

# ORDINANCE 1755

## AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, AMENDING NORTH BEND MUNICIPAL CODE CHAPTER 8.26 RELATING TO NOISE ABATEMENT AND CONTROL; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council desires to amend North Bend Municipal Code Chapter 8.26, the City’s Noise Abatement and Control Code, to increase law enforcement efficiency in determining and enforcing noise violations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1. NBMC Chapter 8.26, Amended:** North Bend Municipal Code Chapter 8.26, entitled “Noise Abatement and Control,” is hereby amended to read as set forth in Exhibit A attached hereto and by this reference fully incorporated herein.

**Section 2. Severability:** Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 3. Effective Date:** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 17<sup>TH</sup> DAY OF AUGUST, 2021.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

\_\_\_\_\_  
Rob McFarland, Mayor

\_\_\_\_\_  
Michael R. Kenyon, City Attorney

ATTEST/AUTHENTICATED:

Published: August 27, 2021  
Effective: September 1, 2021

\_\_\_\_\_  
Susie Oppedal, City Clerk

Exhibit A

Chapter 8.26

NOISE ABATEMENT AND CONTROL

Sections:

- 8.26.010 Declaration of policy.
- 8.26.020 Definitions.
- ~~8.26.030 Unlawful sounds.~~
- 8.26.035 Compression brakes prohibited – Penalty.
- ~~8.26.040 Maximum permissible sound levels.~~
- ~~8.26.050 Modification to maximum permissible sound levels.~~
- ~~8.26.060 Motor vehicle noises – Stationary test.~~
- 8.26.070 Motor vehicle noises – Road test.
- 8.26.080 Mufflers.
- 8.26.090 Tire noise.
- 8.26.100 Exemptions.
- 8.26.110 Sounds exempt during daytime hours.
- 8.26.115 Construction noise.
- ~~8.26.120 Variances.~~
- 8.26.130 Public disturbance noises.
- 8.26.140 Citizen complaints.
- 8.26.150 Penalties.

**8.26.010 Declaration of policy.**

It is declared to be the policy of the city to minimize the exposure of citizens to the physiological and psychological dangers of excessive noise and to protect, promote and preserve the public health, safety and general welfare. It is the express intent of the city council to control the level of noise in a manner which promotes commerce, the use, value and the enjoyment of property, sleep and repose, and the quality of the environment.

**8.26.020 Definitions.**

As used in this chapter, the following terms shall have the following meanings. All technical terminology used in this chapter and not defined specifically herein shall be interpreted in conformance with American National Standards Institute’s Specifications:

~~A. “dB(A)” means the sound level measured in decibels, using the “A” weighting network on a sound level meter.~~

~~B. “District” means the land use zone to which the provisions of this chapter are applied. For the purposes of this chapter:~~

- ~~1. “Residential district” includes all LDR, HDR and CR zones.~~
- ~~2. “Business” or “commercial” zone means all zones designated NB, DC, IMU and IC.~~
- ~~3. “Industrial” zone means all zones designated EP 1 or EP 2.~~

~~C. “Emergency work” means work required to restore property to a safe condition following a public calamity, work required to protect persons or property from an immediate exposure to danger, or work by private or public utilities for providing or restoring immediately necessary utility services.~~

~~D. “Equipment” means any stationary or portable device or any part thereof capable of generating sound.~~

~~E. “Gross vehicle weight rating (GVWR)” means the value specified by the manufacturer as the recommended maximum loaded weight of a single vehicle.~~

~~FD.~~ “Motor vehicle” means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways. Aircraft, watercraft, and vehicles used exclusively on stationery rails or track are not motor vehicles as that term is used herein. It includes motorcycles unless distinction is made in the context of use.

~~GE.~~ “Motorcycle” means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, except farm tractors.

~~HF.~~ “Muffler” means a device consisting of a series of chambers or other mechanical designs for the purpose of receiving exhaust gas from an internal combustion engine and effective in reducing sound resulting therefrom.

