

**ORDINANCE 2024-01**

**AN ORDINANCE OF OAKLEY CITY, UTAH AMENDING EXISTING ORDINANCE 2023-02 (NOISE RESTRICTIONS AND GENERAL QUIET HOURS WITHIN THE CITY OF OAKLEY) AND ENACTING RESTRICTIONS ON DYNAMIC BRAKING SYSTEMS**

**WHEREAS**, Utah Code 10-8-84 authorizes the City Council to pass ordinances which are reasonably and appropriately related to the providing for the public health, safety, morals, convenience, order, prosperity, and general welfare of the City and its residents; and

**WHEREAS**, in conformance with Utah Code 10-3-707, the governing body of the City may revise, codify and compile from time to time and to publish a book, pamphlet or loose leaf form all ordinances of the municipality of a general and permanent character and to make such changes, alterations, modifications, additions, and substitutions as it may deem bet; and,

**WHEREAS**, Oakley City has adopted and promulgated City ordinances and rules regarding the abatement of noise; and,

**WHEREAS**, the City finds it necessary to amend parts of the Noise ordinance to include the use of J Brakes within the City; and

**WHEREAS**, the City Council finds that those changes outlined in red and attached as Attachment "A" are the acceptable; and

**WHEREAS**, pursuant to Utah Code Annotated 10-8-76 Noise Abatement, a municipality may regulate noise;

**WHEREAS**, the proposed changes have been noticed as required, one or more public hearings were held before the Oakley City Council where citizens were given the opportunity to provide written and oral comment concerning the noise ordinance;

**NOW THEREFORE, BE IT ENACTED AND ORDAINED** by the Oakley City Council as follows:

**Ordinance 2023-02 Enacting Noise Restrictions and General Quiet Hours within the City of Oakley** shall be amended and the new language is shown in red and attached as "Exhibit A" to this Ordinance.

**Section 1. Repealer of Conflicting Enactments:** All orders, ordinances, and resolutions regarding the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which conflict with the provisions of this Ordinance, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

**Section 2. Prior Ordinances and Resolutions:** The body and substance of any prior Ordinances and Resolutions, together with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

**Section 3. Savings Clause:** If any provision of this Ordinance shall be held or deemed to be or shall be invalid, inoperative or unenforceable for any reason, such reason shall not render any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Ordinance being deemed to be the separate independent and severable act of the City of Oakley.

**Section 5. Date of Effect:**

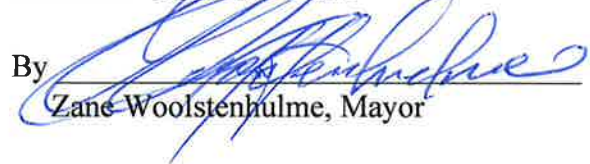
**BE IT FURTHER ORDAINED** this Ordinance will become effective on the 1<sup>st</sup> day of June 2024 and after publication or posting as required by law.

PASSED AND APPROVED THIS 22 DAY OF May 2024

ATTEST:

OAKLEY CITY MAYOR

By   
Amy Rydalch, City Recorder

By   
Zane Woolstenhulme, Mayor

VOTING OF THE OAKLEY CITY COUNCIL:

COUNCIL MEMBERS	YEA	NAY
Joe Frazier	<u>—</u>	<u>—</u>
Kelly Kimber	<u>absent</u>	<u>—</u>
Dave Neff	<u>—</u>	<u>—</u>
Tom Smart	<u>—</u>	<u>—</u>

Steve Wilmoth

Deposited in the Recorder's office this 23 day of May 2024.

Posted this 23 day of May 2024 at the following locations:

Utah Public Notice Website  
City Website: oakleycity.com  
City Facebook and Instagram pages  
Oakley City Post Office and City Hall



## **EXHIBIT A**

### **“Ordinance 2023-02 Enacting Noise Restrictions and General Quiet Hours within the City of Oakley”**

The city council finds that:

1. Excessive and unreasonable noise constitutes a nuisance and may be injurious to health and the quiet enjoyment of property.
2. The reasonableness of noises and sound depend on the location, time, type, and purpose of the sound.
3. The City has authority pursuant to Utah Code 10-8-47, 10-8-60, and 10-8-76 to declare unreasonable noise, as defined by this chapter, to be a nuisance and to regulate and restrain the same based on the location, time, type, and purpose of the sound.

#### **8.13.020 Definitions**

The following definitions apply to this chapter:

1. “A-Weighted Sound Pressure Level” means the sound pressure level as measured with a sound level meter using the A-weighting network, denoted as dBA.
2. “Ambient Sound” means the sound pressure level which represents the summation of the sound from all the discrete sources affecting a given site over a given measurement period, which shall not be less than 10 minutes, exclusive of the source under investigation.
3. “Daytime” means the hours between 7:00 AM and 10:00 PM.
4. “Nighttime” means the hours between 10:00 PM and 7:00 AM.
5. “Noise” means sound that may be harmful to health.
6. Dynamic Braking means a system that uses an electric motor as a generator to slow down a vehicle. Frequently referred to as “engine braking” or “J Brakes.”
7. “Noise Level” means the level of sound measured over a period of not less than 10 minutes.
  - a. “Tenth Percentile Noise Level” means the A-weighted sound pressure level that is exceeded 10 percent of the time in any measurement period, such as the level that is exceeded for 1 minute in a 10-minute period.
  - b. “Ninetieth Percentile Noise Level” means the A-weighted sound pressure level that is exceeded 90 percent of the time in any measurement period, such as the level that is exceeded for 9 minutes in a 10-minute period.
8. “Owner” means any person who alone or jointly and severally with others has legal title to any premise, dwelling, or dwelling unit or has charge, care, or control of any premises,

