

## ORDINANCE NO. 14

An Ordinance entitled “Maywood Park Noise Control Ordinance.”

The City of Maywood Park ordains:

The Council finds that a Noise Control Ordinance is necessary to protect citizens from the physiological and psychological dangers of excessive sound, and to protect, promote, and preserve the public health, safety, and welfare; to reduce sound levels to promote the use, value, and enjoyment of property, sleep, and repose and the aesthetic quality of the environment. The Council finds that the passage of such an Ordinance is in the public interest and that a new title should be added in order to establish sound level standards and to provide for penalties. The Council has employed a Mechanical Engineer experienced in noise control to analyze and make recommendations. His recommendations are based on studies in the field of noise control and a review of the proposed Noise Control Ordinance of the City of Portland. This Ordinance is the result of his recommendations.

NOW, THEREFORE, the City of Maywood Park repeals Ordinance No. 13 and enacts Ordinance No. 14, “Noise Control,” to read as follows:

### NOISE CONTROL

#### SECTION 1. TITLE

Title. The Ordinance shall be known as the “Maywood Park Noise Control Ordinance.”

#### SECTION 2. STANDARDS AND DEFINITIONS

- (a) Terminology and Standards. All terminology used in this Ordinance that is not defined below shall be in accordance with the American National Standards Institute (ANSI) Standard ANSI.
- (b) Measurement of Sound Level.
  - (1) If the measurements are made with a sound level meter, it shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. For purposes of this Ordinance, a sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability.
  - (2) If the measurements are made with other instruments, the procedure shall be carried out in such a manner that the overall accuracy shall be at least that called for in ANSI Standard 1.4-1971 for Type II instruments.

- (3) When the location or distance prescribed in this Ordinance for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors specified in this Ordinance or in other rules promulgated by the Council.
  - (4) Procedures and tests required by this Ordinance and not specified herein shall be placed on file with the City Council.
- (c) Definitions. The following words shall have the meanings ascribed to them in this Section.
- (1) City. The City of Maywood Park, Oregon, or the area within the territorial City limits of the City of Maywood Park, Oregon, and such territory outside of this City over which the City has jurisdiction or control by virtue of ownership or any Constitutional or Charter provision, or any law.
  - (2) Persons. A person, persons, firm, association, co-partnership, joint venture, corporation, or any entity public or private in nature.
  - (3) Construction. Any and all activity necessary or incidental to the erection, demolition, assembling, altering, installing, repair, or equipping of buildings, roadways, and utilities. It shall include land clearing, grading, excavating, and filling before, during, or following such activity.
  - (4) Emergency Work. Work made necessary to restore property to a safe condition following a calamity, work required to restore public utilities, or work required to protect persons or property from imminent exposure to danger.
  - (5) Night Time Period. 10:00 p.m. of one day until 7:00 a.m. of the following day.
  - (6) Day Time Period. 7:00 a.m. until 7:00 p.m. of the same day.
  - (7) Evening Time Period. 7:00 p.m. until 10:00 p.m. of the same day.
  - (8) Any One Hour. Any period of 60 consecutive minutes during the 24-hour day.
  - (9) Road Vehicle. Any vehicle which is, or is designed to be, self-propelled or is designed or used for transporting persons or property on a public roadway.

- (10) Day-Night Noise Level. “L<sub>DN</sub>” means the Noise Level calculated from the following equation:

$$L_{DN} = 10 \log \frac{1}{24} \left[ 15 \left( 10^{\frac{L_{D+E}}{10}} \right) + 9 \left( 10^{\frac{L_{N+10}}{10}} \right) \right]$$

where L<sub>D+E</sub> is L<sub>eq</sub> between 7:00 a.m. and 10:00 p.m.

L<sub>N</sub> is L<sub>eq</sub> between 10:00 p.m. and 7:00 a.m.

- (11) Equivalent Noise Level. “L<sub>eq</sub>” means the equivalent energy averaged sound level in decibels of the A-weighting network readings from a standard Sound Level Meter for the period specified.
- (12) Sound Level (dbA). The sound level in decibels measured using the A-weighting network as specified in ANSI S 1.4-1971 for sound level meters.

