

After Recording Return to:
Michael C. Robinson
Schwabe, Williamson & Wyatt, P.C.
1211 SW Fifth Avenue, Suite 1900
Portland, OR 97204

GOOD NEIGHBOR AGREEMENT
(the “Agreement”)
Between the City of Beaverton and the
Oregon Beverage Recycling Cooperative

1. Introduction.

The Parties to this Agreement are the City of Beaverton, Oregon, a political subdivision of the state of Oregon (hereinafter referred to as the “City”) and the Oregon Beverage Recycling Cooperative, an Oregon cooperative (hereinafter referred to as “OBRC”).

The Parties enter into this Agreement pursuant to the requirement of the Beaverton City Council (the “City Council”) decision approving DI 2017-0003 for the Beaverton Beverage Container Redemption Center (the “BCRC”) located at 9307 SW Beaverton-Hillsdale Highway, Beaverton. This Agreement fully complies with the requirements for the Agreement contained in the City Council’s decision approving DI 2017-0003.

2. Effective Date of Agreement.

This Agreement shall be effective on September 1, 2018.

RECITALS

A. Whereas, OBRC applied for a Director’s Interpretation to operate a beverage container redemption center at 9307 SW Beaverton-Hillsdale Highway in the Community Service (“CS”) zoning district, and

B. Whereas, pursuant to the regular Type II process in Beaverton Development Code (the “BDC”), the Beaverton Planning Director (the “Director”) approved the Application (“the Director’s Decision”), and

C. Whereas, certain parties that received notice of the Director’s Decision filed timely appeals of the Director’s Decision, and

- D. Whereas, the Beaverton City Council conducted a hearing on the appeals of the Director's Decision, pursuant to BDC 50.65.5 and BDC 50.85 – 50.88, and
- E. Whereas, after hearing all argument and evidence, the City Council affirmed the Director's Decision, and
- F. Whereas, the City Council's Decision included condition of approval B.4, which required the City and OBRC to enter into this Agreement, and
- G. Whereas, the purpose of this Agreement is to describe mitigation and ongoing measures to ensure that the BCRC's operation does not create undue impacts on surrounding uses, and
- H. Whereas, OBRC has prepared this Agreement as a requirement of condition of approval B.4.

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT TO FULFILL CONDITION OF APPROVAL B.4.

REQUIREMENTS

1. The Agreement Runs with the Land.

The Parties agree that this Agreement runs with the land. This Agreement pertains to the real property (the "Property") with the street address of 9307 SW Beaverton-Hillsdale Highway within the City (**Exhibit 1**).

2. Termination.

This Agreement shall not terminate unless the City Council issues a final Land Use Decision terminating the Agreement, or OBRC ceases operating the BCRC on the Property and notifies the City in writing that the Property at 9307 SW Beaverton-Hillsdale Highway is no longer being used for the use approved in DI 2017-0003, and the City agrees in writing that this Agreement is terminated.

3. Requirements of the Agreement.

A. OBRC shall continually comply with the following requirements while the BCRC is in operation at the Property.

1. The roll-down door accessing the loading dock on the east side of the building shall remain closed while back room machinery is in operation, except during active loading and unloading not to exceed a total of 60 minutes per day. All doors to the building shall be used only for entry and exit of persons and materials only and shall not be propped open at any time.

2. All improvements and agreements shall be kept current and/or in good repair to perform the intended function.

B. Prior to January 15 of each calendar year, OBRC shall produce and provide an annual report to the Beaverton Community Development Department for the previous calendar year, containing a log of any neighbor complaints received by OBRC concerning the BCRC and detailing how OBRC resolved those complaints.

C. OBRC shall make the following noise-related improvements at the BCRC after completing any necessary permitting and construction activities related to these improvements.

1. Provide a noise study prepared and stamped by an acoustical engineer registered in the state of Oregon that details measures needed to achieve compliance with BC 5.15 and minimize impacts on neighboring properties, including details for a noise-attenuating fence as required by Paragraph 3.C.2, below.