- dwelling, or dwelling unit, as legal or equitable owner, agent of the owner, or is an executor, administrator, representative, trustee, or guardian of the estate of the owner.
9. "Person" means any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the State or its departments, institutions, bureau, or agency thereof, municipal corporation, county, city, or any legal entity recognized by the law.
  10. "Receiving property" means any property, including an individual unit of a multi-dwelling or multi-use property, that is adversely affected by noise transmitted by another property or from another unit within the same multi-dwelling or multi-use property.
  11. "Type A Property" means a property used solely for residential purposes.
  12. "Type B Property" means a property used for any other use allowed in Oakley City, including but not limited to, agriculture, retail, offices, repair, restaurants, gasoline stations and more.

### **8.13.030 Regulation of Noise**

1. Noise. The making and creation of unreasonable noise, as set forth below, is hereby declared to be a public nuisance and may be abated, regulated, and controlled as such.

2. No person shall emit, nor shall any person cause, allow, permit, or fail to control the emission of any noise source to exceed the allowable Ninetieth Percentile Noise Level for the type of property from which the noise emits, when measured at the receiving property.

3.

a. Type A Property:

i. Daytime: 60 dBA

ii. Nighttime: 50 dBA

b. Type B Property:

i. Daytime: 70 dBA

ii. Nighttime: 60 dBA

c. The maximum sound levels are reduced by 5 dBA for stationary sources of sound that emit continuous sounds that continue for at least 10 minutes or more, pure tones of a consistent pitch, or repetitive or impulse sounds that result in similar noise levels at reasonably uniform intervals of time.

4. No person shall emit, nor shall any person cause, allow, permit, or fail to control the emission of any stationary source of sound that creates a tenth percentile sound pressure level greater than 15 dBA above the ambient sound pressure level of any measurement period.

5. Notwithstanding the regulations above, all construction of Type A or Type B properties is limited to hours of 7:00 a.m. to 7 p.m. This includes all outdoor excavation,

earthwork, landscaping, mining, quarrying, and rock breaking, chipping, drilling, and blasting. The only exception is construction that can be totally contained within an enclosed structure and comply with all noise limitations and City lighting regulations.

#### **8.13.040 Animals**

1. The regulation of noise created by animals and the enforcement thereof shall be as set forth in the Summit County Code, Title 5, Chapter 1, which provisions, and any amendments thereto as Summit County may make from time to time, are hereby adopted by reference.

#### **8.13.045 Dynamic Braking Systems**

1. It is unlawful for the driver of any motor vehicle to use, operate, or cause to be operated any dynamic braking device or system on any street or road within the boundaries of Oakley City. The emitting of any compression noise shall be prima facie evidence of the use of a dynamic braking device or system.

#### **8.13.050 Exceptions**

The following shall be exempt from these regulations:

1. Agricultural operations, including agricultural equipment and livestock kept as part of an agricultural operation.
2. Emergency events, equipment, and vehicles, other motor vehicle operators, pedestrians and the operator and passengers of the motor vehicle involved in said emergency situation.
3. Commercial or personal emergency generators operating during power failure or outage.
4. Fireworks and explosives in accordance with state and local regulations.
5. Heating, Ventilation, and Air Conditioning (HVAC) systems, if the system is in good repair and operating within manufacturer's specifications.
6. City, school, or other governmental approved events, within the parameters of such approvals.
7. Snow removal equipment.
8. Temporary or short-term use of equipment or machinery for construction, maintenance, or cleaning during daytime hours.
9. Any emergency construction or repair or public utilities and transportation infrastructure, including water, sewer, electrical, communication, data, gas, and roadways.

10. The normal operation and maintenance of city public facilities such as water and wastewater treatment plants and pumping.
11. The construction of critical city water resources, including drilling and the development of wells, springs, etc.
12. Other temporary exceptions may be granted with the approval of the City. In granting exceptions, the City shall strive to limit the amount of noise generated or allowed during nighttime hours.

### **8.13.060 Enforcement**

Violations of this chapter may be enforced any means available to the City, including by abatement, civil citation, or criminal prosecution.

1. **Criminal Penalty.** Violations of this chapter shall constitute a class "C" misdemeanor. Each day that the violation continues shall constitute a separate offense.
2. **Civil Penalty.** The maximum civil penalty and fine that may be imposed by the city for a violation of this chapter shall not exceed the amount established in state law for a class "C" misdemeanor. Each day a civil violation continues shall constitute a separate offense.
3. **Limitation on Penalties for Residences and Pets.** For violations pertaining to an individual's pet or an individual's use of their residence, the criminal penalty shall be an infraction, and the fine for a civil penalty shall be the maximum allowed for an infraction, unless the City has imposed a fine on the individual for a violation that involves the same residence or pet on at least three previous occasions within the past 12 months. In no event shall an individual be issued an infraction for a violation described in this section more than once within a 14-day period.