

NOTICE OF INTRODUCTION OF ORDINANCE

NOTICE IS HEREBY GIVEN that the following entitled ordinance was introduced in writing in the form required for adoption at a meeting of the Parish Council of the Parish of Livingston, State of Louisiana, on May 23, 2013, and laid over for publication of notice:

L.P. ORDINANCE NO. 13-26

AN ORDINANCE TO AMEND, REVISE, ENACT AND RE-ENACT CHAPTER 5.5, "ENVIRONMENT", ARTICLE II, "NOISE", SECTIONS 5.5-11 THROUGH SECTION 5.5-19 OF THE LIVINGSTON PARISH CODE OF ORDINANCES, ENTITLED "NOISE REGULATIONS".

NOTICE IS HEREBY FURTHER GIVEN that the Parish Council of said Parish will meet on Thursday, June 27, 2013, at six (6:00) o'clock p.m., at the Parish Council Chambers, 20355 Government Boulevard, Livingston, Louisiana, at which time there will be a public hearing on the adoption of the aforesaid ordinance.

Lisa Frederick, Council Clerk

Marshall Harris, Council Chair

(As per rules of the Council, copies of the proposed ordinance shall be made available for public inspection in the Office of the Livingston Parish Council.)

The following ordinance, which was previously introduced in written form required for adoption at a regular meeting of the Livingston Parish Council on May 23, 2013, a summary thereof having been published in the Official Journal together with a notice of public hearing which was held in accordance with said public notice, was brought up for final passage as amended June 13, 2013, on Motion of _____ and seconded by _____.

L.P. ORDINANCE NO. 13-26

AN ORDINANCE TO AMEND, REVISE, ENACT AND RE-ENACT CHAPTER 5.5, "ENVIRONMENT", ARTICLE II, "NOISE", SECTIONS 5.5-11 THROUGH SECTION 5.5-19 OF THE LIVINGSTON PARISH CODE OF ORDINANCES, ENTITLED "NOISE REGULATIONS".

WHEREAS, those noise regulations currently in effect for unincorporated Livingston Parish, Louisiana have been found to be unconstitutionally restrictive by the United States District Court For The Eastern District Of Louisiana; and

WHEREAS, reasonable regulation of noise is necessary and important to preserve the quality of life for the citizens of unincorporated Livingston Parish, Louisiana.

THEREFORE BE IT ORDAINED by the Livingston Parish Council, the legislative branch of parish government, which along with the Parish President of Livingston Parish, Louisiana constitute the parish government, the said Livingston Parish Council-President Government having a Home Rule form of government and acting pursuant to the authority of that Home Rule Charter which became effective on, as follows:

That Article II of Chapter 5.5 of the Livingston Parish Code of Ordinances is hereby amended, revised, enacted, supplemented and re-enacted to read as follows:

Sec. 5.5-11. Policy; criminal noise code established.

It is hereby declared to be the policy of the Livingston Parish Council-President Government to prohibit unnecessary, excessive and annoying noises that disturb the peace from all sources subject to the Livingston Parish Council-President Government's police power.

At certain levels noises are detrimental to the health and welfare of the citizenry and it is in the public's interest that noise shall be regulated and systematically proscribed at detrimental levels.

Article II of Chapter 5.5 of the Livingston Parish Code of Ordinances shall be and is hereby designated as the Code of Noise Regulations.

Sec. 5.5-12. Noise Definitions

All terminology used in the criminal noise code, not otherwise defined herein, shall be construed in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. Subject to the foregoing, the following words and phrases, when used in the criminal noise code, shall have the meanings respectively ascribed to them:

- 1) ***Ambient noise level or levels*** means the sound level or noise in the environment and/or background which exists at a point of measurement in the absence of the sound or noise emission of interest complained of being measured.
- 2) ***A-weighted sound level*** means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.
- 3) ***Construction*** means any site preparation, assembly, erection, substantial repair, alteration, or similar repair, alteration, or similar action, including demolition, for or of public or private rights-of-way, structures, utilities or similar property.

