

# WORK SESSION

**REVISED**

**MILWAUKIE CITY COUNCIL  
WORK SESSION**

**APRIL 17, 2012**

**MILWAUKIE CITY HALL**

Conference Room  
10722 SE Main Street

A light dinner will be served

**WORK SESSION – 5:00 P.M.**

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>	<u>Page #</u>
1.	5:00 p.m.	Assistant to the City Manager's Report	Teri Bankhead	
2.	5:15 p.m.	Citizens Utility Advisory Board Update	Board members & Gary Parkin	
3.	6:00 p.m.	Amendments to Milwaukie Municipal Code Chapter 8.08, Noise Control	Bob Jordan, Tim Salyers & Rhett Bernstein	1
4.	6:20 p.m.	Citizens Appreciation Program Cost Estimates	Teri Bankhead	31
5.	6:25 p.m.	Board, Commission, and Committee Guidelines	Teri Bankhead	34
6.	6:45 p.m.	Adjourn		

**Information**

**Executive Session:** The City Council will meet in executive session pursuant to ORS 192.660(2)(h) to consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

**Public Notice**

- The Council may vote in work session on non-legislative issues.
- The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the one previous to it.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.
- The City of Milwaukie is committed to providing equal access to information and public meetings per the Americans with Disabilities (ADA). If you need special accommodations, please call 503.786.7502 or email [ocr@ci.milwaukie.or.us](mailto:ocr@ci.milwaukie.or.us) at least 48 hours prior to the meeting.



Agenda Item: WS.3.  
Meeting Date: 4/17/12

## COUNCIL AGENDA ITEM SUMMARY

**Issue/Agenda Title:** Noise Ordinance Modifications

**Prepared By:** Bob Jordan, Chief of Police  
**Dept. Head Approval:** Bob Jordan  
**City Manager Approval:** Bill Monahan  
**Reviewed by City Manager:**

### ISSUES BEFORE THE COUNCIL

Modification of current Noise Ordinance

### STAFF RECOMMENDATION

Approve modifications

### KEY FACTS & INFORMATION SUMMARY

A review of recent Oregon case law by City Prosecutor Bernstein and the City's Code Enforcement Officer relating to the enforcement of noise ordinances suggests that the City should modify our existing noise ordinance to make it more easily understood, enforced, and prosecuted when a violation occurs.

Our current noise ordinance, Milwaukie Municipal Code Chapter 8.08, is heavily reliant on the use of sound level meters or audiometers, which require calibration and other procedures that are difficult to update and maintain in a manner readily defensible in a code violation case. The newer code language is more easily understood and more enforceable as it focuses on the violation itself, i.e., the offensiveness of the level, time of day or duration of noise by our residents.

Other portions of our current Code provide that the Chief of Police shall be responsible for issuing variances. Placing the enforcement and variance responsibilities in the same office is not recommended and has been modified in a manner to separate these two functions in other Oregon cities. A more current approach would be to place the enforcement function in the Police Department and in Code Enforcement, leaving the variance authority to the City Manager or his designee.

In addition to the reasons noted above for changing our Code, there is yet another reason. During my almost four year tenure as Chief of Police, the noise ordinance has most often come into play when one neighborhood resident complains about the noise made by an adjacent neighbor, commonly a barking dog or revving motorcycle or loud

power tool. Approved variances have typically been granted for a weekend church fair or the fireworks associated with the City's Milwaukie Daze events. It seems likely that large scale construction projects as part of light rail or the development of a baseball park, both near neighborhoods, would test the enforceability of our current noise ordinance.

The City's noise ordinance has not been significantly updated since 1982. Prosecutor Bernstein and City staff believe it warrants attention to bring it up to date with current practices, ensure the enforceability of the ordinance, and to help address the community's values and livability.

#### **OTHER ALTERNATIVES CONSIDERED**

Maintain current noise ordinance.

#### **CITY COUNCIL GOALS**

Promote the livability of the City of Milwaukie

#### **ATTACHMENT LIST (3)**

- 1) Existing City Noise Ordinance
- 2) Proposed City Noise Ordinance
- 3) Existing City Noise Ordinance with the edits highlighted

#### **FISCAL NOTES**



**To: Mayor and City Council**

**Through: Bill Monahan, City Manager**

**From: Bob Jordan, Chief of Police**

**Subject: Proposal to Modify the City of Milwaukie's Existing Noise Ordinance**

**Date: April 10, 2012**

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### **ACTION REQUESTED**

Approval of modifications to the City's existing Noise Ordinance

### **HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

None

### **BACKGROUND:**

A review of recent Oregon case law by City Prosecutor Bernstein and the City's Code Enforcement Officer relating to the enforcement of noise ordinances suggests that the City should modify our existing noise ordinance to make it more easily understood, enforced, and prosecuted when a violation occurs.

Our current noise ordinance, Milwaukie Municipal Code Chapter 8.08, is heavily reliant on the use of sound level meters or audiometers, which require calibration and other procedures that are difficult to update and maintain in a manner readily defensible in a code violation case. The newer code language is more easily understood and more enforceable as it focuses on the violation itself, i.e., the offensiveness of the level, time of day or duration of noise by our residents.

Other portions of our current Code provide that the Chief of Police shall be responsible for issuing variances. Placing the enforcement and variance responsibilities in the same office is not recommended and has been modified in manner to separate these two functions in other Oregon cities. A more current approach would be to place the enforcement function in the Police Department and in Code Enforcement, leaving the variance authority to the City Manager or his designee.

In addition to the reasons noted above for changing our Code, there is yet another reason. During my almost four year tenure as Chief of Police, the noise ordinance has most often come into play when one neighborhood resident complains about the noise made by an adjacent neighbor, commonly a barking dog or revving motorcycle or loud power tool. Approved variances have typically been granted for a weekend church fair or the fireworks associated with the City's Milwaukie Daze events. It seems likely that large scale construction projects as part of light rail or the development of a baseball park, both near neighborhoods, would test the enforceability of our current noise ordinance.

The City's noise ordinance has not been significantly updated since 1982. Prosecutor Bernstein and City staff believe it warrants attention to bring it up to date with current practices, ensure the enforceability of the ordinance, and to help address the community's values and livability.

CONCURRENCE:

FISCAL IMPACTS: None

WORK LOAD IMPACTS: None

# Attachment 1

## 8.08.010 SCOPE

This chapter shall apply to the control of all sound originating within the limits of the City. (Ord. 1528 § 1, 1982)

## 8.08.020 TERMINOLOGY AND STANDARDS

All terminology used in this chapter that is not defined in this chapter shall be in accordance with the American National Standards Institute (ANSI) Standard 1.41971. (Ord. 1528 § 2(A), 1982)

## 8.08.030 DEFINITIONS

As used in this chapter:

“City” means the City of Milwaukie, Oregon, and the area within the territorial City limits of the City of Milwaukie, Oregon.

“Commercial land use” means and includes land uses zoned C-N, C-L and C-G.

“Construction” means 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.

“Daytime period” means 7:00 a.m. until 10:00 p.m. of the same day.

