

ORDINANCE 2020- 02

(AN ORDINANCE RESCINDING SKAMANIA COUNTY CODE TITLE 8- HEALTH AND SAFETY CHAPTER 8.22- NOISE REGULATIONS- IN ITS ENTIRETY AND ADOPTING NEW LANGUAGE)

WHEREAS, RCW 36.32.120 and RCW 70.107.050 authorizes Skamania County to enact noise control regulations designed to promote the public health, safety and general welfare of its citizen and provide the enforcement thereof; and

WHEREAS, The Skamania County Board of County Commissioners has determined that it is in the best interests for the public health and safety of Skamania County to establish polices for regulating and controlling noise; and

WHEREAS, Ordinance 2002-13 created Skamania County Code Chapter 8.22 for purposes of Noise Regulations, and

WHEREAS, The Skamania County Sheriff has recommended to the Board of County Commissioners that certain provisions of Skamania County Code Chapter 8.22 be amended in order to appropriately and efficiently apply the enforcement provisions of the chapter; and

WHEREAS, Notice of Public Hearing was provided in the official newspaper of general circulation on February 26, 2020 at least 10 days prior to the Public Hearing thereby meeting notification requirements, and

WHEREAS, The Board of County Commissioners held a Public Hearing on March 10, 2020 at 5:30 pm to gather testimony and to consider adoption.

NOW THEREFORE BE IT ORDAINED, by the Skamania County Board of Commissioners that Chapter 8.22 of Skamania County Code is hereby rescinded in its entirety and replaced by the following language:

8.22 – APPLICABILITY

This chapter shall apply to the prevention of noise which may jeopardize the health or welfare, and or degrade the quality of life of the citizens and visitors of Skamania County.

ADOPTION- The Noise Regulations as presented in this language and hereafter amended, are hereby adopted as the Noise Regulation ordinance of Skamania County.

ORDINANCE NO. 2020- 02 IS HEREBY PASSED INTO LAW THIS ^{10th March} 19th DAY OF FEBRUARY 2020.

BOARD OF COUNTY COMMISSIONERS
SKAMANIA COUNTY, WASHINGTON

[Signature]

Chair

J. W. Lawrence

Commissioner

[Signature]

Commissioner



ATTEST

[Signature]

Clerk of the Board

APPROVED AS TO FORM ONLY:

[Signature]

Skamania County Prosecuting Attorney

AYE 3
NAY 0
ABSTAIN 0
ABSENT 0

Chapter 8.22

PUBLIC NOISE REGULATIONS

Sections:

8.22.010 Statutory authority.

8.22.020 Purpose and findings.

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8.22.050 Public disturbance noises.

8.22.060 Daytime exemptions.

8.22.070 Nonresidential exemptions.

8.22.080 Variance and implementation schedules.

8.22.090 Enforcement-Authority.

8.22.100 Violation-Penalty.

8.22.010 Statutory authority.

The State Legislature has by way of RCW 36.32.120(7) authorized counties to adopt noise control regulations designed to promote the public health, safety and general welfare of its citizenry. (Ord. 2002-13 (part))

8.22.020 Purpose and findings.

A. Purpose. The purpose of the chapter is to minimize the citizens' exposure to the physiological and psychological dangers of excessive noise and to protect, promote and preserve the public health, safety and welfare. The county intends for this ordinance to control the level of noise in a manner which promotes the use, value and enjoyment of property to include sleep and repose, quiet enjoyment, commerce and the quality of the environment. The commissioners also appreciate the fact many people wish or need to engage in various activities that will, even when all due caution is exercised, produce disturbing noises.

B. **Findings.** The county commissioners, having received multiple complaints throughout the county, have learned that a problem of excessive and disturbing noises exists within the unincorporated areas of the county and that the county needs to generally implement the State Noise Control Ordinance. The county has also learned that there are some unique circumstances within the county which require the county to adopt some variations from, and additions to, the state law. The county intends to pass a regulation which will balance the rights of those citizens who only wish to enjoy the quiet repose of their home or property with those who wish to engage in those activities that may result in the production of some noise. (Ord. 2002-13 (part))

C. **Findings.** The county commissioners also find that noise disputes should first be addressed between neighbors, and that anyone who believes their neighbor is violating this ordinance should, when possible, inform that neighbor of any ongoing concerns regarding offensive noise as described in this ordinance, and ask them to remedy the concern prior to requesting enforcement from the Sheriff's Office. A failure to first address concerns with a neighbor does not preclude making a complaint to law enforcement, but may factor into whether any alleged violation results in the Sheriff's Deputy exercising discretion on whether to issue a warning, an infraction, or a criminal citation.

