



R-31

Date: June 2, 2009
To: Mayor and Members of the City Council
From: Councilman Dee Andrews, Chair - Housing and Neighborhoods Committee
Subject: Recommendation to City Council to concur in an Amendment to the Noise Ordinance restricting hours of operation of certain construction equipment and residential noise


The Housing and Neighborhoods Committee, at its meeting held April 21, 2009, considered communications relative to the above subject.

The following Amendments to the Noise Ordinance are recommended:

- Amend the Ordinance to limit loud noise produced by heavy construction activities (i.e., pile drivers, jackhammers and pavement breakers) from 9:00 am to 4:00 pm, Monday through Saturday only, with any special exceptions granted per approval by the City's Noise Officer.
- Amend the Ordinance related to residential noise emanating from the use of power tools to the following:
 - A. Monday - Friday: 7:00 am – 7:00 pm
 - B. Saturday - Sunday: 9:00 am – 6:00 pm

Respectfully Submitted,

Housing and Neighborhoods Committee



Councilman Dee Andrews, Chair



CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 W. Ocean Boulevard Long Beach, California 90802 562-570-6194 FAX 562-570-6205

April 22, 2008

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

1. Request that the City Attorney amend the Noise Ordinance to limit loud noise produced by construction equipment including but not limited to pile drivers, jackhammers, and pavement breakers, to weekdays from 9:00 a.m. to 4:00 p.m. only, with any special exceptions granted per approval by the City's Noise Officer.
2. Request that the City Attorney amend the Noise Ordinance restricting hours of operation for the use of power tools (saws, sanders, lawn mowers, etc.) that create a noise disturbance in residential areas.

DISCUSSION

The Environmental Committee has held multiple meetings to discuss the following five issues related to noise abatement:

- 1) Operating hours for construction equipment produced at construction sites;
- 2) Consider issuing short-term entertainment licenses for events, such as live musical performances for art openings;
- 3) Operating hours for noise emanating from the use of power tools at residential properties;
- 4) Enforcement of state regulations regarding noise from vessels in boat slips and throughout the Long Beach Harbor; and
- 5) Reduce noise from idling Long Beach Transit buses.

Detailed information on the current ordinance and enforcement efforts is provided as Attachment A. Through Committee deliberations two of the five issues, #1 and #3, were recommended to be forwarded to the City Council for consideration at this time, as follows:

Issue #1:

Approve the staff recommendation to maintain existing construction hours and continue to enforce all noise produced at construction sites before 7:00 a.m. and after 7:00 p.m. on weekdays. Amend the Noise Ordinance to limit loud noise produced by construction activities (i.e., pile drivers, jackhammers, and pavement breakers) to weekdays from 9:00 a.m. to 4:00 p.m. only, with any special exceptions granted per approval by the City's Noise Officer.

Issue #3:

This issue relates to the enforcement of residential noise related to the use of power tools. The current ordinance prohibits use of tools that create a disturbance between the hours of 10:00 p.m. and 7:00 a.m. everyday. Three options were discussed at the committee and a recommendation was made to forward all three options for further deliberation and action by the City Council.

- A. Monday – Friday: 7:00 a.m. – 7:00 p.m.
Saturday: 8:00 a.m. – 8:00 p.m.
Sunday: 9:00 a.m. – 8:00 p.m.

- B. Monday – Friday: 7:00 a.m. – 7:00 p.m.
Saturday: 7:00 a.m. – 7:00 p.m.
Sunday: 8:00 a.m. – 7:00 p.m.

- C. Monday – Friday: 7:00 a.m. – 7:00 p.m.
Saturday: 8:00 a.m. – 8:00 p.m.
Sunday: 8:00 a.m. – 8:00 p.m.

This report was reviewed by Deputy City Attorney Amy Burton on January 9, 2008, and by Budget Management Officer Victoria Bell on January 11, 2008.

TIMING CONSIDERATIONS

None.

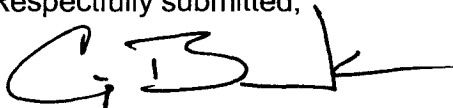
FISCAL IMPACT

None.

SUGGESTED ACTION:

Approve Recommendation.