“Emergency work” means 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 exposures to danger.

“Industrial land use” means and includes land use zoned M.

“Nighttime period” means 10:00 p.m. of one day until 7:00 a.m. of the following day.

“Noise-sensitive land use” means and includes property on which residential housing, apartment buildings, schools, churches, hospitals, nursing homes, and other public buildings are located.

“Person” means a person, persons, firm, association, copartnership, joint venture, corporation, or any entity public or private in nature. (Ord. 1528 § 2(C), 1982)

## 8.08.040 MEASUREMENTS OF SOUND LEVEL

A. All measurements shall be made with a sound level meter, in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.41971. For purposes of this chapter, a sound level meter shall contain at least an A-weighted scale and both fast and slow meter response capability.

B. When the location or distance prescribed in this chapter or 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 chapter or in other regulations adopted pursuant to this chapter.

C. Procedures and tests required by this chapter and not specified in this chapter are on file with the City Recorder. (Ord. 1528 § 2 (B), 1982)

#### 8.08.050 RESPONSIBILITY AND AUTHORITY

##### A. Responsibility

The responsibility for enforcement of this chapter shall reside with the Police Chief or designee.

##### B. Authority

In order to implement this chapter and for the general purpose of sound abatement and control, the Police Department shall have, in addition to any other authority vested in it, the powers defined as follows:

##### 1. Inspections

Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or record at any reasonable time when granted permission by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests.

##### 2. Issue Summons

Issue summons, notices of violation, or legal orders to any person in alleged violation of any provision of this chapter.

##### 3. Investigate Violations

In consonance with all other provisions of this chapter, investigate and document violations and take necessary actions preparatory to enforcement.

##### 4. Variances

Grant variances to the provisions of this chapter in accordance with procedures set forth in Section 8.08.110 of this chapter, and any other procedures as may be adopted.

##### 5. Amendments and Modifications



Develop and recommend amendments and modifications to this chapter so as to maintain or enhance the effectiveness of the noise control program.

6. Education

Develop programs for public education regarding the requirements and remedies available through the noise control ordinance.

7. Impoundment

Upon citation of a person for a violation of this chapter, the person issuing the citation may seize the sound-producing device which was the source of the sound as evidence. The sound-producing device, if seized, shall be impounded subject to disposition of the issued citation and determination by the court whether the sound-producing device shall be returned to the cited person or deemed contraband, subject to Section 8.08.110 of this chapter. It is the intent of this chapter to avoid such seizures except where the person being cited has received two (2) previous citations within the previous six (6) months for the use of the same or similar sound-producing device. The previous citations may, but need not, occur on the same date as the citation which prompts the seizure.

8. Regulations

Adopt reasonable regulations to carry out the requirements of this chapter. (Ord. 1528 § 3, 1982)

8.08.060 PROHIBITED NOISES—GENERALLY

No person shall make any noise or excessive or unnecessary sound which disturbs, injures, or endangers the comfort, convenience, repose, health, peace, safety, or welfare of any other person or persons or of any residential neighborhood within the limits of the City. (Ord. 1528 § 4(A), 1982)

8.08.070 PROHIBITED NOISES—DESIGNATED

The following acts are declared to be noises and unreasonable, excessive, and unnecessary sounds in violation of this chapter:

A. Horns, Signaling Devices, etc.

The sounding of any horn or signaling device on any automobile, motorcycle, bus, or other motor vehicle, except as a necessary signal required by the exigencies of regular or pedestrian traffic.

B. Radios, Phonographs, etc.

The playing, using, or operation of any radio, musical instrument, phonograph, television set, tape recorder, or other machine or device for the producing or reproducing of sound in such a manner as to disturb any other person.

C. Loudspeakers, Amplifiers, etc.

The use or operation of any loudspeaker or sound amplifier, either stationary or mobile, in such a manner as to project sound upon private property owned by someone other than the owner or operator of the loudspeaker or sound amplifier.

D. Animals

The maintenance of any animal which causes noise of such type, volume, or duration as to disturb any person.

E. Steam Whistles

The blowing of any steam whistle attached to any stationary boiler except as a warning of fire or danger or upon the request of proper City authorities.

F. Exhausts

The discharge into the open air of any exhaust of any steam engine, stationary internal combustion engine, motorboat, automobile, motorcycle, bus, or other motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

G. Defect in Vehicle or Load

The use of any automobile, motorcycle, bus, or other motor vehicle so out of repair, so loaded or in any otherwise unreasonable manner so as to disturb any person.

H. Loading, Unloading, Opening Boxes

The loading or unloading of any motor vehicle or the opening, closing, or destruction of bales, boxes, crates, or containers, so as to disturb any person.

I. Construction or Repair of Buildings, Streets, etc.

The construction of any building, property, building site, street, sidewalk, driveway, sewer, or utility line during the hours of 10:00 p.m. and 7:00 a.m. Monday through Friday and during the hours of 5:00 p.m. and 8:00 a.m. on weekends.

J. Schools, Cemeteries, Churches, Hospitals

The creation of any noise on any street adjacent to any school, institution of learning, church, cemetery, or funeral home, while the same is in use, or adjacent to any hospital, nursing home, or other institution for the care of the sick or infirm, which interferes with the operation of the same or disturbs any person.

K. Compressors, Hammers, Machinery, etc.

The operation during the hours of 7:00 p.m. and 7:00 a.m. Monday through Friday and during the hours of 5:00 p.m. and 8:00 a.m. on weekends of any air compressors, nail guns, hydraulic hammers, electric, gas or diesel powered generators, or other construction equipment, machinery, or tools.

L. Jake Brakes

Operating any motor vehicle with a dynamic braking device engaged except for the aversion of immediate danger.

M. Vehicle Testing and Repair

Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat so as to disturb any person.

N. Explosives, Firearms, and Similar Devices

The use of any explosives, firearms, or similar devices.

O. Blowers and Compressors

The operation of any blower, power fan, internal combustion engine, electrical motor, or compressor, the operation of which disturbs any person.

P. Tampering

Removing, impairing, or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any muffler or noise control device, or noise label of any product, or use of a product which has a muffler, or noise control device, or noise label removed or rendered inoperative, with knowledge that such action has occurred.

Q. Domestic Power Tools

Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or similar device used out of doors in residential areas during the nighttime period.

R. Vehicle Noise

Racing the engine of any motor vehicle or suddenly stopping or starting a vehicle unnecessarily. (Ord. 1931 §§ 1, 2, 2004; Ord. 1528 § 4(B), 1982)

**8.08.080 RECREATIONAL MOTOR VEHICLES**

No person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the limits set forth in Table 8.08.080 as measured at or within the property boundary of a noise-sensitive land use. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or noncommercial racing vehicles, motorcycles, go-carts, campers, and dune buggies, but not including motorboats.