D. **Findings.** Any person complaining of a violation of this ordinance should be prepared to document any alleged violations through the use of audio and/or video recordings. The nature of noise violations as described herein are such that law enforcement will have a difficult time independently documenting violations because such violations often occur over an extended period of time.

8.22.030 Policy.

It is the policy of the county to prevent noise which may jeopardize the health or welfare of its citizenry or degrade the quality of life. (Ord. 2002-13 (part))

8.22.040 Definitions.

Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Farm orchard or logging equipment" means any vehicle or any attachment to a vehicle when used on agricultural or forest lands for agricultural or logging purposes, including but not limited to: tractors, sprayers, combines, chainsaws, loaders, log trucks and other similar equipment.

"GVWR" or "GCWR" means gross vehicle weight rating or gross combination weight rating, which are the values specified by the manufacturer as the loaded weight of a single or combination vehicle.

"Motor vehicle" means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways and required to be licensed under RCW 46.16.010, and includes but is not limited to cars, trucks, motorcycles, jeeps and dune buggies.

"Motorcycle" means any motor vehicle having a saddle and designed to travel with three or less wheels on the ground, except such vehicles powered by engines not to exceed five horsepower.

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

"Off-highway vehicle" means any self-propelled vehicle not used primarily for transporting persons or property upon public highways nor required to be licensed under RCW 46.16.010.

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

"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.

"Public highway" means the entire width between the boundary lines of every way publicly maintained by the Department of Transportation or any county or city when any part thereof is generally open to the use of the public for purposes of vehicular travel as a matter of right.

"Residential area" is an area used for single-family housing, multi-family residential, or mobile homes, primarily for private residences.

8.22.050 Public disturbance noises.

It is unlawful for any person to cause, or for any person in possession of real or personal property to allow to originate from the property, sound that is a public disturbance noise. The following sounds are hereby determined to be public disturbance noises:

(1) Frequent, repetitive, or continuous howling, barking, squawking or other noises made by any animal which unreasonably disturbs or interferes with the peace, comfort, and repose of receiving property owners or possessors; except that such sounds made by livestock, whether from commercial or noncommercial activities, and such sounds made in commercial kennels, veterinary hospitals, pet shops, or grooming parlors licensed under and in compliance with Skamania County Code (6.04.060), shall be exempt under this subsection. Livestock on properties within Skamania County are also exempt under this ordinance.

It shall be deemed a public disturbance noise under this subsection for a dog to bark, bay, cry, howl or make any other noise continuously and/or incessantly for a period of twenty (20) minutes or bark intermittently for one (1) hour or more, within an eight (8) hour period, to the disturbance of any person at any time of day or night regardless of whether the dog is physically situated in or upon private property; provided, however, that a dog shall not be deemed a "barking dog" for purposes of this section if, at the time the dog is barking or making any other noise, a person is trespassing or

threatening to trespass upon private property in or upon which the dog is situated or for any other legitimate cause the dog was teased or provoked to bark or make any other noise.

(2) The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law.

(3) The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine, within a residential area, so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of neighboring real property; provided, that this subsection shall not apply to the operation of lawn mowers, garden tools, chain saws, other power equipment used for building repair or ground maintenance, and approved forest product harvesting/processing between the hours of 7:00 a.m. and 10:00 p.m.

(4) The use of a sound amplifier or other device capable of producing or reproducing amplified sound upon public streets for the purpose of commercial advertising or sales or for attracting the attention of the public to any vehicle, structure, or property or the contents therein between the hours of 8:00 p.m. of one day and 7:00 a.m. of the next day, except for emergency vehicles.

(5) The making of any loud and raucous sound within one thousand (1,000) feet of any school, hospital, nursing, or convalescent facility; which unreasonably interferes with the use of such facility, or with the peace, comfort, or repose of persons therein.

(6) The use of a musical instrument, sound amplifier, or other device incorporating electrical signal volume control that produces or reproduces loud and/or raucous sounds which emanate frequently, repetitively or continuously from any building, structure or property so as to unreasonably disturb or interfere with the peace, tranquility, comfort or repose of owners or possessors of neighboring real property.

