

W. 10.a.
ORDN 6-03

AGENDA COVER MEMO

AGENDA DATE: August 20, 2003
TO: Lane County Board of Commissioners
PRESENTED BY: Marc Kardell *MK*
AGENDA ITEM TITLE: Ordinance 6-03/IN THE MATTER OF AMENDING CHAPTER 5 OF THE LANE CODE TO DESIGNATE THE METER RESPONSE SETTING FOR SOUND MEASUREMENT (LC 5.610)

I. MOTION

August 20, 2003: I MOVE TO SET A SECOND READING AND PUBLIC HEARING ON ORDINANCE 6-03 FOR SEPTEMBER 10, 2003, AT 1:30 P.M.

September 10, 2003: I MOVE THAT LANE CODE CHAPTER 5 BE AMENDED TO DESIGNATE THE METER RESPONSE SETTING FOR SOUND MEASUREMENT

II. ISSUE OR PROBLEM:

It has been pointed out to staff by Art Noxon, an acoustical engineer, that the Lane County Code provisions dealing with noise should undergo two technical adjustments. The adjustments are presented in this ordinance.

III. DISCUSSION

A. Background. Of the two changes proposed, one has to do with how the dB,A units have been previously stated incorrectly as db. The second change specifies that sound meter measurements should be made using the "fast" setting on an approved sound level meter. This will make clear how readings should be taken and presented to a hearing official.

B. Analysis. These changes were suggested by Mr. Noxon and do appear to add increased certainty into the noise enforcement process.

C. Alternatives/Options.

1. Adopt the ordinance;
2. Do not adopt the ordinance .

D. Recommendation I recommend adopting the ordinance.

IV. ATTACHMENTS

Board Ordinance

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 6-03

IN THE MATTER OF AMENDING CHAPTER 5 OF
THE LANE CODE TO DESIGNATE THE METER
RESPONSE SETTING FOR SOUND MEASURE-
MENT (LC 5.610)

The Board of County Commissioners of Lane County ordains as follows:

Lane Code Chapter 5 is hereby amended by removing, substituting and adding the following section:

REMOVE THIS SECTION

5.610
as located on pages 5-7 through 5-8
(a total of 2 pages)

INSERT THIS SECTION

5.610
as located on pages 5-7 through 5-8
(a total of 2 pages)

Said section is attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to designate the meter response setting for sound measurement (LC 5.610)

ENACTED this _____ day of _____ 2003.

Peter Sorenson, Chair
Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 5-22-03 Lane County



OFFICE OF LEGAL COUNSEL

welfare and quality of life of the citizens of Lane County. This subchapter shall be liberally construed to effectuate that purpose. *(Revised by Ordinance No. 5-99, Effective 7.28.99)*

5.605 Definitions.

For purposes of this subchapter the following terms and definitions shall apply unless the context requires otherwise:

Idling Speed. That speed at which an engine will run when no pressure is applied to the accelerator or accelerator linkage.

Manager. The Manager of the Land Management Division of the Department of Public Works, or the Manager's designee.

Noise Sensitive Unit. Any building or portion thereof, vehicle, boat or other structure adapted or used for the overnight accommodation of persons, including, but not limited to individual residential units, individual apartments, trailers, hospitals and nursing homes.

Person. Includes, in addition to any individual, any public or private corporation, association, partnership, or other legally recognized public or private entity.

Plainly Audible Sound. Any sound which is clearly distinguishable from other sounds, such as, but not limited to, sound for which the information content of that sound is unambiguously communicated to the listener, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.

Sound Producing Device: Includes but is not limited to:

- (a) Loudspeakers, public address systems.
- (b) Radios, tape recorders and/or tape players, phonographs, television sets, stereo systems including those installed in a vehicle.
- (c) Musical instruments, amplified or unamplified.
- (d) Sirens, bells or steam whistles attached to a stationary device.
- (e) Vehicle engines or exhausts discharging into open air, when the vehicle is not on a public right-of-way, particularly when the engine is operated above idling speed.
- (f) Vehicle tires, when caused to squeal by excessive speed or acceleration.
- (g) Domestic tools, including electric drills, chain saws, lawn mowers, electric saws, hammers and similar tools, but only between 10:00 p.m. and 7:00 a.m. of the following day.
- (h) Heat pumps, air conditioning units and refrigeration units, including those mounted on vehicles.

Vehicle. Includes automobiles, motorcycles, motorbikes, trucks, buses and snowmobiles. *(Revised by Ordinance No. 5-99, Effective 7.28.99)*

5.610 Sound Measurement.

(1) If sound measurements are made, they shall be made with a sound level meter. The sound level meter 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 subchapter, a sound level meter shall contain at least an A-weighted and C-weighted scale and both fast and slow meter response capability and the capability to perform time averaged sound measurement. A fast setting shall be utilized unless a different setting shall be called for elsewhere in this Code.