Respectfully submitted,



CRAIG BECK
DIRECTOR OF DEVELOPMENT SERVICES

CB:GC

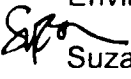
Attachment: Staff memo for July 31, 2007 Environmental Committee Meeting

APPROVED:



PATRICK H. WEST
CITY MANAGER



Date: July 25, 2007
To: Environmental Committee
From:  Suzanne Frick, Director of Planning and Building
Subject: NOISE POLLUTION AND ABATEMENT RECOMMENDATIONS TO ENVIRONMENTAL COMMITTEE

On March 8, 2007, the Environmental Committee met to discuss five (5) issues related to noise abatement. At this meeting, the Committee was satisfied that the fifth issue, related to bus idling, was adequately addressed. The Committee requested that staff return with additional analysis and recommendations for the following four (4) issues.

ISSUE #1

Due to resident complaints and concerns related to construction noise and construction staging activities, the Committee has been asked to consider modifying the hours when construction may start during weekdays and weekends.

CURRENT ORDINANCE

The City's current noise ordinance allows construction on weekdays and federal holidays between 7:00 a.m. and 7:00 p.m. and on Saturdays between 9:00 a.m. and 6:00 p.m., with work on Sundays prohibited unless authorized by the Noise Control Officer.

DISCUSSION

A 7:00 a.m. start time for construction work is allowed in most Southern California municipalities and is generally considered the industry standard.

Construction noise standards were reviewed from the following cities:

- West Hollywood: (8:00 a.m. – 7:00 p.m. on weekdays, 8:00 a.m. – 7:00 p.m. on Saturdays for interior construction only, prohibited on Sundays and City holidays)
- Beverly Hills: (8:00 a.m. – 6:00 p.m. on weekdays, 8:00 a.m. – 6:00 p.m. on Saturdays except for properties in or within 500 feet of a residential zone, prohibited on Sundays and public holidays)

- Carson: (7:00 a.m. – 8:00 p.m. daily except Sundays and legal holidays based on maximum dBA, 8:00 p.m. – 7:00 a.m. daily all day Sundays and legal holidays based on lower maximum dBA)
- Cerritos: (7:00 a.m. – 6:00 p.m. on weekdays, 10:00 a.m. – 5:00 p.m. on Saturdays, prohibited on Sundays and public holidays. More restrictive construction hours may be required for projects subject to Precise Plans or Conditional Use Permits)
- Hawaiian Gardens: (7:00 a.m. – 7:00 p.m. on weekdays and Saturdays, prohibited on Sundays)
- Seal Beach: (7:00 a.m. – 8:00 p.m. on weekdays, 8:00 a.m. – 8:00 p.m. on Saturdays, prohibited on Sundays and holidays)
- Signal Hill: (7:00 a.m. – 6:00 p.m. weekdays only, unless permit approved by Building Official allowing other construction hours)
- Santa Monica: (8:00 a.m. – 6:00 p.m. on weekdays, 9:00 a.m. – 5:00 p.m. on Saturdays, prohibited on Sundays and public holidays)
- Huntington Beach: (7:00 a.m. – 8:00 p.m. on weekdays and Saturdays, prohibited on Sundays and federal holidays)

Generally, construction starts in the early morning and typically tapers off around 3:00-4:00 p.m. This enables construction workers and material providers to commute during off-peak hours. However, this can result in neighborhood impacts when early work occurs or by workers congregating or staging at a job site. Most cities regulate all noise produced at a construction site and typically allow construction to begin at 7 a.m.

Santa Monica limits high impact construction noise, such as pile driving and jack hammering, to the hours of 9:00 a.m. through 4:00 p.m. Monday through Friday only.

RECOMMENDATION OPTIONS

- Maintain existing construction hours and continue to enforce all noise produced at the construction sites before 7 a.m. and after 7 p.m. on weekdays and 9:00 a.m. to 6:00 p.m. on Saturday.
- Limit loud noise produced by construction (i.e., pile driving, the use of a jack-hammer, and the like) to weekdays from 9:00 a.m. to 4:00 p.m. If quieter new technology is used for the typically loud noise equipment described above, the City's Noise Control Officer may allow normal construction hours.

ENFORCEMENT

Enforcement of these regulations is through Environmental Health, the City Noise Officer.

