

## ORDINANCE NO. 2360

**AN ORDINANCE TO AMEND SECTION 22-53 OF THE LEXINGTON CITY CODE; TO PROHIBIT “JAKEBRAKING” BY SEMITRACTORS AS AN UNNECESSARY NOISE; TO REPEAL ORIGINAL SECTION 22-53 AND ALL OTHER ORDINANCES OR SECTIONS OF ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE AND FOR PUBLICATION IN PAMPHLET FORM.**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA AS FOLLOWS:

**Section 1.** That Section 22-53 of the Lexington City Code is hereby amended to read as follows:

Sec. 22-53. - Noise.

(a) *Findings.* It is found and declared that:

- (1) The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city.
- (2) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants.

(b) *General prohibition.* It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable people.

(c) *Specific acts deemed loud, nonexclusive.* The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but the enumeration shall not be deemed to be exclusive, namely:

- (1) *Signaling devices, etc.* The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- (2) *Radios, phonographs, etc.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for reasonable persons who are in the room, vehicle or chamber in which such machine or device is operated and who are

voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

- (3) *Loudspeakers; amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of advertising or attracting the attention of the public to any building or structure.
- (4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of reasonable persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
- (5) *Animals, birds, etc.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of reasonable persons in the vicinity.
- (6) *Whistles.* The blowing of any locomotive whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.
- (7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (8) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (9) *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- (10) *Construction or repairing of buildings.* The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in the case of urgent necessity in the interest of public health and safety, and then only with the permit from the City Manager, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the City Manager should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he shall further determine that the loss of inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

- (11) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the working of such institution, or which disturbs or unduly annoys reasonable persons in the hospital; provided, that conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- (12) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of reasonable persons.
- (13) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.
- (14) *Pile drivers, hammers, etc.* The operation between the hours of 10:00 p.m. and 7:00 a.m. of any piledriver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
- (15) *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- (16) *Semi-Tractors; prohibited noises.* It shall be unlawful for any person in any part of the municipality to make, or cause to be made, loud or disturbing noises with any mechanical devices operated by compressed air and used for purposes of assisting braking on any semi-tractor, commonly referred to as jakebraking. The City Manager shall cause notices to be posted, or erect signs indicating such prohibition.

**Section 2.** That original Section 22-53, together with all ordinances or sections of ordinances in conflict herewith are hereby repealed.

**Section 3.** That this Ordinance shall be published in pamphlet form and take effect as provided by law.

Passed and approved this 24<sup>th</sup> day of February, 2015.

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Mayor

Attest:

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City Clerk