<b>Table 8.08.080 Maximum Sound Levels for Off-road Recreational Vehicles Operated Near Noise-sensitive Property.</b>	
<b>Time</b>	<b>Sound Level Limit, in dBA</b>
Daytime period	60
Nighttime period	55

(Ord. 1528 § 5, 1982)

**8.08.090 MAXIMUM PERMISSIBLE ENVIRONMENTAL NOISE AND SOUND LEVELS**

- A. In addition to the prohibited sounds listed in Section 8.08.070, no person shall cause or permit noise or sound to intrude into the property of another person, which noise or sound exceeds the maximum permissible noise levels set forth in this section.
- B. The sound limitations established in this section shall be measured at or within the property boundary of the receiving land use.
- C. No sound shall exceed any of the limits established in Table 8.08.090 by ten (10) dBA at any point in time.
- D. The sound shall not exceed any of the limits established in Table 8.08.090 by five (5) dBA for a cumulative total of greater than one (1) minute, but less than five (5) minutes in any ten (10)-minute period.
- E. The sound shall not exceed any of the limits established in Table 8.08.090 for a cumulative total of five (5) minutes or more in any ten (10)-minute period.

**Table 8.08.090  
Sound Levels by Receiving Land Use**

<b>Land Use Designation of the Property From Which the Source of the Sound Is Measured</b>	<b>Maximum Number of Decibels Permitted During the Daytime Period</b>	<b>Maximum Number of Decibels Permitted During the Nighttime Period</b>
Noise-sensitive	55	50
Commercial	65	60
Industrial	80	75

(Ord. 1528 § 6, 1982)

[8.08.100 EXCEPTIONS](#)

The following sounds are exempted from provisions of this chapter:

- A. Sounds caused by the performance of emergency work;
- B. Aircraft sound;
- C. Sounds caused by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, parks, schools, churches, athletic fields;
- D. Sounds made by warning devices operating continuously for three (3) minutes or less;
- E. Construction activities during the daytime period;
- F. Church bells;
- G. Sounds generated by agricultural activities. (Ord. 1528 § 7(A), 1982)

[8.08.110 VARIANCES](#)

A. Upon application of any person who owns, controls, or operates any sound source which violates any of the provisions of this chapter, the Police Department may grant a variance from such provisions. The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason which the variance is sought, and any other supporting information which the Police Department may reasonably require.

B. Review of Variance

Review of the application shall include consideration of at least the following conditions:

- 1. The physical characteristics of the emitted sound;

2. The time and duration of the emitted sound;
3. The geography, zone, and population density of the affected area;
4. Whether the public health and safety is endangered;
5. Whether the sound source predates the receiver(s);
6. Whether compliance with the standard(s) from which the variance is sought would produce hardship without equal or greater benefit or greater benefit to the public.

C. Time Duration for Variance

A variance may be granted for a specific time interval only. (Ord. 1528 § 7(B), 1982)

8.08.120 PUBLIC NOTIFICATION AND PUBLIC HEARING

- A. The Police Department may give notice and meet with affected property owners to discuss impacts of a requested variance.
- B. A public hearing must be held before the granting of a variance if such hearing is requested by any affected party. (Ord. 1528 § 7(C), 1982)

8.08.130 APPEAL

Any person may appeal a decision of the Police Department under this section to the City Council. (Ord. 1528 § 7(D), 1982)

8.08.140 VIOLATION—PENALTY

- A. Any person violating any provision of this chapter or failing to comply with any requirement of this chapter, unless provision is otherwise made in this chapter, shall upon conviction thereof be punished by a fine of not more than five hundred dollars (\$500.00).
- B. In addition to the penalties prescribed in this section, the court may enjoin further operation of the noise producing equipment or order any sound-producing device found to have been used to violate this chapter seized, confiscated, and destroyed as contraband, or sold with the proceeds of sale to be deposited in the City general fund. (Ord. 1528 § 8, 1982)

# Attachment 2

## PROPOSED CITY NOISE ORDINANCE CITY OF MILWAUKIE MUNICIPAL CODE

### 8.08.010 SCOPE

This chapter shall apply to the control of all sound originating within the limits of the City. (Ord. 1528 § 1, 1982)

### 8.08.020 TERMINOLOGY AND STANDARDS

All terminology used in this chapter that is not defined in this chapter shall be in accordance with the American National Standards Institute (ANSI) Standard 1.41971. (Ord. 1528 § 2(A), 1982)

### 8.08.030 DEFINITIONS

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“Construction” means 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.

“Daytime period” means 7:00 a.m. until 10:00 p.m. of the same day.

“Emergency work” means 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 exposures to danger.

“Nighttime period” means 10:00 p.m. of one day until 7:00 a.m. of the following day.

“Person” means a person, persons, firm, association, copartnership, joint venture, corporation, or any entity public or private in nature. (Ord. 1528 § 2(C), 1982)

### 8.08.040 PURPOSE

The City Council of the City of Milwaukie finds that low and moderate ambient noise levels are a significant City amenity. They find further that the level of noise that exists in a community directly affects the livability of the community and the health, comfort and welfare of its residents. It is, therefore, the express intent and purpose of this section to establish noise level standards that protect and improve the quality of life of Milwaukie’s residents at work, rest and play and that can be objectively measured and enforced.

### 8.08.050 RESPONSIBILITY AND AUTHORITY

#### A. Responsibility

The responsibility for enforcement of this chapter shall reside with the Police Chief or designee.

PROPOSED CITY NOISE ORDINANCE  
CITY OF MILWAUKIE MUNICIPAL CODE

B. Authority

In order to implement this chapter and for the general purpose of sound abatement and control, the Police Department shall have, in addition to any other authority vested in it, the powers defined as follows:

1. Inspections

Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or record at any reasonable time when granted permission by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests.

2. Issue Summons

Issue summons, notices of violation, or legal orders to any person in alleged violation of any provision of this chapter.

3. Investigate Violations

In consonance with all other provisions of this chapter, investigate and document violations and take necessary actions preparatory to enforcement.

4. Repealed by \_ ORD XXXX \_\_\_\_\_

5. Amendments and Modifications

Develop and recommend amendments and modifications to this chapter so as to maintain or enhance the effectiveness of the noise control program.

6. Education

Develop programs for public education regarding the requirements and remedies available through the noise control ordinance.

7. Impoundment

Upon citation of a person for a violation of this chapter, the person issuing the citation may seize the sound-producing device which was the source of the sound as evidence. The sound-producing device, if seized, shall be impounded subject to disposition of the issued citation and determination by the court whether the sound-producing device shall be returned to the cited person or deemed contraband, subject to Section 8.08.110 of this chapter. It is the intent of this chapter to avoid such seizures except where the person being cited has received two (2) previous citations within the previous six (6) months for the use of the same or similar sound-producing



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device. The previous citations may, but need not, occur on the same date as the citation which prompts the seizure.

8. Regulations

Adopt reasonable regulations to carry out the requirements of this chapter. (Ord. 1528 § 3, 1982)

8.08.060 PROHIBITED NOISES—GENERALLY

- A. No person shall make, continue, or cause to be made or continued any Loud or Raucous Noise within the City at any time of day.
  
