

ORDINANCE NO. 1279

AN ORDINANCE OF THE CITY OF BONNEY LAKE, WASHINGTON RELATING TO THE REGULATION OF PUBLIC DISTURBANCE NOISES AND ADDING NEW SECTIONS TO CHAPTER 9.44 OF THE BONNEY LAKE MUNICIPAL CODE AND AMENDING CHAPTER 9.44 AND ORD. NOS. 1240 AND 1258.

WHEREAS, the City Council has concluded that noise should be prohibited in the City when it exceeds specified decibel levels set by the Department of Ecology or it unreasonably disturbs the peace, comfort and repose of others; and

WHEREAS, it is the policy of the City to minimize the exposure of its citizens to the physiological and psychological dangers of excessive noise, and to protect, promote and preserve the public health, safety and welfare; and

WHEREAS, the City Council has concluded that noise should be regulated in a manner that promotes commerce; the use, value, and enjoyment of property; sleep and repose; and the quality of the environment; and

WHEREAS, the City Council finds that enforcement of noise regulations is often difficult or impractical if a noise measuring device is required under every circumstance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. A new section, BLMC 9.44.001, entitled "Relation to state laws and regulations" is added to Chapter 9.44 to read as follows:

9.44.001 Relation to state laws and regulations.

This chapter is a complement to, and not in conflict with, Chapter 70.107 RCW, the Noise Control Act of 1974, and Chapters 173-58, 173-60 and 173-62 WAC which regulate excessive noise using a performance-based code that sets exact decibel levels of tolerable noise. This chapter regulates excessive noise as a nuisance as authorized by WAC 173-60-060.

Section 2. A new section, BLMC 9.44.005, entitled "Definitions" is added to Chapter 9.44 to read as follows:

9.44.005 Definitions.

A. Definitions for this Chapter are as follows:

1. "Background sound level" means the level of all sounds in a given environment, independent of the specific source being measured.
2. "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter as specified in the American National Standards Institute Specification for sound level meters.
3. "Decibel" means a unit of sound, based on a logarithmic scale, of the ratio of magnitude of a particular sound pressure to a standard reference pressure of 20 micropascals.

4. "EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.

5. "Noise" means the intensity, duration and character of sounds, from any and all sources.

6. "Person" means any individual, corporation, partnership, association, governmental body, state agency or other entity whatsoever.

7. "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.

8. "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.

9. "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the American National Standards Institute Specification.

Section 3. BLMC 9.44.012 and the corresponding portion of Ord. No. 1240 § 2 are hereby amended to read as follows:

9.44.012 Disturbing the peace.

A. It is unlawful for any person knowingly to cause or make, or for any person in possession of property knowingly to allow or permit to originate from the property, noise that disturbs the public peace. The following sounds are determined to disturb the public peace:

1. The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment, condominium, or property which unreasonably interferes with the peace, comfort and repose of others, including owners or possessors of real property, such as sounds from musical instruments, audio sound systems, band sessions or social gatherings;

2. Sounds, including but not limited to frequent, repetitive, or continuous sounds from any domestic bird, animal, fowl or other creature which howls, yelps, whines, barks or makes other noises so as to unreasonably disturb or interfere with the peace, comfort and repose of others, including owners and possessors of real property.

B. Violation of any provision of this section constitutes a misdemeanor.

Section 4. BLMC 9.44.015 and the corresponding portion of Ord. Nos. 1258 § 2 and 1240 § 3 are hereby amended to read as follows:

9.44.015 Exemptions.

A. The following sounds are exempt from the provisions of this chapter:

1A. Sounds emanating from regularly scheduled events at parks, such as public address systems for baseball games or park concerts;

2B. Sounds originating from aircraft in flight and sounds that originate at airports and are directly related to flight operations;

3C. Sounds created by safety and protective devices, such as relief valves, where noise suppression would defeat the safety release intent of the device;

4D. Sounds created by fire alarms;

5E. Sounds created by emergency equipment and emergency work necessary in the interest of law enforcement, or of the health, safety or welfare of the community;

