

CITY OF TIGARD, OREGON

ORDINANCE NO. 01-13-A

AN ORDINANCE REPEALING SECTIONS 7.40.130 THROUGH 7.40.200 OF THE TIGARD MUNICIPAL CODE AND ADDING NEW SECTIONS 7.40.130, 7.40.140, 7.40.150, 7.40.160, 7.40.170, 7.40.180, 7.40.190 AND 7.40.200 TO THE TIGARD MUNICIPAL CODE.

WHEREAS, the Tigard Noise Ordinance, TMC Chapter 7.40, Article IV, has become difficult to administer for various reasons including changes in state regulation;

WHEREAS, the City's experience in attempting to enforce the Noise Ordinance has demonstrated that a more flexible system of ensuring that the citizens of the City of Tigard are not subjected to unnecessarily loud noise is needed;

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1. The Tigard Municipal Code Sections 7.40.130, through 7.40.200 are repealed.

SECTION 2. The Tigard Municipal Code Chapter 7.40, Article IV, is amended by adding the following sections:

SECTION 3. This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

7.40.130 Prohibition on Excessive Noises.

No person shall make, assist in making, permit, continue, or permit the continuance of, any noise within the City of Tigard in violation of this article. No person shall cause or permit any noise to emanate from property under that person's control in violation of this article.

7.40.140 Sound Measurement.

- A. While sound measurements are not required for the enforcement of this article, should measurements be made, they shall be made with a sound level meter.
1. Shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter;
 2. Shall contain at least an A-weighted scale, and both fast and slow meter response capability.

- B. If measurements are made, the person making those measurements shall have completed training in the use of the sound level meter, and shall use measurement procedures consistent with that training.

7.40.150 Definitions.

As used in this Article:

- A. "Noise-sensitive unit" shall include any building or portion of a building containing a residence, place of overnight accommodation, church, day care center, hospital, school, or nursing care center. For the purpose of this definition, "residence" and "overnight accommodation" does not include living/sleeping quarters of a caretaker or watchperson on industrial or commercial property provided by the owner or operator of the industrial or commercial facility.
- B. "Plainly audible" means any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehensible musical rhythms or vocal sounds.
- C. "Unnecessarily loud" means any sound that interferes with normal spoken communication or that disturbs sleep.
- D. "City Manager" means the City Manager or designee.

7.40.160 Noise Limits

It is unlawful for any person to produce, or permit to be produced, sound which:

- A. When measured at the boundary of or within a property on which a noise sensitive unit, not the source of the sound, is located, exceeds:
 - 1. Forty dB at any time between nine p.m. and seven a.m. the following day; or
 - 2. Fifty dB at any time between seven a.m. and nine p.m. the same day; or
- B. Is plainly audible at any time between nine p.m. and seven a.m. the following day within a noise-sensitive unit which is not the source of sound; or
- C. Is unnecessarily loud within a noise-sensitive unit which is not the source of the sound.
- D. When measured at or within the boundary of or within a property on which no noise sensitive unit is located, and the noise originates from outside the property, if the noise level exceeds:

1. Sixty dB at any time between nine p.m. and seven a.m. of the following day, or
 2. Seventy-five dB at any other time.
- E. If within a park, street or other public place, is unnecessarily loud at a distance of 100 feet.

7.40.170 Prohibited Noises

- A. The use of exhaust brakes (jake brakes), except in an emergency, is prohibited at all times within the City, regardless of noise level.
- B. Except as provided in Section 7.40.180, the following acts are violations of this chapter if they exceed the noise limits specified in Section 7.40.160:
1. The sounding of any horn or signal device or any other device on any automobile, motorcycle, truck, bus or other vehicle while in motion, except as a danger signal.
 2. The operation of sound-producing devices such as, but not limited to, musical instruments, loudspeakers, amplifying devices, public address systems, radios, tape recorders and/or tape players, compact disc players, phonographs, television sets and stereo systems, including those installed in or on vehicles.
 3. The operation of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle, except during sanctioned parades.
 4. The use of any automobile, motorcycle or other vehicle so out of repair or in such a manner as to create loud or unnecessary sounds, grating, grinding, rattling or other noise.
 5. The keeping of any animal or bird that creates noise in excess of the levels specified in Section 7.40.160.
 6. The operation of air conditioning or heating units, heat pumps, refrigeration units, (including those mounted on vehicles) and swimming pool or hot tub pumps.
 7. The erection (including excavation), demolition, alteration or repair of any building, except as allowed under Sections 7.40.180E and F.
 8. The use or creation of amplified sound in any outdoor facility.

