



AGENDA REPORT

Meeting Date: September 20, 2011
Item Number: F-4
To: Honorable Mayor & City Council
From: City Attorney
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS UPDATING THE CITY'S NOISE REGULATIONS AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE
Attachments: 1. Ordinance

RECOMMENDATION

It is recommended that the proposed ordinance be adopted.

INTRODUCTION

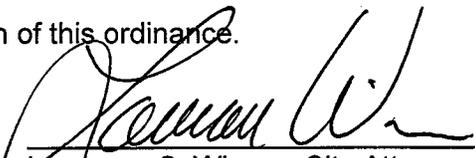
This ordinance resolves internal inconsistencies in the City's noise regulations and clarifies the existing regulations concerning amplified sound.

DISCUSSION

At the meeting of September 8, 2011 the City Council conducted a first reading of this ordinance.

FISCAL IMPACT

There is no fiscal impact anticipated from adoption of this ordinance.



Laurence S. Wiener, City Attorney

Attachment 1

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF BEVERLY HILLS
UPDATING THE CITY'S NOISE REGULATIONS AND
AMENDING THE BEVERLY HILLS MUNICIPAL CODE**

The City Council of the City of Beverly Hills hereby ordains as follows:

Section 1. Article 1 ("General Provisions") of Chapter 1 ("Noise Regulations") of Title 5 ("Public Health, Welfare, and Sanitation") of the Beverly Hills Municipal Code is hereby amended to read as follows:

"5-1-101: DECLARATION OF POLICY:

It is hereby declared to be the policy of the city in its exercise of the police power to prohibit unnecessary, excessive, and annoying noise levels from all sources. At certain levels noises are detrimental to the health and welfare of the citizenry, and in the public interest such noise is proscribed.

5-1-102: DEFINITIONS:

For the purposes of this chapter, the words and phrases herein shall be defined as follows:

"A" BAND LEVEL: The total sound level of all noise as measured with a sound level meter using the "A" weighting network. The unit is the dbA.

AMBIENT NOISE: The all encompassing noise associated with a given environment, usually being a composite of sounds with many sources from various distances.

BAND PRESSURE LEVEL: "Band pressure level" of a sound for a specified frequency band shall mean the sound pressure level for the sound contained within the restricted band.

CYCLE: The complete sequence of values of a periodic quantity which occurs during a period.

DECIBEL (dB): A unit of level which denotes the ratio between two (2) quantities which are proportional to power; the number of decibels corresponding to the ratio of two (2) amounts of power is ten (10) times the logarithm to the base ten (10) of this ratio.

EMERGENCY WORK: Work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger to the health and safety of the persons or property.

FREQUENCY: "Frequency" of a function periodic in time shall mean the reciprocal of the primitive period. The unit is the cycle per unit time and shall be specified.

MICROBAR: A unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.

MOTOR VEHICLES: Shall include, but not be limited to, minibikes and go-carts.

SOUND AMPLIFYING EQUIPMENT: Any machine or device for the amplification of the human voice, music, or any other sound, or by which the human voice, music, or any other sound is amplified. "Sound amplifying equipment" shall not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

SOUND LEVEL METER: An instrument, including a microphone, an amplifier, an output meter, and frequency weighting networks, for the measurement of noise and sound levels in a specified manner.

SOUND PRESSURE LEVEL: "Sound pressure level" in decibels of a sound shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of this sound to the reference pressure, which reference pressure shall be explicitly stated.

5-1-103: DECIBEL MEASUREMENT CRITERIA:

Decibel measurements shall be made with a sound level meter and shall be based on a reference sound pressure of 0.0002 microbars, as measured in any octave band with center frequency, in cycles per second, as follows: 63, 125, 250, 500, 1,000, 2,000, 4,000, and 8,000, and for the combined frequency bands.

5-1-104: GENERAL STANDARDS RELATIVE TO DISTURBANCE OF PEACE:

Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary, excessive, or unusual noise which unreasonably disturbs the peace and quiet or which causes discomfort or annoyance to any reasonable person of normal sensitiveness.