ISSUE #2

- A. Local businesses have expressed concern over the present standards that require an Entertainment Permit for any live music with amplification or live music with more than two non-amplified instruments. The Committee is being asked to consider an approach that will make it easier for small venues, such as art galleries, to have music in conjunction with events or gallery openings on a limited basis.
- B. At the Environmental Committee meeting on March 8, a constituent brought up the idea of providing business licenses to individual musicians.

CURRENT ORDINANCE

Entertainment Permits are required for any live music performances with any amplified instruments. Performances with no more than two non-amplified instruments are exempt from the Entertainment Permit requirements. All Entertainment Permits are subject to the provisions of the City's Noise Ordinance.

DISCUSSION

San Diego's Entertainment Establishment Ordinance exempts live music events that are incidental to the primary use and where no admission is charged. This would include performances that are provided for the guest's enjoyment and entertainment, such as art gallery openings.

RECOMMENDATION

- A. For businesses interested in only occasionally providing entertainment such as live musical performances, one possible approach would be to authorize date-specific Entertainment Permits for a limited number of occurrences, such as no more than six per year. This could be useful for establishments such as art galleries providing live music only at special showings in order to minimize potential noise conflicts with surrounding land uses. Approval of these limited Entertainment Permits for businesses could be done on an over-the-counter basis at the Development Services Center on the 4th floor of City Hall. Violation of the terms of these limited Entertainment Permits could be Permit revocation and prohibition of any future Permit approvals similar to an annual entertainment permit.

Financial Management has expressed concern that exempting incidental music performances or providing an administrative over-the-counter permit could leave room for abuse of current regulations, and could present problems for the neighborhoods in relation to noise, parking, and overcrowding of the establishment. Their preference would be for this type of permit to be processed in the current manner as an Entertainment Permit.

- B. The concept of licensing individual musicians would be problematic, primarily from an enforcement perspective. An Entertainment Permit is issued to a specific business that is tied to the location of the business. The business owner is then responsible for any noise violations that would occur on the premises. In addition, the business license fee could be a burden to an individual musician.

ENFORCEMENT

The Environmental Health Bureau in the Health Department monitors and enforces the noise control provisions of Entertainment Permits. They operate on a complaint basis, if a complaint is received, the Environmental Health Bureau contacts the business and works with them to identify remedial measures. In addition, if the Police Department is contacted, they will respond and advise the business owner to comply with the conditions of the entertainment permit, and subsequently contact the Environmental Health Bureau regarding the incident.

ISSUE #3

Concern has been expressed about the use of power tools during the weekend. The Committee is being asked to consider modifying the hours when homeowners can use power tools such as saws, sanders, lawn mowers or other garden tools. The Committee is asking to consider further limiting the hours of operation for such activities.

CURRENT ORDINANCE

Operating or permitting the operator of any mechanically powered saw, sander, drill, grinder, lawn or garden tool or similar tool between 10:00 p.m. and 7:00 a.m. so as to create a noise disturbance across a residential or commercial property line is prohibited. A noise disturbance occurs when any sound: (a) endangers or injures the safety or health of humans or animals; (b) annoys or disturbs a reasonable person of normal sensitivities; or (c) endangers or injures personal or real property.

DISCUSSION

Start times between 8:00 a.m. and 9:00 a.m. on weekends would be consistent with other nearby cities. Following is a list of their standards:

- Hawaiian Gardens: (7:00 a.m. – 7:00 p.m. on weekdays and Saturdays, 9:00 a.m. – 6:00 p.m. on Sundays and federal holidays)
- Seal Beach: (7:00 a.m. – 8:00 p.m. on weekdays, 8:00 a.m. – 8:00 p.m. on Saturdays, 9:00 a.m. to 8:00 p.m. on Sundays and public holidays)
- Signal Hill: (no limitation for an owner of a dwelling or property to perform repair or maintenance work)
- Santa Monica: (for gardening/landscaping that involves motorized equipment: 8:00 a.m. – 8:00 p.m. on weekdays, 9:00 a.m. – 8:00 p.m. on weekends and public holidays. For property maintenance or repair: 8:00 a.m. – 6:00 p.m. on weekdays, 9:00 a.m. – 5:00 p.m. on Saturdays, prohibited on Sundays and public holidays)
- West Hollywood: (8:00 a.m. – 10:00 p.m. for any type of mechanical devices unless enclosed in a sound insulated structure. Same hours as construction operations for property maintenance noises)
- Huntington Beach: (8:00 a.m. – 8:00 p.m. on weekdays and Saturdays, 9:00 a.m. – 6:00 p.m. on Sundays and federal holidays)
- Carson: (7:00 a.m. – 9:00 p.m. daily for any machine or mechanical device unless enclosed within a sound insulated structure)
- Cerritos: (7:00 a.m. – 7:00 p.m. daily)
- Beverly Hills: (7:00 – 10:00 p.m. daily)