6F. Sounds created by auxiliary equipment on motor vehicles used for highway maintenance;

7G. Sounds created by warning devices not operated continuously for more than 30 minutes per incident;

8H. Sounds created by the operation of equipment or facilities of surface carriers engaged in commerce by operating on the railroad;

9I. Sounds created by refuse removal equipment as approved by the city;

10J. Sounds originating from officially sanctioned parades and other public or private events, and sounds originating from officially sanctioned school events;

11K. Sounds (not including horns or sirens) created by motor vehicles while being driven upon the public highways. Such motor vehicles are, nevertheless, subject to the provisions of Chapter 173-62 WAC;

12L. Sounds created by unamplified human voices from 7:00 a.m. to 109:00 p.m., except as otherwise provided in BLMC 9.44.010(A)(3);

~~M. Sounds created by lawfully established commercial and industrial uses;~~

13N. Sounds created by normal residential maintenance activities from 7:00 a.m. to 9:00 p.m.;

14O. Sounds created by construction activities approved and permitted by the city of Bonney Lake or for which no permit is required, between the hours of 7:00 a.m. and 7:00 p.m.; however, the city building official or the director of public works may approve expanded or reduced hours of operation. Criteria for approval of such expanded or reduced hours of operation shall include project remoteness, undue hardship or other reasonable standards. Approval may only be for specific dates and times and under terms that the approving official deems appropriate under the circumstances. Written notification of such expanded or reduced hours shall be provided to adjoining property owners by the applicant; and

15P. Sounds created by fireworks used or discharged on the dates and times allowed by BLMC 5.14.110.

16. Sounds created by special events authorized by the City.

17. Noise from electrical substations and existing stationary equipment used in the conveyance of water, waste water, and natural gas by a utility;

18. Noise from existing industrial installations which exceed the standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of process necessity and/or demonstrated routine normal operation. Changes in working hours, which would affect exemptions under this regulation, require approval from the Washington State Department of Ecology.

B. The following sounds are exempt from the provisions of this chapter between the hours of 7:00 a.m. and 10:00 p.m.:

1. Sounds created by the discharge of firearms on authorized shooting ranges;

2. Sounds created by blasting;

3. Sounds created by aircraft engine testing and maintenance not related to flight operations: Provided, that aircraft testing and maintenance shall be conducted at remote sites whenever possible;

4. Sounds created by the installation or repair of essential utility services;

C. The following shall be exempt from the provisions of this chapter except insofar as such provisions relate to the reception of noise within Class A EDNAs between the hours of 10:00 p.m. and 7:00 a.m.:

1. Sounds originating from temporary construction sites as a result of construction activity;
2. Sounds originating from forest harvesting and silvicultural activity;

Section 5. A new section, BLMC 9.44.030, entitled “Identification of environments” is added to Chapter 9.44 to read as follows:

9.44.030 Identification of environments.

A. The Environmental Designation for Noise Abatement (EDNA) of any property shall be based on the following typical uses, taking into consideration the present, future, and historical usage, as well as the usage of adjacent and other lands in the vicinity.

1. Class A EDNA – Lands where human beings reside and sleep. Typically, Class A EDNA will be the following types of property used for human habitation:

- a. Residential
- b. Multiple family living accommodations
- c. Recreational and entertainment, (e.g., camps, parks, camping facilities, and resorts)
- d. Community service, (e.g., orphanages, homes for the aged, hospitals, health and

correctional facilities)

2. Class B EDNA - Lands involving uses requiring protection against noise interference with speech. Typically, Class B EDNA will be the following types of property:

- a. Commercial living accommodations
- b. Commercial dining establishments
- c. Motor vehicle services
- d. Retail services
- e. Banks and office buildings
- f. Miscellaneous commercial services, property not used for human habitation
- g. Recreation and entertainment, property not used for human habitation (e.g.,

theaters, stadiums, fairgrounds, and amusement parks)

h. Community services, property not used for human habitation (e.g., educational, religious, governmental, cultural and recreational facilities).