(7) Except as otherwise authorized by this chapter, the use, in a vehicle upon a public street or roadway, of a sound amplifier or other device capable of producing or reproducing amplified sound, which causes the sound to be heard from fifty (50) feet away; provided, this provision shall not apply to emergency, fire or police vehicles.

8.22.060 Daytime exemptions.

The following shall be exempt from the provisions of Section 8.22.050 between the hours of 7 a.m. and 10 p.m., except for subsection B of this section, sounds created by the discharge of firearms, which is exempt from 7 a.m. until the official hour of darkness:

A. Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances;

- B. Sounds created by the discharge of firearms (7 a.m. until the official hour of darkness);
- C. Sounds created by the installation or repair of essential utility services;
- D. Sounds created by blasting and/or mining operations. (Ord. 2002-13 (part))

8.22.070 Nonresidential exemptions

The following vehicles and situations shall be exempt from the provisions of this chapter, except Sections 8.22.050:

- A. Any farm, orchard, logging, forest product processing or mining equipment operated on existing farm, orchard, timber, forest product processing or mining properties; provided these properties were being used for one of these purposes on or before June 30, 2002; provided further that the use on such property has not ceased for a period of more than one year;
- B. Any public emergency vehicles, or any vehicles operating in a public emergency;
- C. Any law enforcement vehicles;
- D. Any vehicle operating for the purpose of public road building or maintenance, or for on-site construction of structures between the hours of seven a.m. and ten p.m.;
- E. Any airplanes or railroads;
- F. Sounds created by motor vehicles when regulated by WAC Chapter 173-62;
- G. Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes and carillons;
- H. Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible;
- I. Sounds originating from officially sanctioned parades and other public events;
- J. Sounds created by watercraft;
- K. Sounds created by the discharge of firearms in the course of hunting;
- L. Sounds caused by natural phenomena and unamplified human voices;
- M. Sounds originating from existing natural gas transmission and distribution facilities. (Ord. 2002-13 (part))

8.22.080 Variance and implementation schedules.

1. Variances may be granted to any person from any particular requirement 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 an existing noise source, or because of non-availability of feasible technology or control methods. Any such variance or renewal thereof shall be granted only for the minimum time period found to be necessary under the facts and circumstances. No variance shall be issued for a period of more than thirty days unless the board of county commissioners grants a permanent variance as provided herein.

2. If applicable, an implementation schedule for achieving compliance with this chapter shall be incorporated into any variance issued.

3. Anyone wishing for a variance must submit an application to the county commissioners. The county commissioners shall then, as soon as practical, conduct a public hearing to determine whether, and under what conditions, the variance should be granted. After conducting a public hearing, the county commissioners may grant a variance if the request substantially complies with the standards of the ordinance codified in this chapter and protects the general health, safety and welfare of the public.

4. Sources of noise, subject to this chapter, upon which construction begins after the effective date hereof shall immediately comply with the requirements of this chapter, except in extraordinary circumstances, where overriding considerations of public interest dictate the issuance of a variance. (Ord. 2002-13 (part))

8.22.090 Enforcement-Authority.

A. Law Enforcement. The Skamania County Sheriff is authorized and directed to administer and enforce the provisions of this chapter. Upon request by the sheriff or his deputies, all other county departments and divisions, including Southwest Washington Health District, are authorized to assist in the enforcement of this chapter.

B. District Court Jurisdiction. Any person who violates this chapter or of the State Noise Control Statute (RCW Chapter 70.107) may be cited into the Skamania County District Court. The district court shall have jurisdiction over all violations of this Chapter to include conducting hearings in contested or mitigated infraction cases and imposing fines, incarceration, or any other conditions generally allowed by law for infractions or misdemeanors as provided in SCC 8.22.100.

C. Cumulative and Alternative Remedies. 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 additional to existing legislation and common law on noise. (Ord. 2002-13 (part))

8.22.100 Violation-Penalty.

It shall be a misdemeanor punishable by a fine of two hundred fifty dollars (\$250) and/or ninety (90) days incarceration in the county jail for any person to violate any provisions of Section 8.22.050. Any individual who has not otherwise been found to have previously committed a violation of SKC 8.22.050 may be cited or charged with an infraction for violation of this ordinance. Any violation of this ordinance that is an infraction shall be punished by a fine of no less than two hundred fifty dollars (\$250) and no more than five hundred dollars (\$500).