~~IG.~~ “Noise control administrator” means the person designated by the mayor to enforce the provisions of this chapter. In addition to the noise control administrator, any police officer may enforce the provisions of this chapter.

~~JH.~~ “Person” means any individual, firm, *business*, association, partnership, corporation or any other entity, public or private.

~~K.~~ “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 another or others, and its vertical extension.

~~I.~~ *“Public disturbance noise(s)” is any sound which unreasonably either annoys, injures, interferes with or endangers the peace, comfort, tranquility, sleep or repose, health or safety of a community or neighborhood, although the extent of the damage or interference may be unequal.*

~~L.~~ “Receiving property” means the real property within which sound originating from outside the property is received.

~~MJ.~~ “Race vehicle” means a motor vehicle not licensed for use on the public streets and/or which is used primarily for sanctioned or unsanctioned racing events. Race vehicle shall also include power boats used primarily for racing events.

~~N.~~ “Sound level meter” means a sound level measuring device, Type I, S1A, 2, or S2A as specified in the “American National Standards Specifications for Sound Level Meters, S1.4 1971.”

~~8.26.030 — Unlawful sounds.~~

~~It is unlawful for any person to cause sound, or for any person in possession of property to permit sound originating from such property, to intrude into the real property of another person whenever such sound exceeds the maximum permissible sound levels established in this chapter.~~

**8.26.035 Compression brakes prohibited – Penalty.**

No person shall use motor vehicle brakes which are in any way activated or operated by the compression of the engine of any such motor vehicle or any unit or part thereof. Any violation of this section shall be deemed a traffic infraction and the penalty therefor shall be fifty dollars (\$50).

~~8.26.040 — Maximum permissible sound levels.~~

~~The maximum permissible sound level as measured at the property line or anywhere within the receiving property shall be as set forth in the following table:~~

District of Sound Source	District of Receiving Property		
	Residential	Business	Industrial

-dB(A)

District of Sound Source	District of Receiving Property		
Residential	55	57	60
Business	57	60	65
Industrial	60	65	70

**8.26.050 — Modification to maximum permissible sound levels.**

The maximum permissible sound levels established by this chapter shall be reduced or increased by the sum of the following:

- A. Between the hours of ten p.m. and seven a.m. the noise levels shall be reduced by ten dB(A) for receiving property within residential districts, except for noise from electrical substations and existing stationary equipment used in conveyance of water by a utility.
- B. At any hour of the day or night, the applicable noise levels may be exceeded for any receiving property by no more than:
  1. Five dB(A) for a total of fifteen (15) minutes in any one hour period;
  2. Ten dB(A) for a total of five (5) minutes in any one hour period; or
  3. Fifteen dB(A) for a total of 1.5 minutes in any one hour period.

**8.26.060 — Motor vehicle noises — Stationary test.**

It is unlawful for any person to operate a motor vehicle upon any public highway or easement road if the vehicle exhaust system exceeds the maximum permissible sound levels for the category of vehicle as measured at a distance of twenty inches (.5 meter) from the exhaust outlet under procedures set forth in WAC 204-56, as now exists or as hereafter adopted or amended, except all motor vehicles over ten thousand (10,000) pounds GVWR. The measurements shall be made fifty feet (50') from the exhaust outlet.

Vehicle Category	Max. Sound Level
Motoreycles	99 dB(A)
Automobiles, light trucks, and motor vehicles 10,000 pounds GVWR or less	95 dB(A)
All motor vehicles over 10,000 pounds GVWR	86 dB(A)

While on real property other than highways or easement roads, motor vehicles, whether licensed or unlicensed, shall not exceed the maximum permissible sounds as specified herein for other than motor vehicles when received in residential districts.