3. Class C EDNA - Lands involving economic activities of such a nature that higher noise levels than experienced in other areas is normally to be anticipated. Persons working in these areas are normally covered by noise control regulations of the department of labor and industries. Uses typical of Class A EDNA are generally not permitted within such areas. Typically, Class C EDNA will be the following types of property:

- a. Storage, warehouse, and distribution facilities.
- b. Industrial property used for the production and fabrication of durable and

nondurable man-made goods

c. Agricultural and silvicultural property used for the production of crops, wood products, or livestock.

B. The following land use zoning classifications as described in BLMC Title 18 are hereby assigned the EDNA classifications below:

1. Class A EDNA are districts primarily utilized for residential purposes in the city and include R-1 District, R-2 Medium-Density Residential Districts, R-3 High-Density Residential District, RC-5 Residential/Conservation District.

2. Class B EDNA are districts primarily utilized for commercial purposes in the city and include C-1 Neighborhood Commercial District, C-2 Commercial District, C-3 Warehousing and Light Manufacturing District, C-2/C-3 Combined Retail Commercial, Warehousing and Light Manufacturing, Downtown Core District (DC), Downtown Mixed Use (DM).

3. Class C EDNA are districts primarily utilized or potentially utilized for industrial purposes in the city and include M-1 Manufacturing District.

Section 6. A new section, BLMC 9.44.035, entitled “Maximum permissible noise levels” is added to Chapter 9.44 to read as follows:

9.44.035 Maximum permissible noise levels.

A. No person shall cause or permit noise to intrude into the property of another person which noise exceeds the maximum permissible noise levels set forth in this section, with the point of measurement being at the property boundary of the receiving property or anywhere within. The noise limitations established are as set forth in the following table after any applicable adjustments provided for herein are applied:

Noise Source	EDNA of receiving property		
	Class A	Class B	Class C
Class A	55 dB(A)	57 dB(A)	60 dB(A)
Class B	57 dB(A)	60 dB(A)	65 dB(A)
Class C	60 dB(A)	65 dB(A)	70 dB(A)

B. Between the hours of 10:00 p.m. and 7:00 a.m. the noise limitations of the foregoing table shall be reduced by 10 dBA for receiving property within Class A EDNAs.

C. At any hour of the day or night the applicable noise limitations in (B) and (C) above may be exceeded for any receiving property by no more than:

1. 5 dBA for a total of 15 minutes in any one-hour period; or
2. 10 dBA for a total of 5 minutes in any one-hour period; or
3. 15 dBA for a total of 1.5 minutes in any one-hour period.

Section 7. A new section, BLMC 9.44.036, entitled “Noise Control Plan” is added to Chapter 9.44 to read as follows:

9.44.036 Noise Control Plan.

A. Any person who is convicted of three (3) violations under this chapter within a twelve (12) month period shall be required to submit a noise control plan to be approved by the City.

B. The noise control plan shall include, but not necessarily limited to:

1. The nature and location of the noise source to be controlled;
2. The nature and intensity of noise that will be controlled under the plan;
3. Sound level limits which may not be exceeded at the nearest affected residential property;
4. A description of noise control measures to be taken to insure compliance with this code;
5. Information on the ability of the applicant to apply best practical noise control measures; and

6. The name, address and contact information of the party responsible for the noise control plan.

Section 8. If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force effect.

Section 9. This Ordinance shall take effect thirty (30) days after its passage, subject to prior approval by the Mayor and prior publication for five days as required by law.

PASSED by the City Council and approved by the Mayor this 8th day of July, 2008.



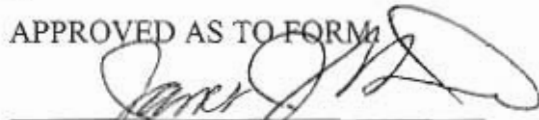
Neil Johnson, Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



James J. Dionne, City Attorney

Passed: 7/8/08
Valid: 7/8/08
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