

ORDINANCE 125

AN ORDINANCE OF THE CITY OF PECK, IDAHO, DEFINING NOISE AND EXCESSIVE OR UNNECESSARY SOUNDS, AND CONTROLLING AND REGULATING THE SAME WITHIN THE CITY LIMITS OF PECK, IDAHO, AND PROVIDING EFFECTIVE DATE.

This ordinance shall be known as "The Noise Control and Regulation Ordinance of the City of Peck".

WHEREAS, the creation or maintenance of noise(s) or the creation or maintenance of excessive or unnecessary sound(s) within the limits of the City of Peck, Idaho, is a condition which is increasing as evidenced by the large and increasing number of citizen complaints; and

WHEREAS, the creation or maintenance or noise(s) or excessive or unnecessary sound(s) which is prolonged, unusual or unreasonable in its time, place or use, is a public nuisance and a detriment to the public health, comfort, convenience, safety and welfare of the residents of the City of Peck, Idaho.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF PECK, IDAHO, AS FOLLOWS:

ARTICLE 1: That the Code of the City of Peck, Idaho, be and the same hereby is amended by adding a new section which shall be entitled: Noise Control and Regulation.

SECTION 1: The creation or maintenance of noise(s) or the creation or maintenance of excessive or unnecessary sound(s) within the limits of the City of Peck, Idaho, or that emanates from a location outside of the limits of the City of Peck, Idaho, be and the same hereby is declared to be a public nuisance.

SECTION 2: Noise or Excessive or Unnecessary

Sound - Prohibited

1. No person shall make any noise(s) or excessive or unnecessary sound(s) which disturbs, injures or endangers the comfort, convenience, repose, health, peace, safety or welfare or any other person or persons or of any residential neighborhood within the limits of the City of Peck.

2. No person on the premises of a business, public parking facility or other public or private property where parking or drive-in facilities are offered and extended to the public for their use shall unnecessarily do any of the following: race the engine of any motor vehicle; bring to a sudden start or stop any motor vehicle; or commit any other act constituting a nuisance or disturbance on said premises whereby the quiet of the premises or the neighborhood is disturbed, or the health, peace, safety, comfort or convenience of any person is disturbed.

3. The following acts are declared to be noise(s) and unreasonable, excessive and unnecessary sounds in violation of this ordinance; however, this enumeration shall not be deemed exclusive:

a. Horns, Signaling Devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, bus or motor vehicle except as a necessary signal required by the exigencies of vehicular or pedestrian traffic;

b. Radios, Phonographs, etc. The playing, using or operating 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

the sleep, peace, convenience, comfort or repose of any other person. The operation of any such 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 be plainly audible at a distance of fifty (50) feet from the building, room, structure or vehicle in which it is located shall be prima facie evidence of the violation of this action.

c. Loud Speakers, Amplifiers, etc. The use or operation of any loud speaker or sound amplifier, either stationary or mobile, in such a manner as to project sound upon public streets, or other public property, or upon private property owned by someone other than the owner or operator of the loud speaker or sound amplifier, except when such use or operation is authorized and permitted by the issuance of a written license and permit according to the requirements set forth in Section 6 of this Article.

d. Animals. The maintenance of any animal which causes noises of such type, volume or duration as to disturb the sleep, peace, quiet, comfort or repose of any person or residential neighborhood.

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, motor boat, automobile, motorcycle, bus, or other motor vehicle except through a muffler or other device

which will effectively prevent loud or explosive noises therefrom, except where such discharge is from vehicles used for participation in vehicle spectator sports activities between the hours of 8 a.m. and 9 p.m.

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 the sleep, peace, quiet, comfort or repose of any person or residential neighborhood.

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 the sleep, peace, quiet, comfort or repose of any person or residential neighborhood.

i. Construction or Repair of Buildings, Streets, Etc. The construction, excavation, demolition, alteration, destruction or repair of any building, property, building site, street, sidewalk, driveway, sewer or utility line between the hours of 9 p.m. and 7 a.m., except as provided in Section 6.

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 the sleep, peace, quiet, comfort or repose of any person.

k. Pile Drives, Hammers, Machinery, Etc. The operation between the hours of 9 p.m. and 7 a.m. of any pile drive, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other construction equipment, machinery or tools.

l. Blowers and Compressors. The operation of any blower, power fan, internal combustion engine, electrical motor or compressor, the operation of which unreasonably disturbs the sleep, peace, quiet, comfort or repose of any person or residential neighborhood.