- 4) **Decibel (dB)** means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals twenty (20) micronewtons per square meter.
- 5) **Demolition** means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.
- 6) **Emergency** means any occurrence or set of circumstances involving actual or imminent physical trauma or property-damage which demands immediate action.
- 7) **Emergency work** means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- 8) **Impulsive sound** means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms. Impulsive sound also includes "peak noise" as that term is defined in ANSI S1.4-1983, or any successor thereto.
- 9) **Motor vehicle** means any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, campers, go-carts, amphibious craft on land, dune buggies, or racing vehicles, but not including motorcycles.
- 10) **Motorboat** means any vessel which operates on water and which is propelled by a motor, including but not limited to boats, barges, amphibious craft, water ski towing devices and hover craft.
- 11) **Motorcycle** means an unenclosed motor vehicle having a saddle for the use of the operator and two (2) or three (3) wheels in contact with the ground, including but not limited to motor scooters and mini-bikes, and an unenclosed motor vehicle having a saddle for the use of the operator and four (4) wheels in contact with the ground which is commonly referred to as a "four wheeler" or alternatively as an "all-terrain vehicle".
- 12) **Muffler or sound-dissipative device** means a device for abating the sound of escaping gases of an internal-combustion engine.
- 13) **Person** means any individual, association, partnership, company or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.
- 14) **Property line** means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.
- 15) **Public right-of-way** means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.
- 16) **Public Space** means any real property or structures thereon which are owned and/or controlled by a governmental entity.
- 17) **Pure tone** means any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of the Criminal Noise Code, a pure tone shall exist if the one-third octave band sound pressure level in the band when the tone exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third octave bands by five (5) dB for center frequencies of five hundred (500) Hz and above and by eight (8) dB for center frequencies between one hundred sixty (160) and four hundred (400) Hz and by fifteen (15) dB for center frequencies less than or equal to one hundred twenty-five (125) Hz.
- 18) **Receiving property** means the property from which the sound is measured, and includes public property and public rights-of-way.
- 19) **Sound** means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including direction, intensity and frequency.

- 20) **Sound level** means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI SI.4-1983), or any successor thereto. If the frequency weighting employed is not indicated, the A-weighting shall apply.
- 21) **Sound level meter** means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.
- 22) **Sound pressure** means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.
- 23) **Sound pressure level** means twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micropascals ($20 \times 10^{-6} \text{ N/n}^2$). The sound pressure level is denoted L, or SPL and is expressed in decibels.

Sec. 5.5-13 Enforcement

- a) Whoever commits the crime of excessive noise shall be fined not more than five hundred dollars (\$500.00) per occurrence or imprisoned for not more than thirty (30) days, or both, at the discretion of the judge.
- b) The parish council shall have the authority to grant special variances by resolution of the council which may be requested when they find or determine that:
 - (1) Strict conformance with the provision of this section would cause a hardship upon any person; or
 - (2) The offending noise will be for a short duration and compliance with this section will be impractical; or
 - (3) The benefit in the community of the active creating the offending noise is greater than the adverse effect on the community of the noise created; and/or
 - (4) The applicant needs additional time to modify equipment or take other action in order to comply with the provisions of this section.
- c) Exceptions.
 - (1) **Airport and aircraft operations.** Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate the movement of aircraft which are in all respects conducted in accordance with or pursuant to applicable federal laws or regulations.
 - (2) **Public functions.** Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate any public or private school function, including sporting events where the function occurs on the property of the school or on property where the function is conducted.
 - (3) **Governmental activities.** Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate any federal, state or local governmental agency or any employee or agent of the same in the fulfillment of any official duty or activity sanctioned by or on behalf of the governmental agency.
 - (4) **Legal hunting activities.** Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate any legal and permissible hunting of wild game.

Sec. 5.5-14. Evidence of a violation.

- a) ***Sound emanating from immovable property.*** Prima facie evidence of a violation shall exist when each of the following exists:
 - (1) A sound level measurement of the sound or noise complained of is taken on the receiving property in accordance with Section 5.5-15 herein;
 - (2) The measurement of the sound or noise complained of exceeds permissible levels as enumerated in Section: 5.5-17(A) herein; and
 - (3) The measurement of the sound or noise complained of exceeds ambient noise levels by ten (10) decibels or more.