2. Construct a solid fence or wall a minimum of six feet in height along OBRC's east property line from a point adjacent to Beaverton-Hillsdale Highway (consistent with a sight distance analysis) to its property line on Club Meadow Lane. The materials, construction details, location and size of the fence or wall shall be selected and implemented in a manner consistent with the noise study recommendations, after consideration of any comments received from the neighboring property owner to the east.

3. Install a sound-proof insulated loading dock door.

4. Install a sign at the pedestrian access to the OBRC facility stating (in effect), "Please be respectful of our neighbors by not talking loudly, loitering or smoking on this property." OBRC shall conduct employee training on limiting outside noise and nuisances to neighbors, including smoking, and shall establish one or more designated smoking areas for employees.

5. Install a six-foot solid fence on the west side of the Bottle Drop window.

D. OBRC shall undertake the following measures related to circulation and parking, after obtaining any necessary permits.

1. Remove the stair connection to the neighboring commercial property and replace with landscaping, and construct a fence, as desired by the neighboring property owner to the west. Detailed design of the fence and the time and manner of its construction shall be determined after consideration of any comments received from the neighboring property owner.

2. Sign "Employee Only" parking for the parking spaces on the OBRC east property line adjacent to the single family dwelling.

3. Sign the balance of the parking spaces not designated in Paragraph 3.D.2, above, to be occupied for a maximum of 20 minutes or while active beverage container redemption is occurring. In order to enforce this measure, OBRC may, at its sole discretion, order vehicles owned by those who violate parking guidelines to be towed.

4. Provide signage on the west property line and on the adjacent property to the west, on or near the east property line, stating that the parking lot on the adjacent property must not be used by OBRC customers for parking or as a through street to get to Club Meadow

Lane. The requirement for installation of signs on the adjacent property to the west is contingent upon the consent of that property owner.

5. Coordinate with OBRC delivery trucks and customers to avoid these vehicles from blocking the driveway and access to the adjacent property owner to the west.

E. OBRC shall promptly obtain a permit to construct and then shall construct a solid waste enclosure that complies with the standards of BDC 60.05.20.2 (**Exhibit 2**) and that provides adequate gated access for the solid waste facility to be accessed by the hauler.

F. OBRC shall provide for full time, on-site security during all BCRC public business hours (presently 8 a.m. to 8 p.m.). The on-site security personnel shall be responsible for regularly patrolling BCRC. OBRC shall provide the adjacent property owners on the east and west with contact information for the on-site security.

G. OBRC shall provide for regular professional security patrols on an hourly basis outside of BCRC public business hours. OBRC shall provide the adjacent property owners on the east and west with contact information for the after-hours security.

H. OBRC shall implement its trespass policy for the Property (**Exhibit 3**).

I. OBRC shall post in a conspicuous place on the Property the name of a contact person with a current email address to whom anyone may submit complaints or questions about the operation of the BCRC, and OBRC shall respond within seventy-two (72) hours, if at all possible, to the contact information provided by the complainant.

J. OBRC agrees to cooperate to the fullest extent possible with the City, City-recognized neighborhood associations, and homeowners associations on any City plans to address larger societal issues associated with homelessness and nuisance activities in the City. The City shall be responsible for notifying OBRC in writing of such City plans.

K. OBRC shall undertake mitigation measures consistent with the recommendations of the noise study prepared by an acoustical engineer, registered in the state of Oregon, that details measures needed to achieve compliance with BC 5.15 (**Exhibit 4**) and how to minimize impacts on neighboring properties, including details for a noise-attenuating fence, as required by Paragraph C.2, above.

L. OBRC agrees to cooperate with Jesuit High School and adjacent property owners related to security issues concerning Jesuit High School and the neighboring property owners' properties.

M. OBRC agrees to appear at homeowner association and recognized neighborhood association meetings when requested by the association or by the City, to address questions or concerns about operation of the OBRC facility.

N. OBRC shall perform the following measures to ensure that the BCRC complies with BC 5.05.050 F (**Exhibit 5**) related to odor mitigation, including completing any necessary permitting and construction activities related to these improvements which shall include, but not be limited to, installation of an "air knife" at the main building entrance, and operational measures, such as a schedule for regular cleaning of interior and exterior areas.