SECTION 3: Motor Vehicle Noise Performance Standards

1. Notwithstanding the provisions of Section 4 herein, no person shall drive, move, or operate or cause or knowingly permit to be driven or moved or operated any automobile, motorcycle, bus, truck or other motor vehicle, or combination thereof within the City limits or Peck, at any time in such a manner as to exceed the following noise limits for the category of motor vehicles shown below. The standard measurement height shall not be less than four feet above the immediate surrounding surface and the measurement distance not less than 25 feet. All sound measurements shall be made on a sound level meter in good working condition which meets ANSI (American National Standards Institute) specifications S1.4-1974 for Type I or Type II equipment. The manufacturer's published indication of compliance with such specifications shall be prima facie evidence of compliance with this subsection.

Motor Vehicles with a manufacturer's gross vehicle weight rating (GVWR) or gross combination weight rating (GVWR) or 10,000 pounds or more, or any combination of vehicles towed by such motor vehicle. 88 dbA

Motorcycles 80 dbA

Any other motor vehicles or any combination of vehicles towed by any motor vehicle 80 dbA

2. This section shall apply to the total noise from a motor vehicle or combination of motor vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of this ordinance relating to motor vehicle mufflers for noise control. This section shall not apply to motor vehicles operating at speeds greater than 35 miles per hour in a speed zone in which the posted speed limit is greater than 35 miles per hour.

3. No person shall operate or cause to be operated any automobile, bus, truck, motorcycle or other motor vehicle within the city limits of Peck unless the exhaust system of such motor vehicle is:

- a. Free from defects which affect sound reduction.
- b. Equipped with a properly functioning muffler or other noise dissipative device; and
- c. Without any cut-out, by-pass, or similar devices in use.

4. No person shall operate any automobile, bus, truck, motorcycle or other motor vehicle in such a manner as to cause or allow to be emitted therefrom any squealing, screeching or other such noise from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, except that noise resulting from emergency braking to avoid imminent danger shall be exempt from this provision.

5. Exceptions: Sounds created by any motor vehicle operated off public highways shall be subject to the sound levels of Section 4 of this Article.

SECTION 4: Maximum Permissible Environmental Noise and Sound Levels.

1. No person shall cause or permit noise or sound(s) to intrude into the property of another person which noise or sound(s) exceeds the maximum permissible noise levels set forth below in this section.

2. The sound limitations established herein are as set forth in the following table after any applicable adjustments provided for herein are applied which when said sound limitations are exceeded shall constitute excessive and unnecessary sound(s) and shall be violations in their own right as well as being prima facie evidence of noise.

3. No sound shall exceed any of the below established zone limits by 15 dbA at any point in time.

4. The sound shall not exceed any of the below established zone limits by 10 dbA for a cumulative total of one minute of more out of any ten minute period.

5. The sound shall not exceed any of the below established zone limits by 3 dbA continually for a period of five minutes, or for a cumulative total of five minutes of more out of any ten minute period.

6. The zone limits are specified in the following table:

<u>ZONING DESIGNATION OF THE PROPERTY ON WHICH THE SOURCE OF THE SOUND IS LOCATED</u>	<u>MAXIMUM NUMBER OF DECIBELS PERMITTED FROM 7 A.M. UNTIL 9 P.M. OF THE SAME DAY</u>	<u>MAXIMUM NUMBER OF DECIBELS PERMITTED FROM 9 P.M. UNTIL 7 A.M. OF THE FOLLOWING DAY</u>
Residential	55	50
Commercial-Farm	65	60
Industrial	80	75

SECTION 5: Definitions and Standards

1. For the purposes of this Article, the words used shall have their ordinary and usually usage, except that the words listed hereinbelow shall have the definitions given to them in this section.

2. A-Weighted Sound Level: The sound level as measured in decibels with a sound level meter using the A-weighting network. The standard notations is dB(A) or DBA.

3. Decibel: A unit of measure of sound (see sound pressure level).

4. Sound Pressure: The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as provided by sound.

5. Sound Pressure Level: Twenty times the logarithm to the base 10 of the ratio of the RMS (Root-Mean-Square) sound pressure to the reference pressure of 10 micropascals. The sound pressure is denoted L_p or SPL.

6. Sound Level Meter: An instrument, including a microphone, amplifier, RMS detector and integrator or time

averager, output meter and/or visual display and weighting networks, used to measure sound levels. The sound level meter shall conform as a minimum to the requirements of ANSI (American National Standards Institute) S 1.4---1971 Type 2 or its successor publication; and to be set to an A-weighted response. An acoustical calibrator accurate to within plus or minus one decibel shall be used to verify the before and after calibration of the sound level meter on each noise measurement taken.