**8.26.070 Motor vehicle noises. —Road test.**

It is unlawful for any person to operate any motor vehicle or any combination of motor vehicles upon any public highway or easement road under any conditions of grade, load, acceleration or deceleration in such a manner as to *create a public disturbance noise*. exceed the maximum permissible sound levels for the category of vehicle as measured at a distance of fifty feet (50') from the center of the lane of travel within the speed limit specified under procedures set forth in WAC 204-56, as now exists or as may hereafter be amended or modified:

Vehicle Category	45 mph or less	Over 45 mph
Motorcycles	78 dB(A)	82 dB(A)
All other motor vehicles	72 dB(A)	78 dB(A)

Vehicle Category	35 mph or less	Over 35 mph
Motor vehicles over 10,000 pounds GVWR	86 dB(A)	90 dB(A)

While on real property other than highways or easement roads, motor vehicles, whether licensed or unlicensed, shall not *create public disturbance noises*. ~~exceed the maximum permissible sounds as specified herein for other than motor vehicles when received in residential districts.~~

**8.26.080 Mufflers.**

It is unlawful for any person to operate, or for any owner to permit any person to operate, any motor vehicle upon the public highways or easement roads which is not equipped with a muffler in good working order, in constant operation, and which meets the requirements established by RCW 46.37.390 as now exists or as may hereafter be amended.

**8.26.090 Tire noise.**

It is unlawful for any person to operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such sound from the tires in contact with the ground or other roadway surface because of rapid acceleration or excessive speed around corners or other such reason; provided, that the sounds resulting from emergency braking to avoid imminent danger shall be exempt from this section.

**8.26.100 Exemptions.**

The following sounds are exempt from the provisions of this chapter at all times:

- A. Noises caused by motor vehicles used for highway maintenance or noises caused in the performance of emergency work for the immediate safety, health or welfare of the community or of individuals of the community, or to restore property in a safe condition following a public calamity;
- B. Sounds created by warning devices and fire alarms not operating continuously for more than five (5) minutes or bells, chimes and carillons;
- C. Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations and from watercraft;
- D. Sounds created by other emergency equipment operated by law enforcement, firefighters and aid personnel;
- E. Sounds created by the operation of equipment or facilities of surface carriers engaged in commerce by railroad;
- F. Sounds originating from officially sanctioned parades and other events to which the general public is solicited to attend without charge and sounds originating from league or school sponsored athletic events;
- G. Sounds caused by natural phenomena and unamplified human voices, except for public disturbance noises as set forth in NBMC 8.26.130;
- H. Sounds originating from forest harvesting and silvicultural activity, except when received in residential districts between 10:00 p.m. and 7:00 a.m.;

~~I. Sounds created by motor vehicles when operated on public roads and regulated by NBMC 8.26.060, 8.26.070, 8.26.080, and 8.26.090;~~

J. Sounds originating from motor vehicle racing events at existing authorized facilities;

K. Noise from electrical substations and existing stationary equipment used in the conveyance of water by a utility and noise from existing industrial installations which exceed the standards contained in these regulations, and, which over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of process necessity and/or demonstrated routine normal operation. Changes in working hours, which would affect exemptions under this regulation, require approval by the noise control administrator;

L. Sounds emitted from petroleum refinery boilers during startup of the boilers; provided, that the startup operation is performed during daytime hours whenever possible;

M. Sounds created by the discharge of firearms in the course of hunting and at authorized shooting ranges between the hours of 7:00 a.m. and 10:00 p.m.

**8.26.110 Sounds exempt during daytime hours.**

A. The following sounds are exempt from the provisions of this chapter between the hours of 7:00 a.m. to 8:30 p.m.:

1. Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances including but not limited to lawn mowers, saws, hammering and gardening, but excluding sounds from race vehicles.

B. The following sounds are exempt from the provisions of this chapter between the hours of 7:00 a.m. to 7:00 p.m.:

1. Sounds created by temporary blasting relating to an approved permit; and
2. Sounds created by the installation or repair of essential utility service; and
3. Sounds created by aircraft, engine testing and maintenance not related to flight operations; provided, that aircraft testing and maintenance shall be conducted in remote sites whenever possible.

