



Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: April 11, 2005

FROM: CITY ATTORNEY

SUBJECT: AN UNCODIFIED ORDINANCE OF THE CITY OF PASADENA SUSPENDING SECTIONS 9.36.220(B) AND 9.36.230(B)(9) OF THE PASADENA MUNICIPAL CODE RELATING TO LIMITATIONS ON HOURS OF OPERATION OF AMPLIFIED SOUND AND NOISE SOURCES FOR SPECIFIED HOURS AND AREAS ON JULY 15, 16, 17, 22, 23, AND 24, 2005 (ROSE BOWL SUMMER FAIR – HOURS OF OPERATION ONLY).

TITLE OF PROPOSED ORDINANCE:

AN UNCODIFIED ORDINANCE OF THE CITY OF PASADENA SUSPENDING SECTIONS 9.36.220(B) AND 9.36.230(B)(9) OF THE PASADENA MUNICIPAL CODE RELATING TO LIMITATIONS ON HOURS OF OPERATION OF AMPLIFIED SOUND AND NOISE SOURCES FOR SPECIFIED HOURS AND AREAS ON JULY 15, 16, 17, 22, 23, AND 24, 2005 (ROSE BOWL SUMMER FAIR – HOURS OF OPERATION ONLY).

PURPOSE OF ORDINANCE

This proposed ordinance will extend the hours for amplified sound and general noise sources, but will not suspend the decibel limitations in the code or otherwise allow sound or noise beyond the established levels. Specifically, it will allow amplified sound and general noise sources until 11 p.m. on Friday, July 15; Saturday, July 16; Sunday, July 17; Friday, July 22; Saturday, July 23; and Sunday, July 24, 2005 for the "Rose Bowl Summer Fair" event. The proposed ordinance will not increase the allowable level of amplified sound or general noise and will only extend the permitted use of amplified sound and general noise sources on Sundays and other specified days until 11 p.m.

The City Council approved this event at its meeting of February 28, 2005 and directed the preparation of this ordinance. This proposed ordinance is required for the event to take place.

MEETING OF 4/11/2005

AGENDA ITEM NO. 3.A.

At its meeting of April 4, 2005, the City Council asked for additional information about noise related issues. In response, the Rose Bowl General Manager prepared a memorandum, attached as Exhibit A. Standard contract terms and conditions on that subject, which will be in the contract with the promoter, are attached as Exhibit B. In addition, the proposed ordinance was redrafted to focus it more narrowly and to make clear that sound levels themselves were not suspended.

REASON WHY LEGISLATION IS NEEDED:

The Noise Ordinance was enacted by ordinance and can only be suspended by an ordinance of the City Council.

FISCAL IMPLICATIONS:

It is anticipated that this event will result in a net profit to the RBOC of approximately \$200,000 per year.

ENVIRONMENTAL IMPACT:

The Master Environmental Impact Report for the Arroyo Seco Master Plan analyzes potential impacts that could result from 25 events at the Rose Bowl. The City Council certified the MEIR for the Arroyo Seco Master Plan on April 14, 2003. The project is consistent with the environmental analysis in the MEIR.

The proposed ordinance is categorically exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15323 - Normal Operations of Facilities for Public Gatherings.

Respectfully submitted,

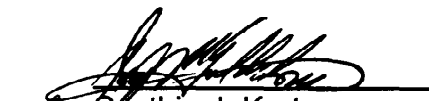

Michele Beal Bagneris
City Attorney

Prepared by:



Nicholas George Rodriguez
Assistant City Attorney

Concurrence:


Cynthia J. Kurtz
City Manager

Introduced by Councilmember

ORDINANCE NO. _____

AN UNCODIFIED ORDINANCE OF THE CITY OF PASADENA SUSPENDING SECTIONS 9.36.220(B) AND 9.36.230(B)(9) OF THE PASADENA MUNICIPAL CODE RELATING TO LIMITATIONS ON HOURS OF OPERATION OF AMPLIFIED SOUND FOR SPECIFIED HOURS AND AREAS ON JULY 15, 16, 17, 22, 23, AND 24, 2005 (ROSE BOWL SUMMER FAIR - HOURS OF OPERATION ONLY)

SECTION 1. The People of the City of Pasadena ordain as follows:

"Sections 9.36.220(B) and 9.36.230(B)(9) of the Pasadena Municipal Code are suspended from the hours of 10:00 p.m. to 11:00 p.m. on July 15, 16, 22, and 23, 2005, and from noon to 11:00 p.m. on July 17 and July 24, 2005, for events at the Rose Bowl area for which a valid license agreement is in force and effect, but with respect to hours of operation, only, and not with respect to specified levels of amplified sound or noise."

SECTION 2. The City Clerk shall certify the adoption of this Ordinance and shall cause this Ordinance to be published in full text.

SECTION 3. This Ordinance shall take effect upon its publication.