- B. Factors for determining whether a sound is Loud or Raucous Noise may include, but are not limited to, the following:
  - 1. The proximity of the sound to sleeping facilities, whether residential or commercial area;
  - 2. The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
  - 3. The time of day or night the sound occurs;
  - 4. The duration of the sound;
  - 5. Whether the sound is recurrent, intermittent or constant;
  - 6. Whether the sound is audible at the property edge of any property that is not the source of the sound; and
  - 7. Whether the sound is audible within any dwelling unit that is not the source of the sound.

8.08.070 PROHIBITED NOISES—DESIGNATED

No person shall make, continue or cause to be made or continued any of the following acts, which are declared *per se* violations of this Ordinance:

A. Radios, Phonographs, etc.

The playing, using, or operation of any device designed for sound production or reproduction, including, but not limited to, any radio, musical instrument, , television set, stereophonic equipment, loud speaker, sound production or reproduction device, bell, drum or chime so as to be audible:

- 1. At the property edge of property that is not the source off the sound, or
- 2. Within any dwelling unit that is not the source of the sound.

B. Animals

The owning, possessing or keeping of any animal that produces frequent or continuing noise for a period of 15 aggregate minutes in any one hour period during the daytime period or 5 aggregate minutes in any one hour during the nighttime period that can be heard:

PROPOSED CITY NOISE ORDINANCE  
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1. At the property edge of property that is not the location of the animal, or
2. Within any dwelling unit that is not the location of the animal,

except for animals provoked by a person trespassing, threatening to trespass or unambiguous taunting of the animal by a person.

C. Exhausts

The discharge into the open air of any exhaust of any steam engine, stationary internal combustion engine, motorboat, automobile, motorcycle, bus, or other motor vehicle without a muffler or with a sound control device less effective than that provided on the original engine or mechanical device..

D. Loading, Unloading, Opening Boxes

The loading or unloading of any motor vehicle or the opening, closing, moving or destruction of bales, boxes, crates, containers, garbage cans or other similar objects during the nighttime period so as to: be audible:

1. At the property edge of property that is not the location of the vehicle or object, or
2. Within any dwelling unit that is not the location of the vehicle or object.

E. Construction or Repair of Buildings, Streets, etc.

The construction of any building, property, building site, street, sidewalk, driveway, sewer, or utility line during the hours of 10:00 p.m. and 7:00 a.m. Monday through Friday and during the hours of 5:00 p.m. and 8:00 a.m. on weekends.

F. Schools, Cemeteries, Churches, Hospitals

The creation of any noise adjacent to any school, institution of learning, church, cemetery, or funeral home, while the same is in use, or adjacent to any hospital, nursing home, or other institution for the care of the sick or infirm, while the same is in use, so as to be audible:

1. At the property edge of a school, institution of learning, church, cemetery, funeral home, hospital, nursing home or other institution for the care of the sick or infirm, or
2. Within any structure of a school, institution of learning, church, cemetery, funeral home, hospital, nursing home or other institution for the care of the sick or infirm.

G. Compressors, Hammers, Machinery, etc.

The operation during the hours of 7:00 p.m. and 7:00 a.m. Monday through Friday and during the hours of 5:00 p.m. and 8:00 a.m. on weekends of any air compressors, nail guns, hydraulic hammers, electric, gas or diesel powered generators, or other construction equipment, machinery, or tools.

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H. Explosives, Firearms, and Similar Devices

The use of any explosives, firearms, or similar devices.

I. Blowers and Compressors

The operation of any blower, power fan, internal combustion engine, electrical motor, or compressor, the operation of which is audible:

1. At the property edge of property that is not the location of the blower, power fan, internal combustion engine, electrical motor, or compressor, or
2. Within any dwelling unit that is not the location of the blower, power fan, internal combustion engine, electrical motor, or compressor.

J. Tampering

Removing, impairing, or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any muffler or noise control device, or noise label of any product, or use of a product which has a muffler, or noise control device, or noise label removed or rendered inoperative, with knowledge that such action has occurred.

K. Domestic Power Tools

Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or similar device used for lawn care, landscaping, gardening, hobby craft and household maintenance during the nighttime period.

L. Motor Vehicle, Motorcycle, Motor Boat and other Motor Vehicle Noise

1. Revving the engine of any motor vehicle:
  - a. In a way unnecessary to the operation of the vehicle or
  - b. Causing the vehicle to suddenly stop or start unnecessarily.
2. Allowing any motor vehicle to idle for more than 15 aggregate minutes during any one hour period during the nighttime period.
3. Causing the squealing of tires by acceleration or the speed of a motor vehicle, except to avoid imminent danger to person or property.
4. The use of any motor vehicle so out of repair, so loaded or in any otherwise unreasonable manner so as to be audible:
  - a. At the property edge of property that is not the location of the vehicle, or
  - b. Within any dwelling unit that is not the location of the vehicle.
5. Operating any motor vehicle with a dynamic braking device engaged, except to avoid imminent danger to person or property.
6. Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat so as to be audible:
  - a. At the property edge of property that is not the location of the motor vehicle, motorcycle or motorboat, or

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- b. Within any dwelling unit that is not the location of the motor vehicle, motorcycle or motorboat.
- 7. The sounding of any horn or signaling device on any automobile, motorcycle, bus, or other motor vehicle, except as a necessary signal required by the exigencies of regular or pedestrian traffic.
- 8. The playing of a radio or other vehicle sound system must meet the requirements of ORS [815.232](#).

M. Emergency Signaling Devices. The sounding of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling [g device](#), except in an emergency or except as provided in subsections (i) and (ii), below.

(i) Testing of an emergency signaling device shall occur during the daytime period and any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

(ii) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within fifteen minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this Ordinance

N. The gathering of any number of persons upon premises, whether public or private, and the creation of noise from the collective voices of such persons during the nighttime period that is plainly audible within any dwelling unit that is not the source of the sound.

8.08.080 Repealed by \_ORD XXXX\_\_\_\_\_

8.08.090 Repealed by \_ORD XXXX\_\_\_\_\_

[8.08.100 EXCEPTIONS](#)

The following sounds are exempted from provisions of this chapter:

- A. Sounds caused by the performance of emergency work;
- B. Aircraft sound;
- C. Sounds caused by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, parks, schools, churches, athletic fields;
- D. Sounds made by warning devices operating continuously for three (3) minutes or less;
- E. Construction activities during the daytime period;

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F. Church bells;

G. Sounds generated by agricultural activities. (Ord. 1528 § 7(A), 1982)

8.08.110 VARIANCES

A. Upon application of any person who owns, controls, or operates any sound source which violates any of the provisions of this chapter, the City Manager may grant a variance from such provisions. The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason which the variance is sought, and any other supporting information which the City Manager may reasonably require.

B. Review of Variance

Review of the application shall include consideration of at least the following conditions:

1. The physical characteristics of the emitted sound;
2. The time and duration of the emitted sound;
3. The geography, zone, and population density of the affected area;
4. Whether the public health and safety is endangered;
5. Whether the sound source predates the receiver(s);
6. Whether compliance with the standard(s) from which the variance is sought would produce hardship without equal or greater benefit or greater benefit to the public.

