**CHAPTER 96: NOISE**

**96.01** **Section 1. Purpose:**

This ordinance is enacted to protect, preserve, and promote the health, safety, welfare, peace and quiet of the citizens of Weston through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs injures or endangers the comfort, repose, health, peace or safety; or causes public inconvenience, annoyance or alarm to reasonable Persons of ordinary sensitivity.

**Section 2. Findings** The Council finds:

1. Loud and raucous noise degrades the environment of the City to a degree that:

 (1) is harmful to the health, welfare, and safety of its inhabitants and visitors;

 (2) interferes with the comfortable enjoyment of life and property;

 (3) interferes with the well-being, tranquility, and privacy of the home; and

 (4) causes and aggravates health problems.

B. The effective control and the elimination of loud and raucous noise are essential to the health and welfare of the City’s inhabitants and visitors, and to the conduct of the normal pursuits of life, including recreation, work, and communication.

C. The use of sound amplification equipment creates loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of inhabitants of, and visitors to, the City.

D. Certain short-term easing of noise restrictions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the City.

E. The obligation to draft regulations that affect speech in a content-neutral fashion is of paramount importance to protect the freedom of expression guaranteed by Article 1, section 8, of the Oregon Constitution and the First Amendment of the United States Constitution. This ordinance enacts narrowly drawn, content-neutral regulations that are to be interpreted as such so as not to infringe upon constitutionally protected rights.

**Section 3 Scope**

This ordinance applies to the control of all sound originating within the jurisdictional limits of the City.

**Section 4 Definitions**

**Emergency**: Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

**Emergency Work:** Any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether caused or threatened by an emergency, or by work by private or public utilities when restoring utility service.

**Noise-Sensitive Area:** Includes, but is not limited to, real property normally used for sleeping, or at a school, church, hospital or public library.

**Plainly Audible:** Means sounds that can be detected by a reasonable Person of ordinary sensitivities using his or her unaided hearing faculties.

**Public Right-of-Way**: Any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by the City or other governmental entity.

**Public Space:** Any real property or structure on real property, owned by the City and normally accessible to the public, including but not limited to parks and other recreational areas.

**Residential Area**: Any real property which contains one or more structures or buildings in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the City’s zoning ordinance.

**Section 5 General Prohibition**

1. No Person shall make, continue, or cause to be made or continued any of the following:

 (1) Any unreasonably loud or raucous noise; or

(2) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable Persons of ordinary sensitivity, within the jurisdictional limits of the City; or

(3) Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any Persons within the area from which said noises emanate, or as to unreasonably interfere with the peace and comfort of any Person or operation of any place of business.

1. Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:
2. The proximity of the sound to sleeping facilities, whether residential or commercial;
3. The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
4. The time of day or night the sound occurs;
5. The duration of the sound; and

 (5) Whether the sound is recurrent, intermittent, or constant.

1. No Person shall make, continue, or cause to be made or continued:

1. Any noise that is Plainly Audible at any time between 7:00am to 10:00pm at a distance of at least 100 feet from the source of the sound.

(2) Any noise that is Plainly Audible from any distance between the hours of 10:00pm to 7:00am.

**Section 6 Noises Prohibited**

The following acts are declared to be per se violations of this ordinance. This list is not exclusive:

A. Unreasonable Noises: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any Public Right-of-Way, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.

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 Public Right-of-Way or in any Public Space, for more than ten consecutive seconds. The sounding of any horn, signaling device, or similar device, as a danger warning is exempt from this prohibition.

C. Non-Emergency Signaling Devices: Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle, or similar device, intended primarily for non-emergency purposes, from any place for more than ten (10) consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, and solicitors of seasonal contributions, or by the City for traffic control purposes, are exempt from the operation of this provision.