Signed and approved this __ day of _____, 2005.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council at its meeting held _____, 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Published:

JANE L. RODRIGUEZ, CLC
CITY CLERK

Approved as to form:



4/7/05

Nicholas George Rodriguez
Assistant City Attorney

EXHIBIT "A"



To: Mayor Bill Bogaard and members of the City Council
From: Darryl Dunn, General Manager
Subject: Suspension of Noise Ordinance on July 15, 16, 17, 22, 23 and 24
Date: April 6, 2005

At the City Council meeting on April 4, 2005, an item related to waiving the noise ordinance on July 15 -17 and 22-24 in relation to the Rose Bowl Fair was before you, and it was determined to delay action on that item until the Council meeting on April 11th.

Unfortunately, I was not at the meeting to respond to a few questions raised, such as the following:

- **Concern about noise levels going beyond 11:00 p.m. – There will be a clause within the agreement between the Rose Bowl Operating Company and the promoter that will impose a \$3,000 per minute fine if amplified noise goes beyond the permitted time (10:00 or 11:00 p.m). This is customary whenever the RBOC requests a noise ordinance waiver, such as during the Wango Tango event in 2004. For the Wango Tango event in 2004, the event ran late, and we fined the promoter \$45,000, which was a primary reason the event did not come back to the Rose Bowl in 2005. It should also be noted that the noise ordinance waiver is only being requested due to the hours of operation both extending beyond 10:00 p.m on those dates, and amplified noise on a Sunday. The noise ordinance waiver is not being requested to enable noise to exceed legal volume limits.**
- **Concern raised about monitoring noise levels – There will be sound monitors on sight registering noise levels. In the event that noise levels exceed legal limits, the noise will be reduced immediately.**

- **Mitigation measures as recommended (which has not been certified, nor does it govern the project) in the NFL EIR –We are planning on implementing the mitigation measures as indicated in the NFL EIR, which are as follows:**
 - **Stadium noise level in the residential areas surrounding the project site shall be monitored periodically during the first year of operation by the owners, developers, and/or successors –in –interest in cooperation with the city.**
 - **Based on the monitoring results, the owners, developers and/or successors-in-interest shall modify operation of the loudspeaker system to reduce noise levels observed at the residential areas to the maximum degree feasible. Modifications may include adjustments to volumes or relocation of individual loudspeakers.**
 - **Prior to the first special event associated with a NFL football game at the Rose Bowl, the owners, developers and/or successors-in interest shall retain a qualified acoustical consultant to develop noise performance standards for the stadium loudspeaker system to minimize noise effects at the residential areas surrounding the Rose Bowl. The performance standards shall be subject to review and approval by the Director of Community Development.**

All of the above referenced mitigation measures will be followed related to the Summer Fair event, however the performance standards will be reviewed and managed by the Rose Bowl Operating Company.

If you have additional questions, I may be reached at (626) 577-3116,

DRAFT

EXHIBIT "B"

STANDARD TERMS AND CONDITIONS RELATED TO SOUND

13.0 LIQUIDATED DAMAGES RELATED TO HOURS OF OPERATION. Failure of the LICENSEE to abide by the time restrictions and noise level restrictions established herein will result in damages being sustained by the CITY and by RBOC and will affect their ability to stage similar events in the future. Such damages are, and will continue to be, impracticable and extremely difficult to determine. Therefore, LICENSEE agrees to pay RBOC the amount of \$3,000, per minute, beginning at _____ p.m. on _____, 2005 and at _____ p.m. on the following dates: _____, 2005, until LICENSEE's failure to observe time restrictions and noise level restrictions has ceased. LICENSEE also agrees to pay the Rose Bowl \$3,000 per minute for every minute that either of the following occurs: (1) sound levels generated by, caused by or attributed to LICENSEE's operation, at a steadily audible tone, exceed sound level decibels of _____ when measured at the source at any time before, during, or after any Event; (2) LICENSEE operates sound amplification equipment or mechanical rides any time before the approved time for opening or after the approved time for closing set forth for that day in the approved Staging Plan. Signing of this Agreement shall constitute agreement by the LICENSEE and RBOC that the \$3,000 per minute is the minimum value of actual damage caused by the failure of the LICENSEE to abide by the time restrictions and \$3,000 per minute is the minimum value of actual damage caused by the failure of the LICENSEE to abide by the noise level restrictions. Such sums may be deducted from any deposit or funds of LICENSEE held by the CITY, and, if none, shall be paid on demand. Such sums are liquidated damages and shall not be construed as a penalty. LICENSEE understands and agrees that such sums do not include any actual additional costs or expenses for staff, equipment or material for Event staging or vacating the Rose Bowl, do not include any fines, civil or criminal or penalties assessed for violation of any City ordinance or regulation and that LICENSEE shall be responsible for all such additional amounts. A copy of the ordinance suspending the noise ordinance for specified hours, only, is attached hereto as Exhibit "E."