

**ORDINANCE 638
CITY OF DAYTON, OREGON**

An Ordinance Amending Chapter 2 – Offenses, of the Dayton Municipal Code to Make Changes to Section 2.8 Noise.

WHEREAS, the City Council desires to amend Chapter 2 – Offenses, of the Dayton Municipal Code to make changes to section 2.8 Noise as attached in Exhibit A; and

WHEREAS, the City Council considered said amendments in a public meeting on December 5, 2016; and

WHEREAS, on December 5, 2016, the City Council considered the information provided by staff and deliberated on the proposed action.

The City of Dayton ordains as follows:

Section 1. The City Council hereby adopts Ordinance 638; and

Section 2. The City Council adopts the amendments to Chapter 2 of the Dayton Municipal Code attached as Exhibit A and incorporated by reference herein.

PASSED AND ADOPTED by the City Council of the City of Dayton on this 3rd day of January, 2017.

Mode of Enactment:

Date of first reading: December 5, 2016 by title only.

Date of second reading: January 3, 2017 by title only.

 X No Council member present at the meeting requested that the ordinance be read in full.

 A copy of the ordinance was provided to each Council member; three copies were provided for public inspection in the office of the City Recorder no later than one week before the first reading of the Ordinance.

Final Vote:

In Favor: **Bixler, Brown, Collins, Marquez, Price, Taylor, Wytoski**

Opposed: **None**

Absent: **None**

Abstained: None




Mayor Elizabeth Wytoski

1/9/17

Date of Signing

ATTESTED BY:



Rochelle Roaden
City Recorder

1/3/2017

Date of Enactment

1994 Dayton Municipal Code Dayton, Oregon

CHAPTER 2 – OFFENSES

2.8 Noise.

2.8.1 **Excessive Noise Prohibited.** No person shall cause excessive noise within the City.

2.8.2 **Excessive Noise Defined (Residential & Commercial Zones).** Excessive noise in a Residential or Commercial Zone in violation of this section includes, but is not limited to:

- (a) The keeping of any bird or animal which by causing frequent or long-continued noise shall disturb the comfort and repose of any person in the vicinity.
- ~~(b) The use or operation of any vehicle, engine, horn or other signaling device, mechanical device, sound-amplifying device, sound-producing instrument, or any other type of noise that produces any sound that can be heard more than 150 feet from the source during the hours of 7:00 am and 10:30 pm; or 50 feet from the source from 10:30 pm to 7:00 am.~~
- ~~(b) The use of vehicle or engine, either stationary or moving, so out of repair, loaded, or operated as to create any loud or unnecessary grating, grinding, rattling, or other noise.~~
- ~~(c) The sounding of a horn or signaling device on a street, public place, or private place, except as a necessary warning of danger.~~
- ~~(d) The use of mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled.~~
- (e) The erection, including excavation, demolition, alteration, or repair of a building in residential districts, other than between the hours of 7:00 am and 6:00 pm, except in case of urgent necessity in the interest of the public welfare and safety and then only with a permit granted by the City Manager for a period not to exceed ten (10) days. Such permit may be renewed for periods of five (5) days while such emergency continues to exist. The actual owner of property may do work on property actually occupied by him between the hours of 6:00 pm and 10:30 pm without obtaining a permit as herein required.
- ~~(f) The use of gong or siren upon a vehicle, other than police, fire, or other emergency vehicle.~~
- ~~(g) The discharge in the open air of the exhaust of steam engine, internal combustion engine, motorboat, or motor vehicle except through an operational muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke.~~
- ~~(h) The use or operation of an automatic or electric piano, phonograph, gramophone, Victrola, radio, television, loudspeaker, or any instrument for sound producing or any sound-amplifying device so loudly as to be heard more than 150 feet from the source during the hours of 7:00 am and 10:30 pm; or 50 feet from the source from 10:30 pm to 7:00 am.~~
- (i) The conducting, operating or maintaining of a commercial garage within 100 feet of a private residence, apartment, rooming house, or hotel in such manner as to cause loud or disturbing noises to be emitted there-from between the hours of 10:30 pm and 7:00 am.
- (j) No person shall make, continue, assist in making, or allow: *(Added ORD 635-Effective 08/01/16)*
 - (1) Any unreasonably loud, disturbing, or raucous noise;

Exhibit A

- (2) Any noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, safety, or peace of reasonable persons of ordinary sensitivity; or
- (3) Any noise which is so harsh, prolonged, unnatural in time or place as to occasion unreasonable discomfort to any persons, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business; or
 - A) The standard for judging loud, disturbing and unnecessary noises shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration: the proximity of the sound to sleeping facilities, whether residential or commercial; the land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived; the time of day or night the sound occurs; the duration of the sound; and whether the sound is recurrent, intermittent, or constant.

2.8.3 **Excessive Noise Defined (Industrial Zone).** Excessive noise in an Industrial Zone includes, but is not limited to, sounds discernable outdoors by the human ear more than 150 feet from the source of the sound.

2.8.4 **Excessive Noise Defined (Sound Amplification from a Vehicle).** A person commits the offense of causing unreasonable sound amplification from a vehicle if the person operates, or permits the operation of any sound amplification system which is plainly audible outside of a vehicle from 50 or more feet when the vehicle is on a public highway or on premises open to the public, unless that system is being operated to request assistance or warn of a hazardous situation. *(Added ORD 508 – Effective 11/02/98)*

2.8.4.1 **Definition.** As used in Section 2.8.4, “plainly audible” means any sound for which the information content of that sound is unambiguously communicated to the listener including, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal or comprehensive musical rhythms or vocal sounds.

2.8.4.2 **Exceptions.** Section 2.8.4 does not apply to:

- a) Emergency vehicles as defined in ORS 801.260;
- b) Vehicles operated by utilities defined under ORS 757.005, 758.505 or 759.005;
- c) Audio alarm systems installed in vehicles; or
- d) Federal communications Commission licensed two-way radio communication systems.

2.8.5 **Exception for Significant Outdoor Community Events.** The City Manager may approve an exception to this section 2.8 of the Dayton Municipal Code for significant outdoor community events. A significant outdoor community event is any planned gathering occurring on public property that is open to the general public wherein there are 100 or more people present. Examples of significant outdoor community events may include, but are not limited to the following:

- a) Parades
- b) Wedding ceremonies

c) Church/religious services

 d) Concerts

 e) Festivals/Fairs

 f) Sponsored Races/Walks

 g) Car Shows

2.8.5.1 School Events. School sporting events or other large school sponsored gatherings that happen on a regularly scheduled basis are approved exceptions to this section 2.8 of the Dayton Municipal Code and do not require additional approval by the City.

2.8.6 Penalty for Violation. A violation of any provision of Section 2.8 of the Dayton Municipal Code is a Class B violation. *(Renumbered ORD 508 – Effective 11/2/98)*

2.8.76 Remedy. If, after proper notification of a violation of Section 2.8 of the Code, the nuisance is not abated, the City Manager or designee may proceed to abate the nuisance pursuant to the provisions in Section 5.13, Uniform Nuisance Abatement Procedure, or this Code. In addition to the remedies provided by Section 5.13, the City shall have all remedies available to it by law. *(Added ORD 635-Effective 08/01/16)*