O. OBRC shall make reasonable efforts to control litter on the Property and the spread of litter into nearby areas, in order to avoid creating an unsanitary or unattractive environment.

4. Binding Nature of This Agreement.

This Agreement shall be binding upon all successors and assigns of OBRC that operate the BCRC and shall run with the land unless terminated as provided for in Paragraph 2. Since the Agreement is a condition of approval to the City Council's decision approving DI 2017-0003, OBRC's compliance with this Agreement shall be considered a condition of approval to the City Council's decision approving DI 2017-0003.

5. Authority to Enter into This Agreement.

OBRC and the City agree that each of them have the authority, and their respective signatories are hereby authorized, to enter into this Agreement and each Party covenant that it has a good and valid right and lawful authority to enter into this Agreement.

6. Notice.

Any notice required or allowed to be delivered by this Agreement shall be in writing and be deemed to be delivered when deposited in the United States Mail, postage prepaid, Certified Mail, Return Receipt Requested, addressed to the following persons:

For OBRC:

Mr. John Andersen
3900 NW Yeon Avenue
Portland, OR 97210

For the City:

Mr. Peter Livingston
Beaverton City Attorney's Office
12725 SW Millikan Way
PO Box 4577
Beaverton, OR 97076

7. Entire Agreement.

This Agreement contains the entire Agreement between the Parties and shall supersede and replace all prior agreements or understandings, written or oral, relating to the matter set forth herein. Any amendments to this Agreement must be in writing and signed by persons authorized by the Parties to do so.

AMENDED BEAVERTON CITY ATTORNEY'S OFFICE
12725 SW MILLIKAN WAY
PO BOX 4577
BEAVERTON, OR 97076

8. **Recording**

This Agreement shall be recorded in the public records of Washington County, Oregon.

9. **Governing Law.**

This Agreement and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the state of Oregon, and all duly adopted ordinances, regulations, and policies of any governing authority of the jurisdiction over the Property described above now effect and those hereinafter adopted.

10. **Venue.**

The proper location for the settlement of any and all claims, controversies, disputes arising out of or relating to any part of this Agreement, or any breach hereof, shall be Washington County, Oregon

11. **Remedies**

The City shall have every power and remedy now or hereafter available at law or in equity to enforce this Agreement (including the right to revocation of land use permits and to specific performance), and each and every power and remedy may be exercised from time to time and as often as the City deems expedient. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others.

12. **Execution in Counterparts.**

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of such counterparts shall constitute one Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

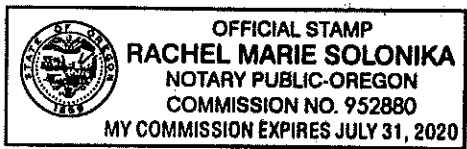
CITY OF BEAVERTON, OREGON,
a political subdivision of the State of Oregon

Denny Doyle

By: Denny Doyle, Mayor

STATE OF OREGON)
) ss.
County of Washington)

SUBSCRIBED AND SWORN TO before me this 31st day of August, 2018.



Rachel M Solonika
Notary Public for Oregon
My Commission Expires: July 31, 2020

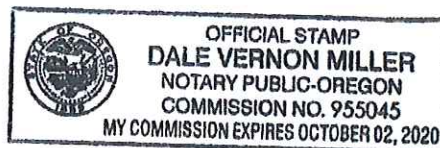
OREGON BEVERAGE RECYCLING COOPERATIVE

[Signature]
By: John Anderson
Title: Pres.

STATE OF OREGON)
) ss.
County of Multnomah)

SUBSCRIBED AND SWORN TO before me this 31st day of August, 2018.

