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ORDINANCE NO. 17 -95

AN ORDINANCE FOR THE CITY OF WEST RICHLAND RELATING TO NOISE REGULATION AND AMENDING CHAPTER 9.38 OF THE WEST RICHLAND MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF WEST RICHLAND, WASHINGTON, do hereby ordain as follows:

Section 1: Ordinance No. 10-95 passed by the City Council on the 6th day of February, 1995, and Chapter 9.38 of the West Richland Municipal Code are hereby amended to read as follows:

CHAPTER 9.38

NOISE REGULATION

9.38.005 Declaration of policy. It is hereby declared to be the policy of the City of West Richland to minimize the exposure of citizens to the harmful and annoying effects of excessive noise. It is the express intent of the City Council to control the level of noise in a manner which promotes commerce; the use, value, and enjoyment of property; sleep and repose; and the quality of the environment.

9.38.010 Maximum environmental noise levels. WAC 173-60-020, WAC 173-60-040, WAC 173-60-050, and WAC 173-60-090 and all future amendments thereto, unless specifically exempted within this chapter, are hereby adopted by reference.

9.38.020 Public disturbance noise prohibited. No person, whether or not that person is in actual possession of the noise source, shall create, continue, or cause to be created or continued, or allow to be created or continued, any public disturbance noise. "Public disturbance noise" means:

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(A) Any sound which is specifically included in, but not limited to, those listed in Paragraphs (C) or (D) hereof.

(B) Any sound which unreasonably disturbs or interferes with the peace, comfort, and repose of owners or occupants of real property and causes a noise complaint to be reported by two or more persons occupying separate residences, neither of which residence is within the same property boundary.

(C) Any sound which occurs between 10:00 p.m. in the evening and 6:00 a.m. the following morning and shall include, but not be limited to, the following:

1. Any sound made by the construction, excavation, repair, demolition, destruction, or alteration of any building, property or upon any building site.

2. Any frequent, repetitive or continuous sound made by any animal which emanates from a building, structure, or property and is heard within a residential zone.

3. Any sound made by the discharge of exhaust gases from an internal combustion engine except through a muffler.

4. Any sound made by the operation of any motorcycle, motorbike, off-road or all-terrain vehicle in the city on any property not a part of the public street system when such motorcycle, motorbike, off-road or all-terrain vehicle does not conform to muffler standards required for operation on public streets and such sound is heard within a residential district.

5. Any sound made by a loud speaker or sound amplifier exterior to any building for commercial advertising or sales pur-

poses or for attracting the attention of the public to any performance, show or other event.

6. Any sound which is audible at any school, other institution of learning, court, hospital, nursing or convalescent facility, or other area where exceptional quiet is necessary; provided, signs are displayed on adjacent or contiguous streets indicating that the area is a quiet zone.

(D) Any sound in a residential zone made at any time by using, operating, playing or permitting to be used, operated or played, any amplification device or equipment, including, but not limited to, radios, musical instruments, phonographs, tape players, CD players or recorders, sound amplification systems or other machines or devices used for producing or reproducing sound at any time with volume louder than is audible by the owners or occupiers of dwelling units within such residential zone, where said owners or occupiers of the dwelling units are within such dwelling units, and where such dwelling units are 20 feet or more from the source of the noise, and where such dwelling units are not attached to another building or dwelling unit from which the sound emanates.

(E) The specified sounds enumerated in Paragraphs (C) and (D) hereof are also subject to regulation under the provisions of 9.38.010 of this chapter.

9.38.030 Exemptions. The following shall be exempt from the provisions of 9.38.020:

(A) Noises from existing industrial installations which, over the previous two-year period have operated in excess of 16 hours

per day and which noise is a consequence of process necessity and/or demonstrated routine normal operation.

(B) Noises originating from silvicultural activity.

(C) Noises created by emergency equipment operated by law enforcement, fire department or medical emergency personnel.

(D) Noise generated from the conduct of the annual community celebration known as "West Richland Days" where such celebration is sponsored by the West Richland Chamber of Commerce and located at Flat Top Park.