7. Noise: Any sound(s) which:

- a. is unwanted; or
- b. is loud, discordant or disagreeable; or
- c. causes or tends to cause an adverse physiological or psychological effect on human beings; or
- d. endangers or injures the safety or health of humans or animals; or
- e. annoys or disturbs a reasonable person of normal sensibilities; or
- f. endangers or injures personal or real property; or
- g. exceeds the maximum permissible environmental noise and sound levels as set forth in this ordinance.

8. Sound: Sound is mechanical energy transmitted by a cyclic eries of compressions and rarefactions of molecules of the material or materials through which it passes.

9. Motor Vehicle: Any vehicle which is self-propelled by mechanical power, including but not limited to passenger cars, trucks, truck-trailers, semi-trailers, buses, campers, motorcycles, minibikes, go-carts, racing vehicles, motorboats and snowmobiles.

10. Muffler: An apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases which reducing sound emanating from such apparatus.

11. 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 of more other persons and its vertical extension.

SECTION 6: Sound Level Variance Permits

1. The amount of variance permit fees, when required by the provisions of this ordinance, shall be set by resolution of the Council.

2. In cases of emergency or other urgent public necessity, the city clerk may issue a permit allowing the activities described in Section 2 to take place at any hour. Emergency permits may not be issued for periods exceeding five (5) days, but may be renewed for successive periods not exceeding three (3) days each for so long as the emergency continues.

3. If, after a consideration and evaluation of the location of the site, the potential nature of the sound(s) which would be generated on the site, the potential nature of the sound(s) from vehicular traffic to and from the site and the

relative effect of such sounds upon the persons residing on the property adjacent to the site, city clerk determines that the sleep, peace, quiet, comfort or repose of such persons will not be disturbed, she may issue a permit allowing activities described in Section 2 to take place between such hours from 7 p.m. to 7 a.m., as she deems proper.

4. If a variance is granted, the city clerk or her authorized representative shall prescribe such reasonable conditions or requirements as are necessary to minimize adverse effects upon the community, the surrounding neighborhood and persons residing upon property adjacent to the site.

SECTION 7: Exceptions. If a person can establish by a preponderance of the evidence that one or more of the following exceptions apply then that person shall be excused from compliance with this section:

1. The sound(s) or noise(s) was made an authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

2. The sound(s) or noise(s) was made by the sounding of the horn of any vehicle as a danger warning signal, or by the sounding of any warning device as required by law.

3. The sound(s) was made within the terms and conditions of a sound level variance granted by the city clerk or her authorized representative. A variance shall be granted after application is made if the city clerk finds that compliance will cause an undue hardship and further finds:

a. That additional time is necessary for the applicant to alter or modify his activities or operation to comply with this Article: or

b. The activity, operation or sound source will be of temporary duration, and even with the application of the best available control technology cannot be done in a manner that would comply with this Article; and

c. That no other reasonable alternative is available to the applicant.

4. The sound(s) or noise(s) emanate from residential property and was caused by a temporary project for the maintenance or repair of homes, grounds and appurtenances; provided however, that this section shall apply only to sound(s) or noise generated between the hours of 8 a.m. and 10 p.m.

5. The sound(s) or noise(s) created by the installation or repair of essential utility services.

6. The sound(s) or noise(s) originate from officially sanctioned parades or other public events.

7. The sound(s) or noise(s) are generated by any:

a. Interstate railways or engines or cars.

b. Airports or aircraft.

8. The sound(s) of temporary construction, excavation, or demolition activity as a result of construction equipment including special construction vehicles and emanating from temporary construction sites and where said construction, excavation or demolition activity is conducted pursuant to a

valid building or demolition permit and which activity is conducted during the hours of 7 a.m. to 9 p.m.

SECTION 8: Penalty. Any person violating any provision of this Article shall be guilty of a misdemeanor.

SECTION 9: Construction and Severability

1. This ordinance shall be liberally construed to carry out its broad purposes.

2. If any provision of this ordinance or its application to any person or circumstances is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected.

ARTICLE 2: This Ordinance shall take effect and be in full force from and after its passage, approval and publication.

DATED this 10th day of February, 1982

CITY OF PECK:

BY Roy Irey
Roy Irey, Mayor

ATTEST:

Ann Hesson
Ann Hesson, City Clerk