**8.26.115 Construction noise.**

Sounds caused by or arising out of construction activities at construction sites are permitted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and between 9:00 a.m. and 5:00 p.m. on Saturdays. Such sounds are prohibited at all other times, including at any time on Sundays and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, regardless of the day of the week of any such holiday.

Notwithstanding any other provision of this chapter, however, the director of public works may authorize construction noise to otherwise occur when necessary in the director's reasonable discretion to accommodate transportation mitigation such as evening haul routes, construction on government facilities which cannot be undertaken during permitted hours, construction activities and site stabilization in the fall prior to the onset of winter weather, emergency work, or similar unusual events.

**8.26.120 — Variances.**

~~A. Variances may be granted to any person from any requirement of NBMC 8.26.040 of this chapter if findings are made that immediate compliance with such requirement cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment upon an existing noise source or because of nonavailability of feasible technology or control methods.~~

~~B. Any such variance or renewal thereof shall be granted only for the minimum time period found to be necessary under the facts and circumstances.~~

~~C. Variances shall be heard and decided in the manner as set forth in Chapter 18.26 NBMC for land use variances.~~

~~D. The grant of a variance shall not relieve any person from the requirements of NBMC 8.26.130 relating to public disturbance noises.~~

**8.26.130 Public disturbance noises prohibited.**

A. It is unlawful for any person knowingly to cause or make, or for any person in possession of property knowingly to allow to originate from the property, ~~unreasonable~~ public disturbance noises which disturbs another, and to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by the Noise Control Administrator ~~a police officer~~. Public disturbance noises shall include, but shall not be limited to, the following sounds or combinations of sounds:

1A. Frequent, repetitive or intermittently continuous sounds made by any animal except that such sounds made in animal shelters or in commercial kennels duly licensed shall be exempt;

2B. Frequent, repetitive or intermittently continuous sounds made by any horn or siren attached to a motor vehicle except such sounds that are made to warn of danger or that are specifically permitted as required by law;

3C. Frequent, repetitive or intermittently continuous sounds made in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, race vehicle, off-highway vehicle or internal combustion engine;

4D. Loud and frequent, repetitive or intermittently continuous sounds made by the use of a musical instrument or instruments or other device capable of producing sound when struck by an object, of a whistle, or of a sound amplifier or other device capable of producing, amplifying or reproducing sounds;

5E. Loud and frequent, repetitive or intermittently continuous sounds made by the unamplified human voice or voices between the hours of 10:00 p.m. and 7:00 a.m.;

6F. Sounds made for any duration or frequency from the starting and/or running of the engine of a race vehicle.

B. It is unlawful for any person to cause or make, or for any person in possession of a property to allow to originate from the property public disturbance noises between the hours of 10:00 p.m. and 7:00 a.m. from Sunday evening through Friday morning, between 10:00 p.m. and 8:00 a.m. from Friday evening through Saturday morning, and between 10:00 p.m. and 9:00 a.m. from Saturday evening through Sunday morning, and to refuse or intentionally fail to cease the public disturbance noises when ordered to do so by a police officer.

**8.26.140 Citizen complaints.**

Whenever it is stated in writing by three or more persons having separate residences in a neighborhood that any person is violating any of the provisions of this chapter, the Noise Control Administrator ~~noise control administrator~~ shall advise the person of the complaint and that such violations must cease.

In addition, a complaint in writing by one individual will be accepted by the Noise Control Administrator ~~noise control administrator~~; provided, that the person complaining is an abutting property owner to the alleged violator of this chapter and the violation is confirmed by the Noise Control Administrator or police officer. ~~Failure of any person to cease any violation of this chapter shall be deemed a misdemeanor, and upon conviction, the person shall be punished as set forth in NBMC 8.26.150.~~

**8.26.150 Penalties.**

Any violation of this chapter shall be a civil infraction, remedied pursuant to Chapter 7.80 RCW. ~~the provisions set forth in Chapter 1.20 NBMC.~~