[Signature]
Notary Public for Oregon
My Commission Expires: October 2, 2020



APPROVED AS TO FORM

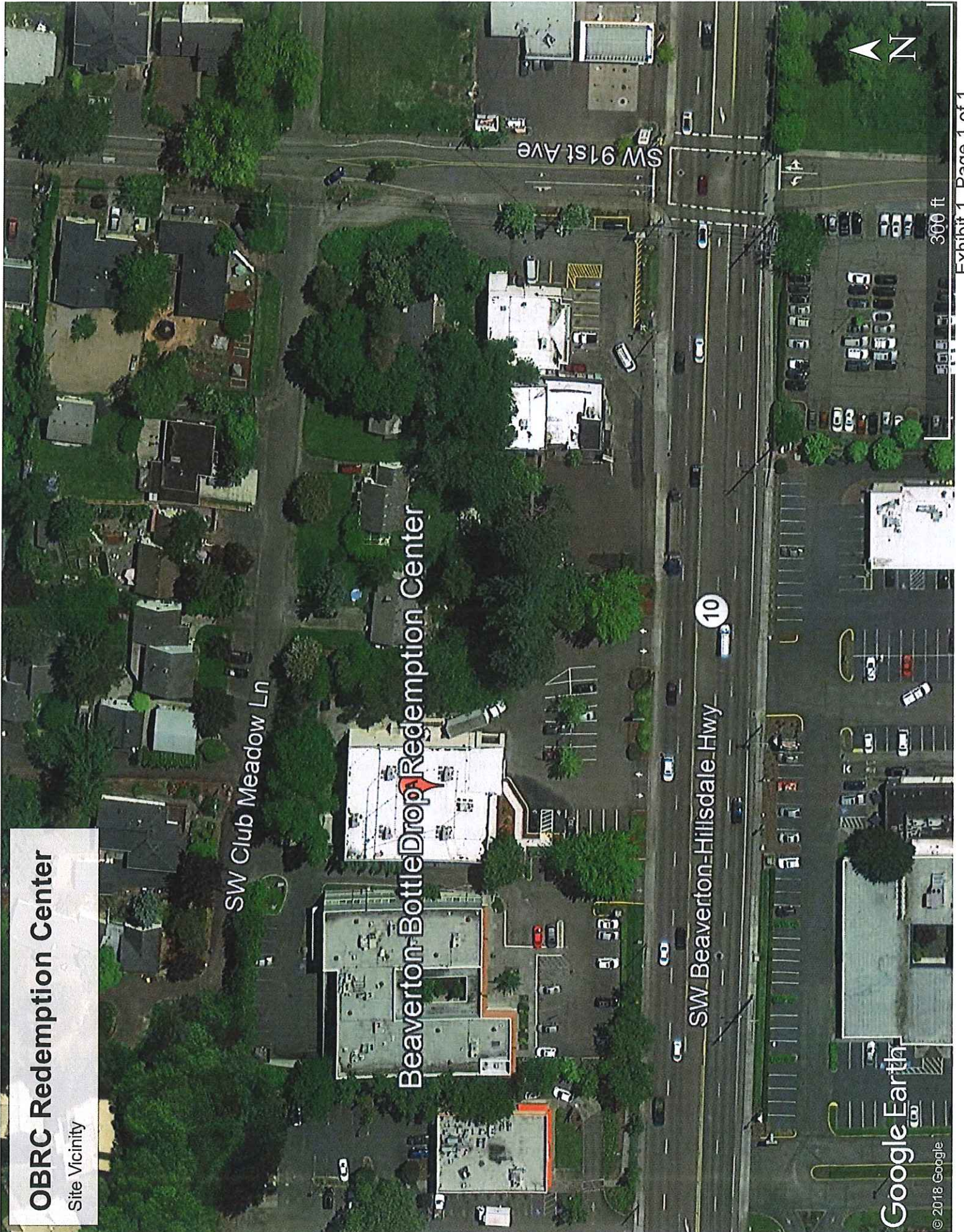
[Signature]
Beaverton City Attorney

EXHIBITS TO THE AGREEMENT

- Exhibit 1** Map showing location of real property with the street address of 9307 SW Beaverton-Hillsdale Highway
- Exhibit 2** BC 60.05.20.2
- Exhibit 3** OBRC Trespass Policy
- Exhibit 4** BC 5.15
- Exhibit 5** BC 5.05.050.F.