(2) If measurements are made, personnel making those measurements shall have completed training in the techniques of sound measurement and the use of the sound level meter from the Oregon Department of Environmental Quality personnel or other

competent training personnel. Measurement procedures consistent with that training shall be followed.

(3) Measurements may be made at or within the boundary of the property on which a noise sensitive unit which is not the source of the sound is located, or within a noise sensitive unit which is not the source of the sound.

(4) All measurements made pursuant to this subchapter shall comply with the provisions of this section. *(Revised by Ordinance No. 5-99, Effective 7.28.99)*

5.615 Failure to Comply.

A failure to comply, pursuant to LC 5.005(3), shall occur whenever any person produces or permits to be produced, with a sound producing device, sound which:

(1) When measured at or within the boundary of the property on which a noise sensitive unit which is not the source of the sound is located, or, within a noise sensitive unit which is not the source of the sound, exceeds:

(a) 50 dB,A at any time between 10:00 p.m. and 7:00 a.m. of the following day, or

(b) 60 dB,A at any time between 7:00 a.m. and 10:00 p.m. of the same day, or

(2) Is plainly audible at any time between 10:00 p.m. and 7:00 a.m. of the following day:

(a) Within a noise sensitive unit which is not the source of the sound, or

(b) On a public right-of-way at a distance of 50 feet or more from the source of the sound.

(3) If a measurement of the sound is made, LC 5.615(1) above shall supersede LC 5.615(2) above and shall be used to determine if a failure to comply exists. *(Revised by Ordinance No. 5-99, Effective 7.28.99; 1-00, 4.12.00)*

5.620 Exceptions.

Notwithstanding LC 5.615 above, the following exceptions from this subchapter are permitted when conditions therefore are met:

(1) Sounds caused by organized athletic, religious, educational, civic or other group activities, when such activities are conducted on property generally used for such purposes, including stadiums, parks, schools, churches, athletic fields, race tracks, airports and waterways between the hours of 7:00 a.m. and 11:00 p.m. of the same day; provided, however, that this exception shall not impair the Manager's power to declare that such events or activities violate other applicable laws, ordinances or regulations.

(2) Sound caused by emergency work reasonably necessary to prevent injury to persons or property, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, whether or not such work is performed by a public or private agency, upon public or private property.

(3) Sounds caused by sources regulated as to sound production by federal law, including, but not limited to, sounds caused by railroad, aircraft or commercially licensed watercraft operations. Notwithstanding anything within LC 5.600 et seq. to the contrary, it shall be unlawful for any railroad "retarder" as that is defined in 40 CFR 201.1(y), to be used, unless such retarder has shielding sufficient to prevent both:

(a) impulse sounds, defined as a single pressure peak or a single burst (multiple pressure peaks), as measured on a C weighted meter with fast response, and

(b) sounds in octave bands of 2000 Hz and above, where either of such sounds exceed either 10 dB,A between the hours of 10:00 p.m. and 7:00 a.m. of the following day, or 12 dB,A between the hours of 6:00 p.m. to 10:00 p.m., over the ambient noise level within a sound sensitive unit with a window ajar and

measured from no closer than three (3) feet of the window. The ambient noise level is the total of all noise in the environment, other than noise from railroad operations, averaged over 10 minutes in dB,A.

(4) Sound caused by bona fide use of emergency warning devices and alarm systems authorized by LC 3.400 through 3.460.

(5) Sound caused by blasting activities when performed under a permit issued by appropriate governmental authorities and only between the hours of 9:00 a.m. and 4:00 p.m. of the same day, excluding weekends, unless such permit expressly authorizes otherwise.

(6) Sounds caused by commercial, industrial, agricultural, timber harvesting, utility or construction organizations or workers during their normal operations.

(7) Sounds caused by a sound producing device used by a person pursuant to a variance issued by the Manager as provided in LC 5.625.

(8) Sounds caused by motor vehicles operated on any highway and subject to ORS 815.250. *(Revised by Ordinance No. 5-99, Effective 7.28.99)*

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Bold indicates material being added
~~Strikethrough~~ indicates material being deleted

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Lane Code

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Lane Code

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(4) All measurements made pursuant to this subchapter shall comply with the provisions of this section. *(Revised by Ordinance No. 5-99, Effective 7.28.99)*

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(2) Is plainly audible at any time between 10:00 p.m. and 7:00 a.m. of the following day:

(a) Within a noise sensitive unit which is not the source of the sound, or

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