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Long Beach, California

R-29

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September 20, 2005

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to declare ordinance regarding the regulation of loud noises on private property read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

Pursuant to your request of June 14, 2005, this office has prepared and submits the above-described ordinance for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

ROBERT E. SHANNON, City Attorney

By

Richard F. Anthony
Deputy City Attorney

RFA:cj
Enclosure
#05-03174
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1 ORDINANCE NO.
2

3 AN ORDINANCE OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH ADDING CHAPTER 9.31 TO THE
5 LONG BEACH MUNICIPAL CODE RELATING TO LOUD
6 NOISES CAUSED BY PARTIES ON PRIVATE PROPERTY
7

8 The City Council of the City of Long Beach ordains as follows:
9

10 Section 1. The Long Beach Municipal Code is amended by adding
11 Chapter 9.31 as follows:

12 CHAPTER 9.31

13 LOUD PARTIES ON PRIVATE PROPERTY
14

15 9.31.010 Loud Noises Prohibited.

16 No person shall cause or permit loud music or other noises caused
17 by a party, gathering or assemblage of persons on private property to
18 disrupt the public peace. Noise that is audible from a distance of fifty feet
19 or more from the property shall be deemed to disrupt the public peace.

20 Any person who causes or permits any such loud music or other noises is
21 guilty of a public offense punishable under the provisions of Title 1,
22 Chapter 1.32 of this Code.
23

24 9.31.020 Enforcement.

25 When law enforcement personnel at the scene determine that the
26 provisions of this Chapter have been violated, such law enforcement
27 personnel are authorized to take all necessary enforcement actions,
28 including the following:

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- A. Arrest and/or issue a citation to the responsible person. For purposes hereof, the "responsible person" shall be a person or persons owning or occupying the offending property or otherwise authorizing or permitting the loud music or other noises to emanate from the property;
- B. Direct the responsible person to immediately terminate the activity that is causing the loud noise; and
- C. Issue a written notice to the responsible person that if within a 30-day period after the initial response law enforcement personnel are again required to respond to the property to address a violation of this Chapter, then the responsible person shall be liable for payment of all costs and expenses incurred by law enforcement personnel during second or subsequent responses in accordance with Section 9.31.030.

9.31.030 Second and Subsequent Responses.

If after issuance of the written notice required under this Chapter law enforcement personnel are required to respond to the property to address another violation of this Chapter within a 30-day period after issuance of said notice, then the responsible person or the legal guardian(s) thereof shall be liable for all actual costs and expenses incurred by the City during second or subsequent responses.

9.31.040 Collection of Costs.

The expense of a reimbursable response hereunder shall be charged against the person liable for the expense under this Chapter. The charge constitutes a debt of that person to the City, and is collectible by the City in the same manner as in the case of an obligation under a contract, expressed or implied.

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Sec. 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2005, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____

Mayor

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200



~~R-29~~

Date: June 9, 2005

To: Honorable Mayor and Councilmembers

From: Bonnie Lowenthal, Councilmember, First District *BL*

Subject: Proposed amendment to the Noise Ordinance.

Discussion

Nearby cities have established "Loud Party Ordinances," which provides law enforcement with the capability to arrest, or issue citations to the person or persons owning or occupying the premises where the gathering is being held. In addition, it provides that if law enforcement should respond a second time within a 12-hour period, the owner or occupant of the premises will be liable for the costs and expenses incurred by the City.

Chapter 8 of the Long Beach Municipal Code (LBMC) requires that the noise control office, currently the Long Beach Health Department, administer the noise control program. It also directs all departments to cooperate with the noise control office to the fullest extent in enforcing the noise regulations of this chapter. Currently enforcement of noise control regulations shall be undertaken only upon receipt of a written sworn complaint from a resident.

Section 415 of the California Penal Code currently states that—"Any person who maliciously and willfully disturbs another person by loud and unreasonable noise shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars, or both such imprisonment and fine."

The Long Beach Police Department has been working under the auspices of both the Penal Code and the LBMC. However, there is some discrepancy in regards to actual enforcement, and the extent to which residents are willing to engage in the existing system. Attached are copies of other municipalities' ordinances, of which the City of Lynwood provides an ordinance to be modeled after.

June 9, 2005

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Recommendation:

Request the City Attorney draft an addition or revision to the LBMC that will give law enforcement the ability to cite person or persons responsible for a party or gathering that requires law enforcement to respond two or more times in one 12 hour period, and levy a fine (Loud Party Service Fee) as is done in other cities, and that this ordinance be sent to hearing before the Housing and Neighborhoods Committee for review in 30 days.

I hope my colleagues will join me in this effort.

City of Lynwood Ordinance:Page 1 of 2

3-12.16 Loud Parties Or Gatherings In Residential Zones:

- a. *Applicability:* The provisions of this Subsection apply to the person or persons responsible for a party or gathering on private property within any residential zone of the City where loud music or other noise emanating from or attributable to that party or gathering is audible from a distance of fifty feet (50') from the source of that loud music or other noise.
- b. *Initial Response To Loud Parties Or Gatherings:* When a party or gathering of two (2) or more people takes place on private property within any residential zone of the City and is determined by law enforcement personnel at the scene to constitute a violation of the California Penal Code or the Lynwood Municipal Code, or is otherwise disruptive to the public peace, health, safety, or welfare due to the magnitude of the crowd, loud music or other noise, disturbances, unruly behavior of those attending the party or gathering, excessive traffic, or destruction of property, then the law enforcement personnel are authorized to take all actions and to issue all directives as may be necessary under the circumstances to abate the violation or condition, including the following:
1. Arrest, or issue citations to, the person or persons who are in violation of any State statute or loud ordinance including, without limitation, the person or persons owning or occupying the premises where the party or gathering is being held who have created a disturbance of the peace by authorizing, permitting, or otherwise consenting to the performance of a live band, the playing of one or more musical instruments, or the playing of music by means of any electronic or mechanical device that produces or reproduces sound.
 2. Direct the person or persons responsible for any party or gathering that creates a disturbance of the peace to terminate immediately the performance by any live band, the playing of one or more musical instruments, or the playing of music by means of any electronic or mechanical device that produces or reproduces sound.
 3. Issue a written notice and warning to the person or persons owning or occupying the premises where the party or gathering is being held that if, within the following twelve (12) hour period, law enforcement personnel are again required to respond to that location to abate a violation or condition, the owner or occupant of the premises will be liable for the costs and expenses incurred by the City in providing that additional response.
- c. *Second And Subsequent Responses:* If, after issuance of the notice and warning specified above in subsection b3, the condition or violation is not abated and law enforcement personnel are again required within the following twelve (12) hour period to respond to the same location in order to disperse the party or gathering, quell any disturbance of the peace, direct traffic, cite illegally parked vehicles, or to provide similar services, then the costs and expenses of each such response must be reimbursed to the City as provided in subsection d below.
- d. *Reimbursement Of Costs And Expenses:* The person or persons responsible for a party or gathering that requires a second or subsequent response as referenced above in subsection c, or the owner or occupant of the property on which the party or gathering is held, or, if any such person is a minor, the parents or legal guardian of the minor are jointly and severally liable for the following costs and expenses incurred by the City:

City of Lynwood Ordinance: Page 2 of 2

1. The actual costs and expenses for the services of the law enforcement personnel, excluding the initial response, that are incurred by the City for the purpose of abating any of the conditions or violations described above in subsection c;
 2. Damage to public property incurred in the course of any second or subsequent response by law enforcement personnel; and
 3. Injuries to any law enforcement personnel involved in a second or subsequent response.
- e. *Collection Procedures:* The Sheriff's Department will itemize all reimbursable costs and expenses and advise the City Manager. The person or persons specified above in subsection d will be billed by the City Manager following receipt of the itemized costs and expenses from the Sheriff's Department, and payment will be due within fifteen (15) days of the billing date. If the amount due is not paid, the City may collect the debt, as well as all fees and costs incurred in its collection, in accordance with all applicable provisions of law.
- f. *Criminal Penalties Not Precluded:* Nothing contained in this Subsection is intended to preclude the filing of any criminal charges or the imposition of criminal penalties under the California Penal Code or the Lynwood Municipal Code against any person or persons who may also be subject to the reimbursement provisions of this Subsection. (Ord. #1300, §1; Ord. #1441, §2)

City of La Verne Ordinance: Page 1 of 2
Title 8 HEALTH AND SAFETY

Chapter 8.20 NOISE CONTROL

8.20.050 Second response fee for loud party or noise disturbance calls.

A. Definitions. Unless the context or subject matter otherwise requires, terms defined herein shall have the following meaning when used in this section.

"Department" means the La Verne police department.

"First response notice" means a notice issued by a police officer pursuant to this section advising a responsible person that a loud party or noise disturbance is taking place and that the disturbance must cease.

"Loud party" means any party, gathering or event where a police officer at the scene determines that there is a threat to the public peace, health, safety or general welfare.

"Noise disturbance" means any call for police response related to violation of the noise control ordinance (Chapter 8.20 of the La Verne Municipal Code) or the noisy animal ordinance (Chapter 6.16 of the La Verne Municipal Code).

"Responsible person" means the person or persons who owns, leases, resides or is in charge of the premises where the loud party or noise disturbance takes place; or the person or persons who organized the loud party or caused the noise disturbance. If the responsible person is a minor, then the parents or guardians will also be considered a responsible party and be jointly and severally liable for the second response service fee imposed by this section.

"Second response notice" means a notice issued by a police officer pursuant to this section assessing a second response services fee for a second, or subsequent, response to a loud party or noise disturbance.

"Second response service fees" means a fee imposed pursuant to this section to recover special security costs.

"Special security assignment" means the assignment of department personnel and equipment during a second, or subsequent, response to a loud party or noise disturbance after the issuing of a first response notice.

"Special security costs" means costs of services provided by the department associated with a special security assignment which may include personnel and equipment costs, damage to city property and injuries to city personnel.

B. Authorization to Assess a Second Response Service Fee. When a loud party or noise disturbance occurs, a police officer may issue a first response notice to a responsible person that the disturbance must cease. A second, or subsequent, response by a police officer, upon the issuing of a second response notice, may result in the imposition of a second response service fee to recover special security costs. The amount of the fee shall be determined, from time to time, by a resolution adopted by the city council.

C. Duties of the Department.

1. The department shall develop written procedures to provide for training and the uniform

City of La Verne Ordinance: Page 2 of 2
implementation of this chapter.

2. The department shall develop a first response notice, a second response notice, and any other forms or other documents necessary to carry out the purpose of this section.

3. The department shall develop a post-second response notice administrative appeal hearing procedure to determine whether the second response service fee was assessed to the proper responsible person or was properly issued.

D. The fee authorized by this section is in addition to any criminal penalties that may be imposed if a citation is issued or an arrest made. (Ord. 848 § 1, 1993)