OBRC Redemption Center

Site Vicinity



Google Earth

© 2018 Google

300 ft

60.05.20. Circulation and Parking Design Standards. Unless otherwise noted, all standards apply in all zoning districts.

1. Connections to the public street system.

A. Pedestrian, bicycle, and motor vehicle connections shall be provided between the on-site circulation system and adjacent existing and planned streets as specified in Tables 6.1 through 6.6 and Figures 6.1 through 6.23 of the Comprehensive Plan Transportation Element. [ORD 4531; April 2010]

2. Loading areas, solid waste facilities and similar improvements.

A. All on-site service areas, outdoor storage areas, waste storage, disposal facilities, recycling containers, transformer and utility vaults and similar activities shall be located in an area not visible from a public street, or shall be fully screened from view from a public street. [ORD 4531; April 2010]

B. Except for manufacturing, assembly, fabricating, processing, packing, storage and wholesale and distribution activities which are the principle use of a building in Industrial districts, all loading docks and loading zones shall be located in an area not visible from a public street, or shall be fully screened from view from a public street.

C. Screening from public view for service areas, loading docks, loading zones and outdoor storage areas, waste storage, disposal facilities, recycling containers, transformer and utility vaults and similar activities shall be fully sight-obscuring, shall be constructed a minimum of one foot higher than the feature to be screened, and shall be accomplished by one or more of the following methods:

1. Solid screen wall constructed of primary exterior finish materials utilized on primary buildings,
2. Solid hedge wall with a minimum of ninety-five (95) percent opacity within two (2) years.
3. Solid wood fence

[ORD 4531; April 2010]

D. Screening from public view by chain-link fence with or without slats is prohibited.

60.05.20.2.

- E. Screening of loading zones may be waived in Commercial and Multiple Use zones if the applicant demonstrates the type and size of loading vehicles will not detract from the project's aesthetic appearance and the timing of loading will not conflict with the hours or operations of the expected businesses. [ORD 4584; June 2012]

3. Pedestrian circulation.

- A. Pedestrian connections shall be provided that link to adjacent existing and planned pedestrian facilities as specified in Tables 6.1 through 6.6 and Figures 6.1 through 6.23 of the Comprehensive Plan Transportation Element, and to the abutting public street system and on-site buildings, parking areas, and other facilities where pedestrian access is desired. Pedestrian connections shall be provided except when one or more of the following conditions exist:

1. Where physical or topographic conditions, such as a grade change of ten (10) feet or more at a property line to an adjacent pedestrian facility, make connections impractical,
2. Where uses including manufacturing, assembly, fabricating, processing, packing, storage and wholesale and distribution activities which are the principle use of a building in Industrial districts occur,
3. Where on-site activities such as movement of trucks, forklifts, and other large equipment would present potential conflicts with pedestrians, or
4. Where buildings or other existing development on adjacent lands physically preclude a connection now or in the future.

- B. A reasonably direct walkway connection is required between primary entrances, which are the main point(s) of entry where the majority of building users will enter and leave, and public and private streets, transit stops, and other pedestrian destinations.

Trespass Requirements:

The following issues are grounds for immediate trespass from property owned or controlled by Oregon Beverage Recycling Cooperative/BottleDrop:

- Assault of a customer or associate occurring on property owned or controlled by Oregon Beverage Recycling Cooperative/BottleDrop
- Drinking alcohol on property owned or controlled by Oregon Beverage Recycling Cooperative/BottleDrop.
- Using illegal drugs on property owned or controlled by Oregon Beverage Recycling Cooperative/BottleDrop.
- Disorderly conduct, including provoking or instigating a fight, or using language that can reasonably be deemed as harassment, threatening, or as a means of intimidation.
- Refusal to vacate property owned or controlled by Oregon Beverage Recycling Cooperative/BottleDrop when asked to leave.
- Intentional destruction of Oregon Beverage Recycling Cooperative/BottleDrop property.
- Tampering with a reverse vending machine.
- Theft.
- Vandalism.
- Other activity after it has been reviewed by the Loss Prevention department and authorization to issue a trespass has been granted.

When issuing a trespass notice it is required that the Security Engagement Specialist have at minimum one witness, be firm but courteous, clearly state the reason for issuing the trespass notice and explain the actions that will be taken if the trespassed person were to return to property owned or controlled by Oregon Beverage Recycling Cooperative/BottleDrop.