### SECTION 3. RESPONSIBILITIES AND AUTHORITY

- (a) Noise Control Officer. A Noise Control Officer shall be appointed by the Council to investigate variance applications, complaints, and Roadway Designs design data received by the Council.
- (b) Responsibilities.
- (1) The responsibilities of the Noise Control Officer shall be to investigate a specific complaint as directed by the Council and make recommendations to the Council as to the best manner to determine if a violation exists and to recommend a compliance schedule if a violation is found to exist.
- (2) The further responsibility of the Noise Control Officer shall be to review, upon request of the City Council, any or all applications for variances, and any or all data submitted prior to the start of any roadway construction and/or modification. The Noise Control Officer shall supply the City Council with a written evaluation of compliance in relation to the application for variance and/or construction permit.

### SECTION 4. PERMISSIBLE SOUND LEVELS

- (a) Except as specifically provided for elsewhere in this Ordinance, no person shall cause or permit sound to intrude into the property of another person which exceeds those levels specified in Table A.

TABLE A

Allowable Statistical Noise Levels in any one hour:

<u>Day and Evening Periods</u>	<u>Night Period</u>
L <sub>90</sub> – 50 dbA	L <sub>90</sub> – 45 dbA
L <sub>50</sub> – 55 dbA	L <sub>50</sub> – 50 dbA
L <sub>10</sub> – 60 dbA	L <sub>10</sub> – 55 dbA

(b) Motor Vehicles.

- (1) No person shall operate any motor vehicle on a public highway, street, avenue, or on any public right-of-way or park roadway at any time, or under any condition of grade, load, acceleration, or deceleration in such a manner as to violate the maximum permissible sound levels or equipment standards for the category of vehicle as indicated in this Subsection.
  - (i) Vehicles of 10,000 lbs. GCWR (Gross Combination Weight Rating) or more, engaged in interstate commerce as permitted by Title 40, Code of Federal Regulations, Part 202, Environmental Protection Agency (Noise Standards for Motor Vehicles Engaged in Interstate Commerce), the provisions of which are hereby incorporated by reference and three copies of which are on file in the Office of the City Auditor.
  - (ii) All other vehicles shall not exceed the vehicular noise emission levels or equipment standards permitted by OAR 35-030(1)(a) and (c), three copies of which are on file with the City Council and which are hereby adopted by reference.
- (2) No person shall operate any motor vehicle in excess of 10,000 lbs. GCWR in any zone of the City or within 200 feet of any dwelling unit or school with a dynamic braking device engaged, unless:
  - (i) Such device when engaged does not increase the sound level emitted by the vehicle under power, or
  - (ii) For the aversion of imminent danger.
- (3) Refuse Compacting Vehicles. No person shall operate a refuse compacting vehicle manufactured after December 31, 1975, which, when compacting, creates a sound level in excess of 75 dbA, measured at a distance of 50 feet (15.2) meters) from the unit.

(c) Home Equipment and Powered Tools.

- (1) This Section shall apply to powered tools and equipment for home use, conventionally used in and on residentially zoned property for general purposes, such as, but not limited to, repair, maintenance, alteration, and other such home manual arts projects.
- (2) When used inside a dwelling unit, between the hours of 7:00 a.m. and 10:00 p.m., the sound levels generated by such equipment shall not exceed 60 dbA, when measured at the property line.
- (3) When used outside a dwelling unit, between the hours of 7:00 a.m. and 10:00 p.m., the sound levels generated by such equipment shall not exceed the following levels, for equipment of the appropriate class, when measured at a distance of 25 feet (7.6 meters) or at the lot line, whichever is farther from the source:
  - (i) 5 HP or less, such as, but not limited to, lawnmowers, riding tractors, and small garden tools: 80 dbA.
  - (ii) More than 5 HP, such as, but not limited to, powered hand tools and snow removal equipment: 85 dbA.
- (4) When used inside or outside a dwelling, between the hours of 10:00 p.m. and 7:00 a.m., the sound levels generated by all such equipment shall not exceed those specified on Table A for the Night Period.