9.38.040 Designation of zoned areas. The EDNA (Environmental Designation for Noise Abatement) is hereby established as follows:

(A) Residential zones, and mobile home parks use districts-Class A EDNA;

(B) Commercial use districts, neighborhood business districts, and professional office districts-Class B EDNA;

(C) Industrial zones, agricultural use districts, flood plain zones, and public reserve-Class C EDNA.

9.38.050 Exceptions.

(A) Exceptions may be granted to any person from any requirement of Section 9.38.020 of this chapter if findings are made that any such exception is in the public interest and that the proposed activity will have a substantial public participation; i.e., festivals, parades and other community celebrations.

(B) Exceptions may be granted to any person from any requirement of Section 9.38.020 of this chapter if findings are made that immediate compliance with such requirement cannot be achieved because of special circumstances rendering immediate compliance

unreasonable in light of economic or physical factors, encroachment upon existing noise source or because of non-availability of feasible technology or control methods.

(C) Applications for exceptions shall be made to the City Planning Department. Exceptions shall be issued only upon application in writing and after providing such information as may be requested. No exception shall be issued for a period of more than 30 days except upon due notice to the public with opportunity to comment to the City Planning Department. The City Planning Department shall make a recommendation for approval or disapproval to the City Council in all such cases. The City Council shall then make a final determination of approval or disapproval of an exception. Public hearings may be held before the City Planning Department, in any case, at the discretion of the City Planner when substantial public interest is shown.

(D) Any such exceptions or renewal thereof shall be granted only for the minimum time period found to be necessary under the circumstances.

(E) An implementation schedule for achieving compliance with this chapter shall be incorporated into any exception from Section 9.38.020 that is issued.

(F) Sources of noise, subject to this chapter, shall immediately comply with the requirements of this chapter, except in extraordinary circumstances where overriding considerations of public interest dictate the issuance of an exception.

9.38.060 Enforcement. Noise measurement is not necessary for the enforcement of Section 9.38.020 of this chapter. If noise mea-

surement for the purpose of enforcing the provisions of any section of this chapter is used, it shall be measured in dBA with a sound level meter in good operating condition, and properly calibrated. Except for park and recreation areas, enforcement of Section 9.38.010 and Section 9.38.020 of this chapter shall be undertaken upon receipt of complaints by two or more persons occupying separate detached residences or employed on separate properties in the area affected by the noise. Whenever any police officer, commissioned by the City of West Richland, has reason to believe that any person is in violation of Section 9.38.010 or Section 9.38.020 of this chapter, he shall, before the issuance of a citation, notify such person of the violation and request compliance with this chapter. Failure of any person to cease after notification thereof of any violation of Section 9.38.020 shall be cause for the issuance of a citation.

9.38.070 Violations. Any person found to be in violation of any provision of Section 9.38.010 or Section 9.38.020 of this chapter shall be deemed to have committed a civil infraction, and for each violation shall be subject to a civil penalty not to exceed five hundred dollars; provided, however, that the third or subsequent violation of any provision of Section 9.38.010 or Section 9.38.020 within a twelve-month period shall be deemed a misdemeanor, subject to the penalties set forth in W.R.M.C. 9.04.030. Each day that the violation continues shall be deemed a separate violation subject to the maximum penalty therefor.

9.38.080 Chapter additional to other law. The provisions of this chapter 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, but shall be deemed in addition to existing legislation and common law on noise.

9.38.090 Severability. If any section, sentence, clause or phrase of this chapter shall be held to be unconstitutional or invalid, the remainder of this chapter shall, nevertheless, remain in full force and effect.

Section 2: This ordinance shall be in full force and effect five days after its passage and publication as required by law in the official newspaper of the city.

PASSED by the City Council for the City of West Richland this 3rd day of April, 1995.



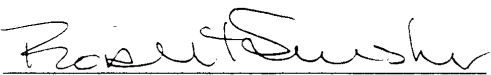
Jerry Peltier, Mayor

ATTEST:



Howard Roberts, City Clerk-Treasurer

APPROVED AS TO FORM:



Robert G. Swisher, City Attorney