9. Any other action that creates or allows sound in excess of the level allowed by Section 7.40.160.

7.40.180 Exceptions

The following shall not be considered violations of this article, even if the sound limit specified in Section 7.40.160 is exceeded:

- A. Non-amplified sounds created by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, such as stadiums, parks, schools, and athletic fields, during normal hours for such events.
- B. Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, regardless of whether such work is performed by a public or private agency, or upon public or private property.
- C. Sounds caused by bona fide use of emergency warning devices and alarm systems.
- D. Sounds regulated by federal law, including, but not limited to, sounds caused by railroads or aircraft.
- E. Sounds caused by demolition activities when performed under a permit issued by appropriate governmental authorities and only between the hours of seven a.m. and nine p.m. Monday through Friday and eight a.m. and nine p.m. on Saturday and Sunday.
- F. Sounds caused by industrial, agricultural or construction activities during the hours of seven a.m. to nine p.m. Monday through Friday, and eight a.m. to nine p.m. on Saturday and Sunday.
- G. Sounds caused by regular vehicular traffic upon premises open to the public in compliance with state law. Regular vehicle traffic does not include a single vehicle that creates noise in excess of the standard set forth in Section 7.40.160.
- H. Sounds caused by air-, electrical- or gas- driven domestic tools, including, but not limited to, lawn mowers, lawn edgers, radial arm, circular and table saws, drills, and or other similar lawn or construction tools, but not including tools used for vehicle repair, during the hours of seven a.m. to nine p.m., Monday through Friday and eight a.m. to nine p.m. on Saturday and Sunday.
- I. Sounds caused by chainsaws, when used for pruning, trimming or cutting of live trees between the hours of seven a.m. and nine p.m. Monday through Friday and eight a.m. and nine p.m. on Saturday and Sunday, and not exceeding two hours in any twenty-four-hour period.

- J. Sounds created by community events, such as parades, public fireworks displays, street fairs, and festivals that the City Manager or designee has determined in writing to be community events for purposes of this section. The City Manager's decision shall be based on the anticipated number of participants or spectators, the location of the event and other factors the City Manager determines to be appropriate under the circumstances.
- K. Sounds made by legal fireworks on the third of July, Fourth of July, and the Friday and Saturday during the weekend closest to the Fourth of July of each year, between the hours of seven a.m. and eleven p.m.
- L. Sounds made between midnight and 12:30 a.m. on January 1 of each year.
- M. Sound originating from construction projects for public facilities within rights of way pursuant to a noise mitigation plan approved by the City Manager. The noise mitigation plan must:
 - 1. Map the project noise impacts and explain how the impacts will be mitigated;
 - 2. Provide special consideration and mitigation efforts for noise sensitive units;
 - 3. Outline public notification plans;
 - 4. Provide a 24-hour telephone contact number for information and complaints about the project.

The City Manager may approve a noise mitigation plan only if the City Manager determines that the noise mitigation plan will prevent unreasonable noise impacts.

7.40.190 Maximum Limit for Certain Activities

Notwithstanding Section 7.40.180, the creation of noise by any activity subject to the exceptions listed in Sections 7.40.180E, F, H, or I, in excess of 85 dB measured on property on which a noise sensitive use is located, for more than 5 minutes in any calendar day shall be a violation.

7.40.200 Evidence

In any civil infraction action based on a violation of the limits set forth in Sections 7.40.160 B; 7.40.160. C or 7.40.160 E, the evidence of at least two persons from different households, shall be required to establish a violation. Any police or code enforcement officer or other City employee who witnessed the violation shall be counted as a witness for purposes of the two witness requirement. The City may ask an alleged violator to enter in to a voluntary compliance agreement based on a single complaint or single witness.

PASSED: By Unanimous vote of all Council members present after being read by number and title only, this 25th day of September, 2001.

Catherine Wheatley
Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 25th day of September, 2001.

James E. Griffith
James E. Griffith, Mayor

Approved as to form:

Stephen Crew
City Attorney

9/25/01
Date