The factors which may be considered in determining whether such noise violates the provisions of this section shall include, but are not limited to, the following:

- A. The volume of the noise;
- B. The intensity of the noise;
- C. Whether the nature of the noise is usual or unusual;
- D. Whether the origin of the noise is natural or unnatural;
- E. The volume and intensity of the background noise, if any;

- F. The proximity of the noise to residential sleeping facilities;
- G. The nature and zoning of the area within which the noise emanates;
- H. The density of the inhabitation of the area within which the noise emanates;
- I. The time of the day or night the noise occurs;
- J. The duration of the noise;
- K. Whether the noise is recurrent, intermittent, or constant; and
- L. Whether the noise is produced by a commercial or noncommercial activity.

5-1-105: ADDITIONAL REMEDIES; INJUNCTIONS:

As an additional remedy, the operation or maintenance of any device, instrument, vehicle, or machinery in violation of any provision of this chapter, which operation or maintenance causes discomfort or annoyance to reasonable persons of normal sensitiveness, or which endangers the comfort, repose, health, or peace of residents in the area, shall be deemed and is declared to be a public nuisance and may be subject to summary abatement, or by a restraining order, or injunction issued by a court of competent jurisdiction.”

Section 2. Article 2 (“Specific Noise Sources And Regulations”) of Chapter 1 (“Noise Regulations”) of Title 5 (“Public Health, Welfare, and Sanitation”) of the Beverly Hills Municipal Code is hereby amended to read as follows:

“5-1-201: SOUND AMPLIFYING EQUIPMENT:

It shall be unlawful for any person within any residential zone of the city to use or operate any sound amplifying equipment between the hours of ten o'clock (10:00) p.m. and eight o'clock (8:00) a.m. of the following day in such a manner as to be distinctly audible at or beyond the property line of the property on which the equipment is located.

5-1-202: MACHINERY, EQUIPMENT, FANS, AND AIR CONDITIONING:

It shall be unlawful for any person to operate any machinery, equipment, pump, fan, air conditioning apparatus, or similar mechanical device in any manner so as to create any noise which would cause the noise level at the property line of any property to exceed the ambient noise level by more than five (5) decibels based on a reference sound pressure of 0.0002 microbars, as measured in any octave band center frequency, in cycles per second, as follows:

63, 125, 250, 500, 1,000, 2,000, 4,000, and 8,000 and for the combined frequency bands (all pass).

5-1-203: MOTOR VEHICLE ALARMS:

The council finds that on numerous and repeated occasions, alarms which have been installed in motor vehicles have been activated inadvertently by accident or carelessness and not as the result of any criminal action or conduct; and the noise which results from the activation of such alarms has arisen at all hours of the day and night and is detrimental to the public health, safety, and welfare; and the council has a responsibility to ensure and preserve the peace and tranquility of the city by regulating motor vehicle alarms and that the regulation of the intrusive and disturbing noise which results from the inadvertent activation of motor vehicle alarms is reasonably related to the proper exercise of police power to protect the health, safety, and general welfare of the public.

A. It shall be unlawful for any person to cause, allow, or permit any alarm located in a motor vehicle registered in the name of or driven by such person to emit any audible sound within the city for a period of more than ten (10) minutes. The time shall be calculated based upon the emission of the first audible sound, and end ten (10) minutes thereafter, notwithstanding any variation or delay in the emissions of audible sound.

B. Any violation of this section is hereby declared a public nuisance and in addition to other remedies if the alarm continues to be activated for a period in excess of forty five (45) minutes, any police officer may have the vehicle removed from any zone in the city to abate such nuisance.

5-1-204: MOTOR VEHICLE OPERATION AND REPAIR:

A. It shall be unlawful for any person within any residential area of the city to repair, rebuild, or test any motor vehicle in such a manner that a reasonable person of normal sensitiveness residing in that area is caused discomfort or annoyance.

B. It shall be unlawful for any person to operate any motor vehicle within the city in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance; provided, however, any such vehicle which is operated upon any public highway, street, or right of way shall be excluded from the provisions of this section.