- b) ***Sound emanating from movable property.***
 - (1) No person, between the hours of 9:00 p.m. and 6:00 a.m. the following morning, shall operate or permit the operation of any sound amplification system which emanates unreasonable loud or excessive sound or noise which is likely to cause and/or which causes inconvenience or annoyance to person of ordinary sensibilities, when both the following exist:
 - a. The sound amplification system is located in or on any motor vehicle on a public street, highway, public park, public right-of-way, or public space.
 - b. The sound or noise emanating from the sound amplification system is:
 - (I) Plainly audible to the unaided human ear at a distance greater than twenty-five (25) feet; or
 - (ii) Measured at eighty-five (85) decibels or more and is in excess of ambient noise levels by ten (10) decibels, when measured at any distance.

Furthermore, No person, between the hours of 6:00 a.m. and 9:00 p.m. shall operate or permit the operation of any sound amplification system which emanates unreasonably loud or excessive sound or noise which is likely to cause and/or which causes inconvenience or annoyance to persons of ordinary sensibilities, when both the following exist:

- c. The sound amplification system is located in or on any motor vehicle on a public street, highway, public park, public right-of-way, or public space.
- d. The sound or noise emanating from the sound amplification system is:
 - (I) Plainly audible to the unaided human ear at a distance greater than fifty (50) feet; or
 - (ii) Measured at ninety (90) decibels or more and is in excess of ambient noise levels by ten (10) decibels, when measured at any distance.

Sec. 5.5-15. Procedures and measurements.

Unless otherwise provided in this chapter, sound level measurements shall be taken with a sound level meter microphone located at any point on the receiving property boundary or other point as provided in this chapter, no closer than five (5) feet from any wall or vertical obstruction when possible, and where practicable not less than five (5) feet above ground level, but in no event less than three (3) feet above ground.

Sec. 5.5-16. Impoundment.

The police department may impound and retain as evidence and instrumentality used to create any sound or noise in violation of the criminal noise code, and, in the case of motor vehicles, the owner shall be responsible for ordinary towing and storage charges incurred in the course of the impoundment. Motor vehicles shall be impounded for no greater than seventy-two (72) hours, and shall be released as expeditiously as possible upon an inventory search of the

subject vehicle being conducted to inventory any sound or noise making apparatus therein. Any vehicle impounded shall be released expeditiously as possible upon a showing to the seizing authority that the continued impoundment will pose a grave risk of harm or great hardship upon the owner or those whom rely upon the owner for transportation.

Sec. 5.5-17. Prohibitions.

- (a) **Maximum permissible sound levels by emanating land use.** No person shall operate or cause to be operated on private or public property any source of sound in such a manner as to create a sound level, including any pure tone, which exceeds the limits as established in the following table in accordance with the time of day.

During the hours	Maximum permissible as measured at or within the property line of the receiving property is:
10:00 p.m. - 6:00 a.m.	75 dBA
6:00 a.m. - 10:00 p.m.	95 dBA

- (b) **Maximum permissible sound levels by motor vehicles.** Unless otherwise further restricted herein, no person shall operate or cause to be operated any motor vehicle on a public street in such a manner that the sound level emitted there from, including any pure tone or impulse sound, exceeds the permissible measurements as set forth in subsection (a) when measured from a curb of the street, an outer edge of the paved surface or an outer gravel edge on non-paved streets. This prohibition excludes sound produced via the use of sound amplification devices contained within any motor vehicle, which is regulated in accordance with Section 5.5-14.
- (c) **Noise-sensitive zones.** It shall be unlawful for any person to create any sound or noise, including any pure tone, which exceeds seventy (70) dBA at or within the property line of the following facilities and at the following times:
 - (1) Any public or private pre-school, day care, kindergarten, or primary or secondary school between the hours of 8:00 a.m. and 4:00 p.m. on weekdays when school is in session;
 - (2) Any licensed nursing home or assisted living facility between the hours of 8:00 p.m. and 8:00 a.m.;
 - (3) Any doctor's office, hospital, clinic, or out-patient surgery facility at any time; and
 - (4) Any funeral home at any time.
- (d) **Recreational motorized vehicle operating off public rights-of-way.** No person shall operate or cause to be operated any recreational motorized vehicle on a public right-of-way or on private property in such a manner that the sound level emitted there from exceeds eighty-five (85) dBA, including any pure tone or impulse sound, at or across the boundary of any private property receiving the sound or noise. This section shall apply to all recreational motorized vehicles, whether or not fully licensed and registered, including but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, mini-bikes, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats. Sound measurements shall be performed in accordance with subsection (b) herein.
- (e) **Motor vehicle horns and signaling devices.** It shall be a violation of the criminal noise code to do either of the followings:
 - (1) Sound any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger; or
 - (2) Sound any horn or other auditory signaling device which produces a sound level in excess of eighty-five (85) dBA at twenty (20) feet from the source,