C. Time Duration for Variance

A variance may be granted for a specific time interval only. (Ord. 1528 § 7(B), 1982)

8.08.120 PUBLIC NOTIFICATION AND PUBLIC HEARING

A. The City Manager may give notice and meet with affected property owners to discuss impacts of a requested variance.

B. A public hearing must be held before the granting of a variance if such hearing is requested by any affected party. (Ord. 1528 § 7(C), 1982)

8.08.130 APPEAL

Any person may appeal a decision of the City Manager under this section to the City Council. (Ord. 1528 § 7(D), 1982)

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8.08.140 VIOLATION—PENALTY

- A. Any person violating any provision of this chapter or failing to comply with any requirement of this chapter, unless provision is otherwise made in this chapter, shall upon conviction thereof be punished by a fine of not more than five hundred dollars (\$500.00).
- B. In addition to the penalties prescribed in this section, the court may enjoin further operation of the noise producing equipment or order any sound-producing device found to have been used to violate this chapter seized, confiscated, and destroyed as contraband, or sold with the proceeds of sale to be deposited in the City general fund. (Ord. 1528 § 8, 1982)

# Attachment 3

## EXISTING CITY NOISE ORDINANCE WITH THE EDITS HIGHLIGHTED CITY OF MILWAUKIE MUNICIPAL CODE

### 8.08.010 SCOPE

This chapter shall apply to the control of all sound originating within the limits of the City. (Ord. 1528 § 1, 1982)

### 8.08.020 TERMINOLOGY AND STANDARDS

All terminology used in this chapter that is not defined in this chapter shall be in accordance with the American National Standards Institute (ANSI) Standard 1.41971. (Ord. 1528 § 2(A), 1982)

### 8.08.030 DEFINITIONS

As used in this chapter:

“City” means the City of Milwaukie, Oregon, and the area within the territorial City limits of the City of Milwaukie, Oregon.

~~“Commercial land use” means and includes land uses zoned C-N, C-L and C-G.~~

“Construction” means 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.

“Daytime period” means 7:00 a.m. until 10:00 p.m. of the same day.

“Emergency work” means 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 exposures to danger.

~~“Industrial land use” means and includes land use zoned M.~~

“Nighttime period” means 10:00 p.m. of one day until 7:00 a.m. of the following day.

~~“Noise sensitive land use” means and includes property on which residential housing, apartment buildings, schools, churches, hospitals, nursing homes, and other public buildings are located.~~

“Person” means a person, persons, firm, association, copartnership, joint venture, corporation, or any entity public or private in nature. (Ord. 1528 § 2(C), 1982)

### 8.08.040 MEASUREMENTS OF SOUND LEVEL PURPOSE

~~A.—All measurements shall be made with a sound level meter, in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.41971. For purposes of this chapter, a sound level meter shall contain at least an A-weighted scale and both fast and slow meter response capability.~~

~~B. When the location or distance prescribed in this chapter or 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 chapter or in other regulations adopted pursuant to this chapter.~~

~~C. Procedures and tests required by this chapter and not specified in this chapter are on file with the City Recorder. (Ord. 1528 § 2 (B), 1982)~~

The City Council of the City of Milwaukie finds that low and moderate ambient noise levels are a significant City amenity. They find further that the level of noise that exists in a community directly affects the livability of the community and the health, comfort and welfare of its residents. It is, therefore, the express intent and purpose of this section to establish noise level standards that protect and improve the quality of life of Milwaukie's residents at work, rest and play and that can be objectively measured and enforced.

#### 8.08.050 RESPONSIBILITY AND AUTHORITY

##### A. Responsibility

The responsibility for enforcement of this chapter shall reside with the Police Chief or designee.

##### B. Authority

In order to implement this chapter and for the general purpose of sound abatement and control, the Police Department shall have, in addition to any other authority vested in it, the powers defined as follows:

##### 1. Inspections

Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or record at any reasonable time when granted permission by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests.

##### 2. Issue Summons

Issue summons, notices of violation, or legal orders to any person in alleged violation of any provision of this chapter.

##### 3. Investigate Violations

In consonance with all other provisions of this chapter, investigate and document violations and take necessary actions preparatory to enforcement.



4. ~~Variances Repealed by ORD XXXX~~

~~Grant variances to the provisions of this chapter in accordance with procedures set forth in Section 8.08.110 of this chapter, and any other procedures as may be adopted.~~

5. Amendments and Modifications

Develop and recommend amendments and modifications to this chapter so as to maintain or enhance the effectiveness of the noise control program.

6. Education

Develop programs for public education regarding the requirements and remedies available through the noise control ordinance.

7. Impoundment

Upon citation of a person for a violation of this chapter, the person issuing the citation may seize the sound-producing device which was the source of the sound as evidence. The sound-producing device, if seized, shall be impounded subject to disposition of the issued citation and determination by the court whether the sound-producing device shall be returned to the cited person or deemed contraband, subject to Section 8.08.110 of this chapter. It is the intent of this chapter to avoid such seizures except where the person being cited has received two (2) previous citations within the previous six (6) months for the use of the same or similar sound-producing device. The previous citations may, but need not, occur on the same date as the citation which prompts the seizure.

8. Regulations

Adopt reasonable regulations to carry out the requirements of this chapter. (Ord. 1528 § 3, 1982)

8.08.060 PROHIBITED NOISES—GENERALLY

~~No person shall make any noise or excessive or unnecessary sound which disturbs, injures, or endangers the comfort, convenience, repose, health, peace, safety, or welfare of any other person or persons or of any residential neighborhood within the limits of the City. (Ord. 1528 § 4(A), 1982)~~

A. No person shall make, continue, or cause to be made or continued any Loud or Raucous Noise within the City at any time of day.

B. Factors for determining whether a sound is Loud or Raucous Noise may include, but are not limited to, the following:

1. The proximity of the sound to sleeping facilities, whether residential or commercial area;

2. The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;

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3. The time of day or night the sound occurs;
4. The duration of the sound;
5. Whether the sound is recurrent, intermittent or constant;
6. Whether the sound is audible at the property edge of any property that is not the source of the sound; and
7. Whether the sound is audible within any dwelling unit that is not the source of the sound.

8.08.070 PROHIBITED NOISES—DESIGNATED

~~The following acts are declared to be noises and unreasonable, excessive, and unnecessary sounds in violation of this chapter:~~

No person shall make, continue or cause to be made or continued any of the following acts, which are declared *per se* violations of this Ordinance:

~~A.——Horns, Signaling Devices, etc.~~

~~The sounding of any horn or signaling device on any automobile, motorcycle, bus, or other motor vehicle, except as a necessary signal required by the exigencies of regular or pedestrian traffic.~~

BA. Radios, Phonographs, etc.

~~The playing, using, or operation of any device designed for sound production or reproduction, including, but not limited to, any radio, musical instrument, phonograph, television set, stereophonic equipment~~tape recorder~~, loud speaker, sound production or reproduction device, bell, drum or chime so as to be audible;~~ ~~or other machine or device for the producing or reproducing of sound in such a manner as to disturb any other person.~~

1. At the property edge of property that is not the source off the sound, or
- 1-2. Within any dwelling unit that is not the source of the sound.

