

ORDINANCE NO. 1373

AN ORDINANCE AMENDING CANBY MUNICIPAL CODE (CMC) CHAPTER 9.48.050 REGARDING NOISE CONTROL EXCEPTIONS AND VARIANCES

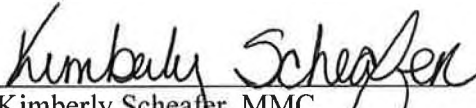
WHEREAS, Chapter 9.48.050 of the Canby Municipal Code provides for exceptions and variances for noise control;

WHEREAS, the current language is outdated and does not properly address application and publication notification procedures; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Chapter 9.48.050 of the Canby Municipal Code is amended to read as noted in Exhibit "A". All other sections, not amended in Exhibit "A", shall remain in full force and effect as they presently appear.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, April 17, 2013 and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on May 1, 2013 commencing at the hour of 7:30 PM in the Council Meeting Chambers located at 155 NW 2nd Avenue, Canby, Oregon.


Kimberly Scheafer, MMC
City Recorder

PASSED on the second and final reading by the Canby City Council at a regular meeting thereof on May 1, 2013 by the following vote:

YEAS 6 NAYS 0


Brian Hodson
Mayor

ATTEST:


Kimberly Scheafer, MMC
City Recorder

Exhibit "A"

UPDATE TO 9.48 NOISE CONTROL

§ 9.48.050 Exceptions and variances.

- A. Exceptions. The following sounds are exempted from the provisions of this chapter:
1. Sounds caused by the performance of emergency work, vehicles and/or equipment;
 2. Aircraft operations in compliance with applicable federal laws or regulations;
 3. Railroad activities as defined in Subpart A, Part 201 of Title 40, CER of the Environmental Protection Agency's railroad emission standards, incorporated herein by reference;
 4. Sounds produced by sound-amplifying equipment at activities sponsored by Canby School District between 7:00 a.m. and 12:00 p.m. midnight, local time;
 5. Sounds created by refuse pickup operations during the period of 6:00 a.m. to 10:00 p.m., local time;
 6. Sounds created by domestic power tools during the period 7:00 a.m. to 10:00 p.m., local time, provided sound-dissipating devices on tools so equipped are maintained in good repair;
 7. Sounds made by warning devices operating continuously for 5 minutes or less;
 8. Idling motor vehicles, including compressors on refrigerated trailers, within a Gross Vehicle Weight Rating (CVWR) of 8,000 pounds or greater between the hours of 7:00 a.m. to 10:00 p.m., local time, provided they are equipped with an exhaust system which is in good working order and in constant operation;
 9. Sounds created at the Clackamas County Fairgrounds as a result of events sanctioned by the Clackamas County Fair Board;
 10. Sounds caused by business operations in the commercial and industrial zones, provided the sounds result from lawful commercial business activity or manufacturing operations;
 11. Construction activities during the period of 7:00 a.m. to 10:00 p.m., local time, provided equipment is maintained in good repair and equipped with sound dissipating devices in good working order; and
 12. Sounds caused by city maintenance equipment between the hours of 7:00 a.m. and 10:00 p.m.

B. Variances. Any person who owns, controls or operates any sound source which violates any of the provisions of this chapter may apply, in writing, to the City Council for a variance from the provisions. Any person who is planning a noise source which is expected to violate any provision of this chapter may apply to the City Council for a variance from the provisions. Any person granted a variance under this chapter may apply for renewal of that variance upon its expiration. The renewal application shall be processed just as if it was an initial application.

1. Application. **An application for a noise variance shall be made on forms provided by the City Recorder's office. The application shall be accompanied by all the required information and fees. If more than one date is being requested for a noise variance at one location, they can be on one application.** The written application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason for which the variance is sought, and any other supporting information which the City Council may

reasonably require. **A list of property owners and addresses within 200' of the location of the variance shall be provided by the Applicant with the application.**

2. Review Standards. In establishing exceptions or granting variances, the City Council shall consider:

- a. The protection of health, safety and welfare of citizens as well as the feasibility and cost of noise abatement;
- b. ~~The past, present and future patterns of~~ **surrounding type of existing** land uses;
- c. ~~The relative timing of land use changes;~~
- c. The acoustical nature of the sound emitted; and
- d. Whether compliance with the provision would produce a benefit to the public.

3. Time Duration of Variance. Any variance shall be granted for a specific time interval, not to exceed 1 year.

4. Public Notification and Public Hearing.

a. **Public Notice of the Public Hearing shall be published in a newspaper at least 10 days prior to the public hearing.** ~~shall be given in the manner provided for by city ordinance for all variance applications.~~

b. **Notice of the Public Hearing shall be mailed to all property owners within 200' of the location for the variance at least 10 days prior to the public hearing.**

c. **The City Council shall hold a** ~~A public hearing shall be held~~ before the granting of a variance. ~~if the hearing is requested by any affected party.~~

5. Variances.

a. Conditions for Granting. The City Council may grant specific variances from the particular requirements of any rule, regulation or order, to specific persons, class of persons or specific noise source upon those conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with the rule, regulations or order is inappropriate because of conditions beyond the control of the persons requesting the variance; because of special circumstances which would render strict compliance unreasonable or impractical due to special physical conditions or cause; because strict compliance would result in substantial curtailment or closing down of a business, plant or operation; or because no other alternative facility or method of handling is yet available. Granting of the variance shall not be materially detrimental to other property within the same vicinity and the variance requested shall be the minimum which will alleviate the hardship.

b. Revocation or Modification. A variance granted may be revoked or modified by the City Council after a public hearing held upon not less than 20 days' notice. The notice shall be served upon the holder of the variance by certified mail and all persons who have filed with the City Council a written request for this notification.

6. Emergency and Safety Hazard. In the case of an emergency or safety hazard, the City Administrator or his or her designee may revoke a variance immediately by setting forth the nature of the emergency or hazard in a letter mailed or hand-delivered to the holder of the variance. A public hearing before the City Council shall be held at the next regularly scheduled City Council meeting following the revocation to reverse, affirm or modify the revocation action.