CHAPTER 5.15 NOISE

Sections:

- 5.15.005 Short Title.**
- 5.15.010 Legislative Findings.**
- 5.15.015 Definitions.**
- 5.15.020 Purpose.**
- 5.15.025 Loud or Raucous Noise Prohibited.**
- 5.15.030 Specific Noises Prohibited.**
- 5.15.035 Exemptions.**
- 5.15.040 Penalties.**
- 5.15.045 Severability.**

5.15.005 Short Title.

This section to BC [5.15.045](#) shall be known and may be cited as the "Noise Ordinance" and may be referred to herein as "this chapter." [BC 5.15.005, added by Ordinance No. 4679, 3/1/16]

5.15.010 Legislative Findings.

The City Council finds that:

- A. Loud or raucous noise degrades the environment of the City to a degree that is harmful to the health, welfare, and safety of its residents and visitors; interferes with the comfortable enjoyment of life and property; interferes with the well-being, tranquility, and privacy of the home; and may cause or aggravate health problems.
- B. The effective control of loud or raucous noise is essential to the health and welfare of the City's residents and visitors, and to the conduct of normal pursuits of life, including recreation, work and communication.
- C. The use of sound-amplification devices may create loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and well-being of residents and visitors of the City.
- D. The obligation to draft regulations that affect speech in a content-neutral fashion is of paramount importance to protect the freedom of expression under the Oregon and Federal constitutions. This chapter enacts narrowly drawn, content-neutral regulations that are to be interpreted as such so as not to infringe upon constitutionally protected rights. [BC 5.15.010, added by Ordinance No. 4679, 3/1/16]

5.15.015 Definitions.

- A. "Alarm system" has the meaning as provided in BC [7.15.015](#).
- B. "False alarm" has the meaning as provided in BC [7.15.015](#).
- C. "Highway" means every public way, road, street, thoroughfare, and place, including bridges, viaducts, and other structures in the City, open, used, or intended for use of the general public for vehicles or vehicular traffic as a matter of right.
- D. "Noise-sensitive area" includes, but is not limited to, a sleeping facility, or real property normally used as a school, church, hospital, or public library.
- E. "Person" has the meaning as provided in BC [1.01.020](#).
- F. "Plainly audible" means any sound that can be heard by a reasonable individual of ordinary sensitivities using his or her unaided hearing faculties, including understandable spoken words, comprehensible musical rhythms, and vocal sounds other than words.
- G. "Premises open to the public" includes any premises open to the general public for the use of motor vehicles whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises.
- H. "Public space" means any real property or structures on real property, owned by a government entity and normally accessible to the public, including, but not limited to, parks and other recreational areas.
- I. "Residential area" means an area of the City that is designated as a residential land use district under the City's Development Code.
- J. "Residential care facility" means a living facility for more than five nonrelated individuals, which provides specialized care, supervision, treatment or training, or a combination of these for residents. This use classification includes but is not limited to assisted living facilities,

congregate care facilities, nursing homes, convalescent homes and sanatoriums.

K. "Sleeping facility" includes, but is not limited to, a residential dwelling, hotel, motel, or residential care facility. [BC 5.15.015, added by Ordinance No. 4679, 3/1/16]

5.15.020 Purpose.

This chapter is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the residents and visitors of Beaverton through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety, or causes public inconvenience, annoyance, or alarm to reasonable individuals of ordinary sensitivity. [BC 5.15.020, added by Ordinance No. 4679, 3/1/16]

5.15.025 Loud or Raucous Noise Prohibited.

A. No person shall make, continue, or cause to be made or continued:

1. Any unreasonably loud or raucous noise within the jurisdictional limits of the City; or
2. Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable individuals of ordinary sensitivity, within the jurisdictional limits of the City; or
3. Within the jurisdictional limits of the City, any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any individuals within the residential area from which said noises are heard, or as to unreasonably interfere with the peace and comfort of residents or their guests, or operators or customers in places of business.

