of the noise level meter and shall follow the measurement procedures consistent with that training.

C. Site of Measurements.

For any noise measured for the purposes of this ordinance the person shall perform the measurement either:

- (1) At or within the boundary of the property on which a noise sensitive property, which is not the source of the noise, is located; or
- (2) Within a noise sensitive property, which is not the source of the noise.

SECTION 5. EXCESSIVE NOISE PROHIBITED.

It shall be a violation of this ordinance for any person to produce, or allow to be produced, from a noise source either owned or operated by that person or under that person's control, any noise which when measured pursuant to Section 4, exceeds:

- A. 50 dBA any time between 10:00 p.m. one evening and 7:00 a.m. the following day; or
- B. 60 dBA any time between 7:00 a.m. and 10:00 p.m. the same day.

SECTION 6. EXCEPTIONS.

Notwithstanding Section 5 above, the following noises are not prohibited under this ordinance when the conditions therefor are met:

A. Civic Activities.

Sounds caused by organized athletic, religious, educational, civic or racing activities 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. the same day.

B. Emergencies.

Sounds caused by emergency work, 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.

C. Federally Regulated Sounds.

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.

D. State Regulated Sounds.

Sounds caused by sources regulated by the laws of the State of Oregon including, but not limited to, Oregon Administrative Rules (OAR) 340-35-005 et seq.

E. Emergency Warning Devices.

Sounds caused by bona fide use of emergency warning devices and alarm systems.

F. Blasting Activities.

Sounds caused by blasting activities when performed under a permit issued by appropriate governmental authorities.

G. Industrial Activities.

Sounds caused by industrial, agricultural, timber and firewood-harvesting and utility or construction organizations or workers during their normal operations.

H. Guns.

Sounds caused by the firing of rifles, pistols and other firearms.

I. Motor Vehicles.

Sounds caused by motor vehicles operated on public roads regulated by ORS 815.025.

J. Residential Tools.

Sounds created by lawn or garden tools, snowblowers, mechanically powered drills, saws, sanders and grinders, or similar devices used in residential areas between the hours of 7:00 a.m. and 10:00 p.m.

K. Watch Dogs.

Sounds made by watch dogs, guard dogs, sheep and cattle dogs and similar dogs when actually barking or howling for such purposes.

L. Board Order.

Categories of sounds or noise emission sources specially exempted from the requirements of Section 5 above by order of the Board. In determining whether to grant an exemption the Board shall consider:

- (1) Protection of the health, safety and welfare of the citizens of the County;
- (2) Feasibility and cost of noise abatement; and
- (3) Past, present and projected patterns of land use.

SECTION 7. VARIANCES.

Any person planning to operate a sound source which may violate any provision of this ordinance may apply to the Sheriff in writing for a variance from such provision.

A. Application.

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

B. Review Considerations.

The Sheriff shall consider:

- (1) The source, nature and duration of the proposed sound;
- (2) Whether the public health, safety or welfare is endangered;
- (3) The equities involved and the advantages and disadvantages to residents and to the person proposing to conduct the activity for which the variance is sought; and
- (4) Whether previous variance permits have been issued to the applicant and the applicant's record of compliance.

C. Grounds for Issuing Variance.

The Sheriff shall grant a specific variance only if the Sheriff finds that strict compliance with the rule or standard is inappropriate because:

- (1) Conditions exist that are beyond the control of the persons applying for the variance;
- (2) Special circumstances render strict compliance unreasonable, unduly burdensome or impractical due to special physical conditions or cause;
- (3) Strict compliance would result in substantial curtailment or closing down of a business, plant or operation; or
- (4) No other alternative facility or method of operating is yet available.

D. Time Duration of Variance.

A variance may be granted for a specific time interval only not to exceed three (3) months, renewable at the discretion of the Sheriff.

E. Approval Permit.

The Sheriff shall within ten (10) days deny the application, approve it, or approve it subject to conditions. If the Sheriff fails to make the decision within ten (10) days the variance application shall be deemed to be denied.

F. Appeal.

- (1) The applicant may appeal the Sheriff's decision to the Board of County Commissioners.
- (2) The applicant must deliver the written notice of appeal to the Board of County Commissioners within thirty (30) days from the date of the Sheriff's decision.
- (3) The Board shall review the application together with its exhibits and, within fifteen (15) days, deny the application, approve it, or approve it subject to conditions. If the Board fails to make a decision within fifteen (15) days, the variance application shall be deemed to be denied.

G. Revocation.

- (1) The Sheriff may at any time before or during the operation of any variance, modify or revoke the variance if the Sheriff finds:
 - (a) Violation of one or more conditions of the variance;

- (b) Material misrepresentation of fact in the variance application or other representations of the variance holder;
 - (c) Material change in any of the circumstances relied upon by the Sheriff or Board in granting the variance; or
 - (d) A material change or absence of any of the circumstances set forth in paragraphs (1) to (4) of subsection C. of this section.
- (2) The applicant may appeal the revocation in the same manner as provided in subsection 7 (E) above.

SECTION 8. OTHER LAW.

The provisions of this ordinance shall be cumulative and non-exclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided herein, 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.

SECTION 9. ENFORCEMENT.

A. Enforcement Authority.

This ordinance is enforceable under the Columbia County Enforcement Ordinance. Violators of this Sound Control Ordinance are subject to the penalties provided in the Enforcement Ordinance.

B. Persons Authorized to Issue Citations.

Pursuant to Section 11 of the Enforcement Ordinance the following persons are authorized to issue citations under this ordinance:

- (1) The Columbia County Sheriff, any deputy sheriff and other persons specifically authorized under subsection O of Section 11 of the Enforcement Ordinance.
- (2) The Columbia County Dog Control Officer and any deputies thereof, but only for infractions of excessive sounds caused by animals, and only after the Board adopts the appropriate order under subsection Q of Section 11 of the Enforcement Ordinance.