5-1-205: RESTRICTIONS ON CONSTRUCTION ACTIVITY:

A. No person shall engage in construction, maintenance or repair work which requires a city permit between the hours of six o'clock (6:00) p.m. and eight o'clock (8:00) a.m. of any day, or at any time on a Sunday or public holiday unless such person has been issued an after hours

construction permit issued pursuant to subsection C of this section. In addition, no person shall engage in such work within a residential zone, or within five hundred feet (500') of a residential zone, at any time on a Saturday unless such person has been issued an after hours construction permit issued pursuant to subsection C of this section. For the purpose of this section, "public holiday" shall mean:

1. New Year's Day.
2. Memorial Day.
3. Independence Day.
4. Labor Day.
5. Thanksgiving Day.
6. Christmas Day.

Nothing in this section shall restrict the performance of "emergency work" as that term is defined in section 5-1-102 of this chapter.

B. No person employed for the purposes of construction, maintenance, or repair work which requires a city permit shall enter a site on which such work will be done prior to eight o'clock (8:00) A.M. Any violation of this subsection shall be deemed to be an infraction.

C. The city building official, after consultation with appropriate city officials, may issue an after hours construction permit authorizing work and/or entrance to a work site otherwise prohibited by this section if the city building official determines that the public interest will be served by such a permit. Situations in which the public interest may be served by the issuance of such an after hours construction permit includes, but are not limited to, construction near school grounds, and construction that may interfere with vehicular or pedestrian traffic in heavily traveled public rights of way.

D. Applications for an after hours construction permit issued pursuant to subsection C of this section shall be in writing and shall set forth how the public interest will be served by issuing the permit. An after hours construction permit may be revoked or suspended by the city building official if the city building official determines that activity conducted pursuant to the permit detrimentally affects the public health, safety or welfare.

5-1-206: NOISE IN PROXIMITY OF SCHOOLS, HOSPITALS, AND CHURCHES:

It shall be unlawful for any person to create any noise on any street, sidewalk, or public place adjacent to any school, institution of learning, or church while the same is in use, or adjacent to any hospital; which noise substantially and unreasonably interferes with the workings of such institutions or which disturbs or unduly annoys patients in the hospital, provided that

conspicuous signs are displayed on such street, sidewalk, or public place indicating the presence of a school, church, or hospital.

5-1-207: HAWKERS AND PEDDLERS:

It shall be unlawful for any person within the city to sell anything by public outcry within any area of the city zoned for residential uses. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.

5-1-208: DRUMS:

It shall be unlawful for any person to use any drum, other percussion or musical instrument, or device of any kind for the purpose of attracting attention by the creation of noise within the city. The provision of this section shall not apply to any person who is a participant in a school band or duly licensed parade or who has been otherwise duly authorized to engage in such conduct.

5-1-209: PORTABLE GASOLINE ENGINE POWERED BLOWERS:

It shall be unlawful for any person within the city to use or operate any portable machine powered with a gasoline engine used to blow leaves, dirt, and other debris off sidewalks, driveways, lawns, or other surfaces.

5-1-210: ANIMAL AND FOWL NOISE:

No person shall keep or maintain, or permit the keeping of, upon any premises owned, occupied, or controlled by such person, any dog or other animal or fowl otherwise permitted to be kept which, by any loud or continuous cry, bark, howl, or other sound, unreasonably disturbs other persons.”

Section 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

Section 4. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall attest and certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 5. Effective Date. This ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

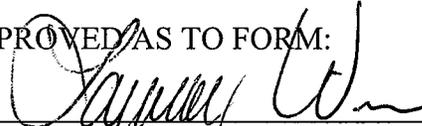
Adopted:
Effective:

BARRY BRUCKER
Mayor of the City of
Beverly Hills, California

ATTEST:

(Seal)
BYRON POPE
City Clerk

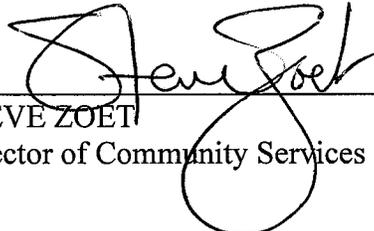
APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager



STEVE ZOET
Director of Community Services