RECOMMENDATION

Amend the Noise Ordinance restricting motorized noise related to property maintenance to an 8:00 a.m. start time on Saturdays and a 9:00 a.m. start time on Sundays. This restriction would specifically apply to mechanically powered saws, sanders, drills, grinders, mechanized gardening tools, and other similar types of mechanized tools.

ENFORCEMENT

Enforcement is handled by Environmental Health on a complaint basis. A letter is sent to the property owner regarding the violation of the noise ordinance. If

additional complaints are received, staff will be sent out to the location to observe and record the violation. Ultimately, these non-corrected cases are sent to the City Prosecutor.

ISSUE #4

Review concerns of enforcement efforts in the marinas and harbor to control excessively loud noise impacting "live-aboard" residents and waterfront businesses. Specifically, this involves noise from stationary sources such as special events and mobile sources such as "cigarette" boats (engine and stereo noise). If necessary, legislative recommendations should be made to modify current State Code regarding enforcement of noise on our waterways.

DISCUSSION

Special Events: Noise impacts from Special Events are exempt from the City's Noise Ordinance. Special Events staff issues permits for each event that impose "Good Neighbor" conditions designed to protect surrounding residents from noise. Depending on the event, a team of City staff, including Police and Environmental Health staff, are on-site enforcing the conditions of the Special Events Permit.

Vessels in City Boat Slips: Nuisance noises coming from vessels at City boat slips are regulated by the City Noise Ordinance. This is presently handled on an informal basis through enforcement of the User Regulations for boat mooring permits. Boat owners/occupants are given verbal warning of noise disturbances and repeated noise violations could lead to revocation of the mooring permit. The Marine Patrol also responds to disturbances on a compliant basis. Typically, if an officer can hear the disturbance at the end of the dock, a verbal warning is given to the offender. If the Marine Patrol is called back again, they issue a citation.

Noise disturbances for vessels in Long Beach Harbor: These types of disturbances are regulated in accordance with Section 654.05 of the California Harbors and Navigation Code. This Code Section specifies a maximum noise level of 90 dB(A) for engines manufactured before January 1, 1993, a maximum noise level of 88 dB(A) for engines manufactured after January 1, 1993, and a maximum noise level of 75 dB(A) for all other noises emanating from vessels not precluding the specified engine noise limitations. These restrictions apply to all motorized recreational vessels in or upon inland waters and in or upon ocean waters that are within one mile of the State coastline. As stated in Section 8.80.010 of the Long Beach Municipal Code (the Policy statement of the City's Noise Ordinance), local noise control of motorboats operating on public rights-of-way is preempted by State and federal laws and regulations.

Lifeguards from the Marine Safety Division of the Fire Department had previously enforced State noise regulations in Long Beach Harbor ocean waters. Mark

Boone, the Marine Safety Chief, reported that no local enforcement is currently done, primarily due to a lack of proper equipment to measure decibel levels. Mr. Boone said they could do more enforcement if they had equipment that measures decibel levels.

RECOMMENDATION:

Special Events: Continue with process established by the Special Events Office.

Vessels in Boat Slips: Work with the Marine Patrol to issue citations for Noise Ordinance offenses.

Noise disturbances for vessels in Long Beach Harbor: Work with Fire Department, Lifeguard Safety Bureau to determine the type of equipment and staffing levels needed to resume local enforcement of State noise regulations.

APPROVED:

A handwritten signature in black ink, appearing to read 'Anthony W. Batts', is written over a horizontal line. The signature is stylized and cursive.

ANTHONY W. BATTS
CITY MANAGER