~~C.——Loudspeakers, Amplifiers, etc.~~

~~The use or operation of any loudspeaker or sound amplifier, either stationary or mobile, in such a manner as to project sound upon private property owned by someone other than the owner or operator of the loudspeaker or sound amplifier.~~

DB. Animals

~~The maintenance of any animal which causes noise of such type, volume, or duration as to disturb any person~~ The owning, possessing or keeping of any animal that produces frequent or continuing noise for a period of 15 aggregate minutes in any one hour period during the daytime period or 5 aggregate minutes in any one hour during the nighttime period that can be heard:

1. At the property edge of property that is not the location of the animal, or

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2. Within any dwelling unit that is not the location of the animal,

except for animals provoked by a person trespassing, threatening to trespass or unambiguous taunting of the animal by a person.-

E. Steam Whistles

The blowing of any steam whistle attached to any stationary boiler except as a warning of fire or danger or upon the request of proper City authorities.

F.C. Exhausts

The discharge into the open air of any exhaust of any steam engine, stationary internal combustion engine, motorboat, automobile, motorcycle, bus, or other motor vehicle except without a through a muffler or with a sound control device less effective than that provided on the original engine or mechanical device. other device which will effectively prevent loud or explosive noises therefrom.

G. Defect in Vehicle or Load

- (i) The use of any automobile, motorcycle, bus, or other motor vehicle so out of repair, so loaded or in any otherwise unreasonable manner so as to disturb any person.

H.D. Loading, Unloading, Opening Boxes

The loading or unloading of any motor vehicle or the opening, closing, moving or destruction of bales, boxes, crates, ~~or~~ containers, garbage cans or other similar objects during the nighttime period so as to ~~disturb any person.~~ be audible:

1. At the property edge of property that is not the location of the vehicle or object, or
2. Within any dwelling unit that is not the location of the vehicle or object.

I.E. Construction or Repair of Buildings, Streets, etc.

The construction of any building, property, building site, street, sidewalk, driveway, sewer, or utility line during the hours of 10:00 p.m. and 7:00 a.m. Monday through Friday and during the hours of 5:00 p.m. and 8:00 a.m. on weekends.

J.F. Schools, Cemeteries, Churches, Hospitals

The creation of any noise ~~on any street~~ adjacent to any school, institution of learning, church, cemetery, or funeral home, while the same is in use, or adjacent to any hospital, nursing home, or other institution for the care of the sick or infirm, while the same is in use, which interferes with the operation of the same or disturbs any person. so as to be audible:

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1. At the property edge of a school, institution of learning, church, cemetery, funeral home, hospital, nursing home or other institution for the care of the sick or infirm, or
- ~~1.2.~~ Within any structure of a school, institution of learning, church, cemetery, funeral home, hospital, nursing home or other institution for the care of the sick or infirm.

KG. Compressors, Hammers, Machinery, etc.

The operation during the hours of 7:00 p.m. and 7:00 a.m. Monday through Friday and during the hours of 5:00 p.m. and 8:00 a.m. on weekends of any air compressors, nail guns, hydraulic hammers, electric, gas or diesel powered generators, or other construction equipment, machinery, or tools.

~~L.~~ Jake Brakes

~~M.~~ Vehicle Testing and Repair

~~Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat so as to disturb any person.~~

NH. Explosives, Firearms, and Similar Devices

The use of any explosives, firearms, or similar devices.

OI. Blowers and Compressors

The operation of any blower, power fan, internal combustion engine, electrical motor, or compressor, the operation of which ~~disturbs any person.~~ is audible:

1. At the property edge of property that is not the location of the blower, power fan, internal combustion engine, electrical motor, or compressor, or
2. Within any dwelling unit that is not the location of the blower, power fan, internal combustion engine, electrical motor, or compressor.

PJ. Tampering

Removing, impairing, or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any muffler or noise control device, or noise label of any product, or use of a product which has a muffler, or noise control device, or noise label removed or rendered inoperative, with knowledge that such action has occurred.

QK. Domestic Power Tools

Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or similar device used for lawn care, landscaping, gardening, hobby craft and household maintenance ~~out of doors in residential areas~~ during the nighttime period.

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RL. Motor Vehicle, Motorcycle, Motor Boat and other Motor Vehicle Noise

1. Revving the engine of any motor vehicle:
  - a. In a way unnecessary to the operation of the vehicle or
  - b. Causing the vehicle to suddenly stop or start unnecessarily.
2. Allowing any motor vehicle to idle for more than 15 aggregate minutes during any one hour period during the nighttime period.
3. Causing the squealing of tires by acceleration or the speed of a motor vehicle, except to avoid imminent danger to person or property.
4. The use of any motor vehicle so out of repair, so loaded or in any otherwise unreasonable manner so as to be audible:
  - a. At the property edge of property that is not the location of the vehicle, or
  - b. Within any dwelling unit that is not the location of the vehicle.
5. Operating any motor vehicle with a dynamic braking devise engaged, except to avoid imminent danger to person or property.
6. Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat so as to be audible:
  - a. At the property edge of property that is not the location of the motor vehicle, motorcycle or motorboat, or
  - b. Within any dwelling unit that is not the location of the motor vehicle, motorcycle or motorboat.
7. The sounding of any horn or signaling device on any automobile, motorcycle, bus, or other motor vehicle, except as a necessary signal required by the exigencies of regular or pedestrian traffic.
8. The playing of a radio or other vehicle sound system must meet the requirements of ORS 815.232.

M. Emergency Signaling Devices. The sounding of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsections (i) and (ii), below.

(i) Testing of an emergency signaling device shall occur during the daytime period and any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

(ii) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within fifteen minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this Ordinance

N. The gathering of any number of persons upon premises, whether public or private, and the creation of noise from the collective voices of such persons during the nighttime period that is plainly audible within any dwelling unit that is not the source of the sound.

8.08.080 RECREATIONAL MOTOR VEHICLES Repealed by ORD XXXX

No person shall operate or cause to be operated any recreational motorized vehicle off a public right of way in such a manner that the sound level emitted therefrom exceeds the limits set forth in Table 8.08.080 as measured at or within the property boundary of a noise sensitive land use. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or noncommercial racing vehicles, motoreycles, go-carts, campers, and dune buggies, but not including motorboats.

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<b>Table 8.08.080 Maximum Sound Levels for Off-road Recreational Vehicles Operated Near Noise-sensitive Property</b>	
<b>Time</b>	<b>Sound Level Limit, in dBA</b>
Daytime period	60
Nighttime period	55

-

(Ord. 1528 § 5, 1982)

8.08.090 MAXIMUM PERMISSIBLE ENVIRONMENTAL NOISE AND SOUND LEVELS  
Repealed by ORD XXXX

A.— In addition to the prohibited sounds listed in Section 8.08.070, no person shall cause or permit noise or sound to intrude into the property of another person, which noise or sound exceeds the maximum permissible noise levels set forth in this section.