B. Factors for determining whether a sound is unreasonably loud or raucous noise include, but are not limited to, the following:

1. The proximity of the sound to a sleeping facility;
2. The land use, nature, and zoning of the area from which the sound emanates and the area where it is heard;
3. The time of day or night the sound occurs;
4. The duration of the sound;
5. Whether the sound is recurrent, intermittent, or constant;
6. Whether the sound is created by a sound-amplification device; or
7. If the sound occurs in a residential area between 10:00 p.m. and 7:00 a.m., whether the sound exceeds 50 dBA at a point within the property line of the noise-sensitive area nearest the noise source. [BC 5.15.025, added by Ordinance No. 4679, 3/1/16]

5.15.030 Specific Noises Prohibited.

The following acts are declared to be per se violations of this chapter. It includes, but is not limited to:

A. **Unreasonable Noises.** The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion, or vibration in any residential dwelling, place of business, or upon any highway, park, or other place or building. The ordinary and usual sounds, noises, commotion, or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent noise-sensitive areas or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.

B. **Sound Amplification Devices.** Except as allowed by a City special event permit, the unreasonably loud and raucous use or operation of a sound-amplifying device between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and holidays in the following areas:

1. Within or adjacent to a noise-sensitive area.
2. Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud or raucous.

C. **Yelling, Shouting, and Similar Activities.** Yelling, shouting, hooting, whistling, or singing in a residential area or in a public place, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable individuals of ordinary sensitivities. This subsection is to be applied only to those situations where the disturbance is not a result of the content of the communication but due to the volume, duration, location, timing, or other factors not based on content.

D. **Construction and Similar Activities.**

1. The erection, excavation, demolition, alteration, or repair of a building in a residential area or within 300 feet of a noise-sensitive area, other than between the hours of 7:00 a.m. and 7:00 p.m., except in case of urgent necessity in the interest of the public welfare and

safety, and then only with an emergency permit granted by the building official for a period not to exceed 10 days. The permit may be renewed for periods of five days while the emergency continues to exist.

2. The owner of property may do work on property actually occupied by the owner between the hours of 7:00 a.m. and 10:00 p.m. without obtaining an emergency permit as required by this subsection.

E. Noise-Sensitive Areas. The creation of any unreasonably loud and raucous noise adjacent to any noise-sensitive area while it is in use, and which unreasonably interferes with the workings of the noise-sensitive area or which disturbs the individuals in the noise-sensitive area.

F. Blowers and Similar Devices. In a residential area or noise-sensitive area, between the hours of 7:00 p.m. and 7:00 a.m., the operation of any noise-creating blower, power fan, or any internal combustion engine; provided, that the noise from the blower, power fan or internal combustion engine can be heard across the property line from which it emanates.

G. Commercial Establishments Adjacent to Residential Property. Unreasonably loud or raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m., which is plainly audible at the nearest property line of a noise-sensitive area.

H. Vehicle Horns, Signaling Devices and Similar Devices. The sounding of any horn, signaling device, or other similar device, on any motor vehicle on a highway or premises open to the public for more than 10 consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning, is exempt from this prohibition.

I. Loading or Unloading. The creation of unreasonably loud, raucous and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.

J. Nonemergency Signaling Devices. Sounding or permitting the sounding of any amplified signal from any bell, chime, siren, whistle, or similar device, intended primarily for nonemergency purposes, from any place for more than 10 consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, seasonal contribution solicitors, or by the City for traffic control purposes are exempt from the operation of this subsection.

K. Emergency Signaling Devices. The intentional sounding or permitting the sounding of any emergency signaling device, including fire alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsections (K)(1) and (2) of this section.

1. The testing of an emergency signaling device occurring between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in any calendar month.

2. Sounding or permitting the sounding of any alarm system that terminates within 15 minutes of activation unless an emergency exists. If a false alarm occurs more than twice in a calendar month, then the owner or person responsible for the alarm system shall be in violation of this chapter.