SECTION 5. NOISES PROHIBITED

- (a) General Prohibition. It shall be unlawful for any person to willfully make, continue, cause, or permit to be made or continued any loud, unnecessary, or disturbing noise that would be disturbing or offensive to a person of normal sensitivities.
- (b) Specific Prohibitions. The following acts by persons are declared to be in violation of this Ordinance without direct measurement:
  - (1) Animals. The keeping or harboring of any animal or animals which violate the General Prohibition provided such keeper has cause to know of the acts committed.
  - (2) Sound Producing or Reproducing Equipment. Operating or permitting the use or operation of any device designed for sound production or reproduction in such a manner as to cause a noise disturbance; or operating any such device during the Night Period so as to be plainly

audible within any dwelling unit which is not the source of sound; or operating any such device outdoors so as to be plainly audible 50 feet or more from such device unless under permit.

- (3) Loading Operations. Loading, unloading, opening, or otherwise handling of boxes, crates, containers, garbage cans, construction materials, or other similar objects during the Night Period in such a manner as to violate the General Prohibition.
- (4) Vehicle Repair and Testing. Repair, rebuilding, modification, or testing of any road vehicles in such a manner as to violate the General Prohibition.

#### SECTION 6. NEW CONSTRUCTION OF NOISE SOURCES

No new industrial facility, commercial facility, or roadway, whether profit or nonprofit, shall be constructed after May 1, 1976, if it would operate in such a manner as to produce an estimated  $L_{DN}$  in excess of 55 dbA on the property of another person.

#### SECTION 7. MODIFICATION OF EXISTING NOISE SOURCES

No existing industrial facility, commercial facility, or roadway, whether profit or nonprofit, shall be modified to increase the estimated  $L_{DN}$  to produce in excess of the  $L_{DN}$  produced prior to the modification or in excess of 55 dbA  $L_{DN}$  on the property of another person if the facility or roadway produced less noise than 55 dbA prior to the modifications.

#### SECTION 8. EXCEPTIONS AND VARIANCES

- (a) The following sounds are exempted from provisions of this Ordinance:
  - (1) Sounds caused by the performance of emergency work,
  - (2) Aircraft,
  - (3) Sounds, not electrically amplified, created by athletic and entertainment events,
  - (4) Sounds made by warning devices operating continuously for three minutes or less,
  - (5) Construction activities during the Day Time Period, and
  - (6) Church bells.
- (b) Variances. Any person who owns, controls, or operates any sound source which violates any of the provisions of this Ordinance may apply to the Council for a

variance from such provisions. Any person who is planning a noise source which is expected to violate any provision of this Ordinance may apply to the Council for a variance from such provision.

- (1) Application. The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason for which the variance is sought, and any other supporting information which the Council may reasonably require.
  - (2) Review Considerations. The Council shall consider:
    - (i) The physical nature of the sound emitted.
    - (ii) Whether the public health and safety is endangered.
    - (iii) If reasonable compensation is to be made to the affected persons.
    - (iv) Whether compliance with the provision would produce no benefit to the public.
  - (3) Time Duration of Variance. A variance may be granted for a specific time interval only.
- (c) Public Notification and Public Hearing.
- (1) Public notice must be given in the manner provided for by City Ordinance of all applications for variance.
  - (2) A public hearing must be held before the granting of a variance if such hearing is requested by any affected party.

#### SECTION 9. ORDINANCE ADDITIONAL TO OTHER LAW

The provisions of this Ordinance 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 relating to noise or sound, but shall be deemed additional to existing legislation and common law on such subject.

#### SECTION 10. ENFORCEMENT AND PENALTIES

This Ordinance shall be enforced by the Council. The Council shall appoint a Noise Control Officer to investigate and report upon written complaint of a citizen or of its own violation.

It shall be unlawful for any person to violate any requirement of this Ordinance. Any person violating any provision of this Ordinance or failing to comply with any requirement of this Ordinance, unless provision is otherwise made herein, shall upon conviction thereof be punished by a fine of not more than \$1,000. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Ordinance is committed, continued, or permitted by such person and may be punished accordingly.

The Council, acting in the name of the City, 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 Ordinance as additional remedy.

SECTION 11. SEVERABILITY PROVISION.

If any provision of this Ordinance, or its application to any person or circumstances, is held to be invalid, the remainder of this Ordinance, or the application of the provision to other persons or circumstances, shall not be affected.

/s/ Werner E. Zeller

Werner E. Zeller

Mayor

Adopted 04/05/76

Council Approved Minutes

Effective 05/01/76