B.— The sound limitations established in this section shall be measured at or within the property boundary of the receiving land use.

C.— No sound shall exceed any of the limits established in Table 8.08.090 by ten (10) dBA at any point in time.

D.— The sound shall not exceed any of the limits established in Table 8.08.090 by five (5) dBA for a cumulative total of greater than one (1) minute, but less than five (5) minutes in any ten (10) minute period.

E.— The sound shall not exceed any of the limits established in Table 8.08.090 for a cumulative total of five (5) minutes or more in any ten (10) minute period.

-

**Table 8.08.090**

EXISTING CITY NOISE ORDINANCE WITH THE EDITS HIGHLIGHTED  
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<b>Sound Levels by Receiving Land Use</b>		
<b>Land Use Designation of the Property From Which the Source of the Sound Is Measured</b>	<b>Maximum Number of Decibels Permitted During the Daytime Period</b>	<b>Maximum Number of Decibels Permitted During the Nighttime Period</b>
Noise sensitive	55	50
Commercial	65	60
Industrial	80	75

-  
(Ord. 1528 § 6, 1982)

8.08.100 EXCEPTIONS

The following sounds are exempted from provisions of this chapter:

- A. Sounds caused by the performance of emergency work;
- B. Aircraft sound;
- C. Sounds caused by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, parks, schools, churches, athletic fields;
- D. Sounds made by warning devices operating continuously for three (3) minutes or less;
- E. Construction activities during the daytime period;
- F. Church bells;
- G. Sounds generated by agricultural activities. (Ord. 1528 § 7(A), 1982)

8.08.110 VARIANCES

A. Upon application of any person who owns, controls, or operates any sound source which violates any of the provisions of this chapter, the ~~Police Department~~ City Manager may grant a variance from such provisions. The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason which the variance is sought, and any other supporting information which the ~~Police Department~~ City Manager may reasonably require.

B. Review of Variance

Review of the application shall include consideration of at least the following conditions:

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1. The physical characteristics of the emitted sound;
  2. The time and duration of the emitted sound;
  3. The geography, zone, and population density of the affected area;
  4. Whether the public health and safety is endangered;
  5. Whether the sound source predates the receiver(s);
  6. Whether compliance with the standard(s) from which the variance is sought would produce hardship without equal or greater benefit or greater benefit to the public.
- C. Time Duration for Variance

A variance may be granted for a specific time interval only. (Ord. 1528 § 7(B), 1982)

8.08.120 PUBLIC NOTIFICATION AND PUBLIC HEARING

- A. The ~~Police Department~~City Manager may give notice and meet with affected property owners to discuss impacts of a requested variance.
- B. A public hearing must be held before the granting of a variance if such hearing is requested by any affected party. (Ord. 1528 § 7(C), 1982)

8.08.130 APPEAL

Any person may appeal a decision of the ~~Police Department~~City Manager under this section to the City Council. (Ord. 1528 § 7(D), 1982)

8.08.140 VIOLATION—PENALTY

- A. Any person violating any provision of this chapter or failing to comply with any requirement of this chapter, unless provision is otherwise made in this chapter, shall upon conviction thereof be punished by a fine of not more than five hundred dollars (\$500.00).
- B. In addition to the penalties prescribed in this section, the court may enjoin further operation of the noise producing equipment or order any sound-producing device found to have been used to violate this chapter seized, confiscated, and destroyed as contraband, or sold with the proceeds of sale to be deposited in the City general fund. (Ord. 1528 § 8, 1982)





Agenda Item: WS. 4.  
Meeting Date: 4/17/12

## COUNCIL AGENDA ITEM SUMMARY

**Issue/Agenda Title:** Citizen Appreciation Program

**Prepared By:** Teri Bankhead, Assistant to the City Manager

**Dept. Head Approval:** Bill Monahan, City Manager

**City Manager Approval:** Bill Monahan, City Manager

**Reviewed by City Manager:** 4/6/12

### Issue Before the Council

Staff seeks direction on implementation of the Citizen Appreciation program discussed at the February 21, 2012 work session as there will be a fiscal impact.

### Staff Recommendation

Proceed with the program and budget for the expenses in the 2012-2014 biennial budget

### Key Facts & Information Summary

At the February 21, 2012 work session, staff presented a proposal to establish a citizen appreciation program. There were multiple ideas discussed, including awards for best holiday decorations, community pride, and outstanding gardens. Recognition of longstanding volunteers, such as a volunteer or citizen of the year award, and public recognition of long-term employees retiring from the City was also included. The other component of this program is to establish parameters for what members of the City boards, commissions and committees will receive for their volunteer service. Appreciation and recognition awards could vary from a certificate to a plaque to a small monetary gift card from a local business.

### Other Alternatives Considered

1. Implement only some of the program elements
2. Implement none of the elements
3. Implement all of the elements with no monetary gift (gift card or plaque)

### City Council Goals

N/A

### Attachment List

STAFF REPORT; MEMO FROM 2/21/12 WORK SESSION

### Fiscal Notes

Purchase of award items could range from \$800-\$1000 per year.



**To:** Mayor and City Council  
**Through:** Bill Monahan, City Manager  
**From:** Teri Bankhead, Asst. to the City Manager  
**Subject:** Citizen Appreciation Program  
**Date:** April 2, 2012

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#### **Action Requested**

Staff requests direction on implementation of the Citizen Appreciation program.

#### **History of Prior Actions and Discussions**

**December 6, 2011** Jeanne Baker requested of Council a means to recognize citizens for best holiday decorations.

**February 21, 2012** Staff presented a proposal at Council work session to create a program to recognize community efforts to include not only holiday decorations but other outstanding citizen involvement.

#### **Background**

At the February 21, 2012 work session, staff presented a proposal to establish a citizen appreciation program. There were multiple ideas discussed, including awards for best holiday decorations, community pride, and outstanding gardens. Recognition of longstanding volunteers, such as a volunteer or citizen of the year award, and public recognition of long-term employees retiring from the City was also included. The other component of this program is to establish parameters for what members of the City boards, commissions and committees will receive for their volunteer service. Appreciation and recognition awards could vary from a certificate to a plaque to a small monetary gift card from a local business.

While Council seemed in agreement with establishing this program, staff needs additional direction on how to proceed as there would be a fiscal impact.

#### **Estimate of Annual Costs:**

Citizen Appreciation Program  
Page 1 of 2

Certificates (\$10) and frames (~20 @ \$5/ea.)	\$110.00
Holiday Decorations - two \$25 gift cards	\$ 50.00
Community Pride – two \$80 plaques	\$160.00
Outstanding Garden – one \$25 gift card	\$ 25.00
Longstanding Volunteer or Retiring Employee - two \$80 plaques	\$160.00
Volunteer or Citizen of the Year Award plaque	\$ 80.00
Volunteer or Citizen of the Year Award City Hall plaque tags	\$ 50.00
Boards, Commissions and Committees max term plaque	\$ 80.00
One time Cost:	
Volunteer or Citizen of the Year Larger City Hall plaque	\$150.00
Award names will be placed on this plaque annually.	
New plaques will be required over time as they fill up.	_____
<b>Total annual estimate of costs for program</b>	<b>\$865.00 *</b>

**\*This will vary yearly, depending on the number of BCC expirations and employee retirements, as well as how many awards Council wishes to give in the other areas.**

**Concurrence**

Council concurred at the work session that this program would be beneficial to the City.