1. Emergency Signaling Devices: The intentional outdoor sounding or permitting the sounding of any emergency signaling device, including a fire, burglar, or civil defense alarm; siren or whistle; or similar emergency signaling device; except in an emergency or except as provided in subsections (1) and (2), below.
2. Testing of an emergency signaling device shall occur between 7:00am and 1:00pm. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.
3. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within five (5) minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or Person responsible for the alarm shall be in violation of this ordinance.
4. Radios, Televisions, Boom-Boxes, Phonographs, Stereos, Musical Instruments and Similar Devices: The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is Plainly Audible to any Person other than player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors or passers-by, or is Plainly Audible at a distance of fifty (50) feet from any Person in a commercial, industrial area, or Public Space or unreasonably disturbs the peace, quiet, and comfort of neighbors in Residential or Noise-Sensitive Areas, including multi-family or single-family dwellings.
5. 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 10:00pm and 7:00am on weekends and holidays in the following areas:
6. Within or adjacent to Residential or Noise-Sensitive areas;

(2) Within a Public Space if the sound is Plainly Audible across the real property line of the Public Space. This subsection shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the City.

G. Yelling, Shouting, and Similar Activities: Yelling, shouting, hooting, whistling or singing in Residential or Noise-Sensitive Areas or in Public Places between the hours of 10:00pm and 7:00am, or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable Persons of ordinary sensitivities. This subsection applies when the disturbance is due to the volume, duration, location, timing or other factors, and not based on content.

H. Animals and Birds: Unreasonably loud and raucous noise emitted by an animal or bird for which a Person is responsible. A Person is responsible for an animal if the Person owns, controls or otherwise cares for the animal or bird.

I. Loading or Unloading Merchandise, Materials, Equipment: Unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.

J. Construction or Repair of Buildings, Excavation of Streets and Highways: The construction, demolition, alteration or repair of any building or the excavation of streets and highways other than between 8:00am and 7:00pm on weekdays. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, a Law Enforcement official may issue a permit, upon application, if he or she determines that the public health and safety will not be impaired by the noise, and refusal to allow the activity is likely to result in loss or undue inconvenience. The permit granted under this subsection shall be in effect for not more than three (3) days, and may be renewed once for a period not to exceed three (3) days.

K. Noise Sensitive Areas: The creation of any unreasonably loud and raucous noise adjacent to any Noise-Sensitive Area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the Persons in these institutions; provided that conspicuous signs delineating the boundaries of the Noise-Sensitive Area are displayed in the streets surrounding the area.

L. Blowers and Similar Devices: In Residential or Noise-Sensitive Areas between the hours of 9:00pm and 7:00am, the operation of any noise-creating blower, power fan, or any internal combustion engine, provided the noise is unreasonably loud and raucous and can be heard across the property from which it emanates.

M. Commercial Establishments Adjacent to Residential Property: Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is a part of or under the control of the establishment, between the hours of 10:00pm and 7:00am, which is Plainly Audible at a distance of five (5) feet from any residential property.

**Section 7 Exemptions**

Sounds caused by the following are exempt from the prohibitions set out in Section 6, and are in addition to the exemptions specifically set forth in Section 6:

A. Motor vehicles on traffic ways of the City, provided that the prohibition of Section 6.B continues to apply.

B. Repairs of utility structures which pose a clear and immediate danger to life, health, or significant loss of property.

C. Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in *this case of fire, collision, civil defenses, police activity, or imminent danger, provided that* the prohibition contained in Section 6.D continues to apply.

D. The emission of sound for the purpose of alerting Persons to the existence of an emergency or the emission of sound in the performance of emergency work.

E. Repairs or excavations of bridges, streets, maintenance, or highways by or on behalf of the City, the State or Federal government, between the hours of 7:00pm and 7:00am., when public welfare and convenience renders it impractical to perform the work between 7:00am and 7:00pm.

F. Reasonable activities conducted on public playgrounds and public or private school grounds in accordance with the manner in which such spaces are generally used, including but not limited to school athletic and entertainment events.

G. Outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.

**Section 8 Enforcement**

This ordinance may be enforced by the City’s law enforcement personnel, Ordinance Control Official, or other duly authorized City personnel. Nothing in this Ordinance shall prevent the enforcing individual from obtaining voluntary compliance by way of warning, notice or education.

**Section 9 Penalties**

A. Violation is a “B” violation as defined by ORS Chapter 153.

B. Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

**Section 10 Severability Clause**

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this Ordinance shall not affect the validity of the remaining parts of this Ordinance.