

# Tualatin Noise Ordinance Proposal

The residents of Tualatin are requesting a new noise ordinance in order to address deficiencies with the current ordinance. This is necessary to preserve and protect neighborhood livability.

## Due Process:

Tualatin residents have been instructed by city staff and elected officials to utilize the Code Enforcement process and the Tualatin Noise Ordinance to resolve neighborhood noise issues. Unfortunately, we have discovered that the current noise ordinance has a fatal flaw: Variances. The code currently allows any violator to apply for a variance (an exemption) and the City Manager can grant the variance without public notice, without public input, without a public hearing, and without even notifying the City Council.

If the City Manager decides to deny the variance application, the **violator can appeal** to the City Council. However, if the City Manager grants the variance, **residents cannot appeal**. The process is one-sided and structurally flawed. It gives more consideration to the violator than to the nearby property owners who are negatively impacted. The Tualatin Noise Ordinance, as currently written, provides due process for the applicant, but does **not** afford due process to the people who would be subjected to violation-level noise. This is potentially unconstitutional and not in alignment with the spirit of Oregon's Land Use Planning Goal 1 which calls for "the opportunity for citizens to be involved in all phases of the planning process."

## Moratorium on Noise Variances:

While the community and the City are discussing possible revisions to the Tualatin Noise Ordinance, we request that the City issue a moratorium on granting any new noise variances. This will allow time to revise the Noise Ordinance while ensuring that the variance process is not abused, that current violators are not rewarded, and that the new noise ordinance will be effective and fair going forward.

## Tigard and Sherwood as Examples:

Tigard and Sherwood have adopted excellent ordinances that we can use as examples. We propose adopting Tigard's residential limits of "40 dB at any time between 10 p.m. and 7 a.m. the following day, or 50 dB at any time between 7 a.m. and 10 p.m. the same day." Tigard's noise ordinance does not allow for variances, and we would like to see the Tualatin Noise Ordinance do the same.

Sherwood's noise ordinance includes language that takes into account the duration, frequency, and character of the noise when determining a violation. For example: *How long does it run for? How often does it run? What does it sound like?* We think this is an excellent approach.

In contrast, the current Tualatin Noise Ordinance does not make a distinction between noise disturbances of different durations. For example, a continuous noise that is audible 24 hours a day has the same limit as something that runs occasionally. We think this is a very important issue to address.

## **Proposed Provisions for the New Code:**

- Residential nighttime limit of 40 decibels (10 p.m. to 7 a.m.)
- Residential daytime limit of 50 decibels (7 a.m. to 10 p.m.)
- Consideration for duration, recurrence, frequency, and other characteristics
- No Variances, or Variances only available for temporary situations

## **Climate Benefits:**

Neighborhood noise levels have a direct impact on energy usage and climate goals. When a neighborhood is quiet, residents can open their windows and utilize natural ventilation, especially during periods of variable weather when the ambient air temperature drops at night. However, once a neighborhood becomes too loud for this, people close their windows and keep their air conditioners running, even after the outside temperature has cooled down. A better noise ordinance is better for the climate.

## **Future-Proof for High Tech:**

In the past, it was thought that high-tech land use was clean and quiet, but we have learned that this is hardly the case. Across the country, rapid technological growth is uprooting community livability standards, as evident in communities where data centers are being built. We don't want Tualatin to face that future unprepared. Now is the best time to establish livable noise standards for all industrial uses before data centers are built here.

We can get ahead of this issue, be proactive for the future, and be responsive to community concerns by updating the Noise Ordinance. It would also be prudent to include a provision that covers infrasound, which is very low frequency sound below the range of human hearing, which travels much further than higher frequencies and has proven negative health impacts.

We look forward to working with the Tualatin City Council and staff on this issue, and we encourage adoption of these common sense measures, as already modeled by the adjoining communities of Tigard and Sherwood, to improve the livability and vitality of our residential community.

Thank you for your consideration.