**Fiscal Impact**

Approximately \$865. See above estimate of costs.  
Staff would recommend budgeting a range of \$1000 per year.

**Work Load Impacts**

This program would rely on minimal staff time as well as community volunteers and some investment of time from the Mayor and/or council.

**Alternatives**

1. Implement only some of the program elements
2. Implement none of the elements
3. Implement all of the elements with no monetary gift (gift card or plaque)

**Attachments**

1. Memo to Council at February 21, 2012 work session



Agenda Item: WS.5.  
Meeting Date: 4/17/12

## COUNCIL AGENDA ITEM SUMMARY

**Issue/Agenda Title:** Board, Commission and Committee Guidelines

**Prepared By:** Teri Bankhead, Asst. to the City Manager  
**Dept. Head Approval:** Bill Monahan, City Manager  
**City Manager Approval:** 4/6/12  
**Reviewed by City Manager:** 4/6/12

### Issue Before the Council

Finalize the guidelines for members of the City's Boards, Commissions and Committees and clarify language regarding attendance

### Staff Recommendation

Approve the draft guidelines so that staff may begin sharing this with board members

### Key Facts & Information Summary

In the fall of 2011 staff and council began discussing whether a code of conduct should be considered for members of the City's boards, commissions and committees. This was discussed at the December 20, 2011 worksession as well as the January 31, 2012 study session. During the January study session, council requested that additional language be added regarding attendance of the board meetings. Staff requests clarification on the intent and language of this guideline, as well as direction on implementation.

### Other Alternatives Considered

1. No guidelines implemented
2. Revise the guidelines

### City Council Goals

N/A

### Attachment List

1. Staff Report
2. Draft Guidelines

### Fiscal Notes

N/A



**To: Mayor and City Council**

**Through: Bill Monahan, City Manager**

**From: Teri Bankhead, Asst. to the City Manager**

**Subject: Board, Commission and Committee Guidelines**

**Date: 4/4/12 for the 4/17/12 Work Session**

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### **Action Requested**

Staff seeks direction on finalizing the draft guidelines for board members and requests clarification of the attendance language.

### **History of Prior Actions and Discussions**

December 20, 2011: City Manager presented a draft code of conduct for board members to council.

January 31, 2012: Council discussed the code and agreed to scale it down into a set of guidelines for boards, commissions and committees.

### **Background**

In the fall of 2011 staff and council began discussing whether a code of conduct should be considered for Councilors and members of the City's boards, commissions and committees. Council had heard that there was some concern expressed by a few board members over some of the language in the initial draft code of conduct, so they decided to discuss this in more depth at the January study session. Council decided that they themselves would follow the communications agreement outlined for them instead of a separate code of conduct. However, they concurred that a set of general guidelines would be beneficial for members of the boards to help them during their terms of service. Council requested that staff add language that members are to attend at least 75% of the meetings. Staff requests clarification on the intent and language of this guideline. Are members fulfilling attendance during:

1. Fiscal year
2. Calendar year
3. Year of service (i.e. 4/1/12 – 3/31/13)

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Staff also requests direction from Council on when and how these guidelines should be implemented.

**Concurrence**

Council has previously discussed these guidelines and concurred, with the addition of one item

**Fiscal Impact**

N/A

**Work Load Impacts**

N/A

**Alternatives**

1. Do not implement the guidelines
2. Revise the guidelines

**Attachments**

1. Draft Guidelines

## **BOARDS, COMMISSIONS, AND COMMITTEES GUIDELINES FOR MEMBER CONDUCT**

Thank you for your interest in volunteering as a member of a board, commission or committee (“board”) for the City of Milwaukie. Serving on a board provides a way for residents who have special experience or interests to participate in the City’s decision-making process by advising the City Council on numerous issues.

### **CARRYING OUT THE BOARD DUTIES**

Now that you have been appointed to one of the boards, we would like to make you aware of the following guidelines, which you may find useful during your tenure. They are a supplement to the existing statutes governing conduct, which includes the ethics law of the State of Oregon.

It is important to remember as a representative of the City you are a public official and are therefore held to a higher standard by Council, staff, peers and the citizens of Milwaukie while performing your board responsibilities. You may be faced with difficult decisions and situations. Civility and diplomacy are not only important but expected in your role as a City board member.

- All meetings of boards, commissions or committees are public meetings, unless declared to be an executive session, in accordance with the State of Oregon public meeting laws.
- You should always review materials provided in advance of the meeting so you are prepared to give your full attention to the matters at hand.
- You should always do your part to maintain the organization’s transparency. Take steps to avoid even the appearance of a conflict of interest, declaring publicly if a potential or actual conflict of interest arises, and take appropriate steps.
- You should treat other board members, City Council, staff and the public with patience, courtesy and civility, even when there is disagreement on what is best for the community.
- Always be aware of the public nature of written notes, calendars, voicemail messages, and e-mail. All written or recorded materials including notes, voicemail, text messages, and e-mail created as part of one’s official capacity will be treated as potentially “public” communication.
- Recognize that even private conversations can have a public presence. As board members you are often the focus of the public’s attention. Even casual conversation about city business, other public officials, the public or staff may draw the attention of the public and be repeated.
- Board members often are asked to explain a board action or to give their opinion about an issue as they meet and talk with citizens. It is appropriate to give a brief overview of a board action or project status, however, be careful to not promise that a City board or staff member will take any specific action.

### **Attendance of Meetings**

- **Members are expected to attend at least 75% of the board meetings per year for their term of service.**

### **Individual Conduct of Board Members**

The individual attitudes, words, and actions of board members in public and in private should demonstrate, support, and reflect the qualities and characteristics of Milwaukie. Milwaukie suggests these guidelines:

- Be honest with fellow board members, the public and others.
- Credit others' contributions to moving our community's interests forward.
- Strive to make independent, objective, fair and impartial judgments.
- Adhere to the State ethics rules and reject gifts, services or other special considerations that are only offered because of your service as a public official. This includes excusing yourself from participating in decisions when a member of your immediate family's or household's financial interests or your own may be affected by the board's action.
- Conduct yourself in a courteous and respectful manner at all times.

### **Board Conduct with the Media and Social Media**

Be mindful if speaking with the press that anything said in a City meeting may end up in print. In discussions about City business or issues with the press or through social media, you should be careful to not represent your personal opinion as if it is the City's position on an issue, or represents that of your board or commission.

### **Milwaukie Municipal Code and Board By Laws**

City boards, commissions and committees are established by the City Council as authorized in the Milwaukie Municipal Code Chapter 2.10. Chapters 2.10 to 2.24 reference the appointment and removal process for members and also explain the purpose and membership of each board, commission or committee. Additionally, each board also has its own set of bylaws for members to follow.