L. Radios, Televisions, Boomboxes and Similar Devices. The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any individual other than the player or operator of the device, and those who are voluntarily listening to the sound, and:

1. Which unreasonably disturbs the peace, quiet, and comfort of residents and passers-by, or is plainly audible at a distance of 50 feet from the device in a commercial area or public space; or

2. Which unreasonably disturbs the peace, quiet, and comfort of residents in a residential area or noise-sensitive area.

M. Animals and Birds. Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls, or otherwise cares for the animal or bird. [BC 5.15.030, added by Ordinance No. 4679, 3/1/16]

5.15.035 Exemptions.

Sounds caused by the following are exempt from the provisions of BC [5.15.030](#) and are in addition to the exemptions specifically set forth in that section.

A. Motor vehicles on highways or premises open to the public; provided, that the prohibition in BC [5.15.030](#)(H) continues to apply.

B. Repairs of utility structures which pose a clear and immediate danger to life, health or significant loss of property.

C. Sirens, whistles, or bells lawfully used by emergency vehicles, or alarm systems used to signal an emergency, provided the prohibition under BC [5.15.030](#)(K) continues to apply.

D. The emission of sound for the purpose of alerting individuals to the existence of an emergency or the emission of sound in the performance of emergency work.

E. Repairs or excavations of bridges, streets or highways by or on the behalf of the City, State, or Federal government, between the hours of 7:00 p.m. and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 7:00 p.m.

F. Reasonable activities conducted on school playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to school athletic and school entertainment events.

G. Outdoor gatherings, public dances, shows, and sporting events, and other similar outdoor events, provided that a special event permit has been obtained from the City beforehand. [BC 5.15.035, added by Ordinance No. 4679, 3/1/16]

5.15.040 Penalties.

A. Violation of this chapter constitutes a Class I civil infraction and shall be processed according to the procedure set forth in BC [2.10.010](#) through [2.10.050](#).

B. Each violation of a separate provision of this chapter shall constitute a separate civil infraction, and each day that a violation of a provision of this chapter is committed or is permitted to continue shall constitute a separate civil infraction.

C. A finding that a person has committed a civil infraction in violation of this chapter shall not act to relieve the person from the provisions of this chapter.

D. A Beaverton municipal judge may impose a fine of not more than \$1,000 if a judge determines that (1) the person violated this chapter and (2) the person has violated this chapter in the preceding 24 months. The fine may be adjusted by Council through resolution.

E. Any fines assessed pursuant to this chapter are in addition to, and not in lieu of, any other civil or administrative penalty, sanction, or remedy otherwise authorized by law. [BC 5.15.040, added by Ordinance No. 4679, 3/1/16]

5.15.045 Severability.

The sections and subsections of this chapter are severable. If any part of this chapter is held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless:

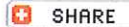
A. The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or

B. The remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent. [BC 5.15.045, added by Ordinance No. 4679, 3/1/16]

[Mobile Version](#)

IV. NUISANCES AFFECTING PUBLIC HEALTH

5.05.050 Nuisances Affecting the Public Health.



No person shall cause or permit a nuisance affecting the public health on property the person owns or controls. The following are nuisances affecting the public health and may be abated as provided in this chapter:

- A. Privies. An open vault or privy constructed and maintained within the City, except those constructed or maintained in connection with construction projects in accordance with the State Health Division regulations.
- B. Debris. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the City.
- C. Stagnant Water. Stagnant water which affords a breeding place for mosquitoes and other insect pests.
- D. Water Pollution. Pollution of a body of water, well, spring, stream, or drainage ditch by sewage, industrial wastes, or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.
- E. Food. Decayed or unwholesome food that is offered for human consumption.
- F. Odor. Premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition.
- G. Surface Drainage. Drainage of liquid wastes from private premises.
- H. Cesspools. Cesspools or septic tanks that are in an unsanitary condition or which cause an offensive odor for which a special permit has not been obtained pursuant to BC [4.04.035](#).
- I. Failure to Connect to City Sewer System. Failure to connect to City sewer system when the property requires sewage disposal pursuant to BC [4.04.030](#).
- J. Slaughterhouses, Tanneries, and the Like. A slaughterhouse, tannery, rendering plant, glue manufacturing plant, or any other establishment that causes offensive odors.