including any pure tone or impulse sound, and which is in excess of ambient noise levels by ten (10) decibels.

(f) ***Permissible time for restricted construction activity, operation of power tools, implements, and/or equipment:***

(1) It shall be unlawful for any person to do, perform or engage in any construction work of any nature in the Parish between the hours of 6:00 a.m. of the next day, or at any time on Sunday, when any of the activity shall cause any sound or noise at or in excess of seventy-five (75) dBA, including any pure tone or impulse sound, and is in excess of ambient noise levels by ten (10) decibels, at or within the receiving property line. This section shall not prohibit any work performed because of emergency as defined herein.

(2) It shall be unlawful to operate or permit the operation of any mechanically powered saw, drill, sander, lawn, garden tool or similar device used outdoors in residential areas between the hours of 8:00 p.m. and 8:00 a.m. At no time shall the sound level caused by or emitted from any of the above tools exceed the limits set forth in Section 5.5-17 at or within the receiving property line.

(g) ***Aircraft operations.*** Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin or in any manner regulate the movement of aircraft and/or airport aircraft operations which are in all respects conducted in accordance with or pursuant to applicable federal laws or regulations.

Sec. 5.5-18. Variances and exceptions.

(a) The Livingston Parish Council-President Government by resolution may grant a variance from the limitations proscribed in the criminal noise code whenever it is found, upon presentation of adequate proof, that compliance with any part of the criminal noise code will:

(1) Result in an arbitrary and unreasonable taking of property; or

(2) Not result in a condition injurious to health or safety; or

(3) The situation or circumstances which causes the emanation of sound or noises is temporary or of such duration that it would result in a condition injurious to health or safety.

Sec. 5.5-19. Penalties.

Any person found guilty of violating the provisions of Article II of Chapter 5.5 of the Livingston Parish Code of Ordinances shall upon conviction thereof, be punished as provided in Section of this code.

IT IS FURTHER ORDAINED by the Livingston Parish Council that this ordinance, having been duly introduced, having been the subject of a public hearing and having been passed into law thereafter be promulgated by publication of notice of its passage along with a complete copy of the ordinance in the official journal of the Livingston Parish Council-President Government and after thirty (30) days from this publication, it shall take effect and be in full force and effect.

The above and foregoing ordinance having been duly submitted to the Livingston Parish Council in writing; introduced at a public meeting of the Livingston Parish Council; discussed at a duly scheduled and noticed public hearing; after motion and second was submitted to the official vote of the Livingston Parish Council.

The effective date of this ordinance shall be as prescribed by law.

Upon being subjected to a vote, the vote thereon was as follows:

YEAS:

NAYS:

ABSENT:

And the ordinance was declared adopted on the 27th of June, 2013.

Marshall Harris, Chairman

ATTEST:

Lisa Frederick, Council Clerk

INTRODUCED _____ ADOPTED _____

DELIVERED TO PRESIDENT _____, _____ o'clock ____M.

APPROVED BY PRESIDENT _____

Layton Ricks Date

VETOED BY PRESIDENT _____

Layton Ricks Date

RECEIVED FROM PRESIDENT _____, _____ o'clock ____M.