

# Agenda Report

**TO:** CITY COUNCIL

**DATE:** April 7, 2008

**THROUGH:** PUBLIC SAFETY

**FROM:** CITY MANAGER

**SUBJECT: NOISE RESTRICTIONS ORDINANCE**

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Find that the amendments to Chapter 9.36 of the PMC (Noise Restrictions Ordinance) outlined below are exempt from review under the California Environmental Quality Act (Public Resources Code §§ 21000 et seq.) pursuant to State CEQA Guidelines § 15061(c) (the amendments do not change the noise levels allowed in the City, and thus there is no potential significant effect), and § 15323 (the amendments do not allow increased noise levels at existing facilities for public gathering).
2. Direct the City Attorney's Office to return in 60 days with an ordinance to amend Chapter 9.36 of the PMC by: (a) adding an interior noise standard, (b) deleting all references to Noise Districts, (c) adding noise exemptions, and (d) re-formatting the ordinance to enhance its accessibility to the general public

## **EXECUTIVE SUMMARY**

The Noise Restriction Ordinance is used to regulate noise levels from different sources, such as mechanical equipment, amplified sound, gardening equipment, construction activities and radio/television sets. As compared to 1973, when the ordinance was originally adopted, the ambient noise level measured today has increased as a result of the increase population in the San Gabriel Valley, as well as new activities and developments being established in the City.

Public Health Department staff have undertaken a comprehensive review of the Noise Restrictions Ordinance, in association with representatives from the Public Works Department, the Planning and Development Department and the City Attorney's Office. The proposed amendments to the Noise Restrictions Ordinance would provide the City

with an updated noise ordinance to reflect the changes in the City since the ordinance was originally adopted in 1973. It is recommended that the ordinance be amended by the City Attorney's Office by: (a) adding an interior noise standard, (b) deleting all references to Noise Districts, (c) adding noise exemptions, and (d) re-formatting the ordinance to enhance its accessibility to the general public

### **BACKGROUND:**

Pasadena Municipal Code 9.36, Noise Restriction Ordinance, was adopted by the City Council in 1973. The intent of the Noise Ordinance is to regulate the noise level from different sources, such as (1) radios and television sets; (2) drums; (3) animals and fowl; (4) machinery, equipment, fans and air conditioning; (5) leaf blowing machines; (6) construction activities; and (7) amplified sound equipment. The Noise Ordinance is the City's noise enforcement mechanism; the Noise Element of the General Plan is the City's threshold of significance for potential environmental effects. Amendment of the Noise Ordinance does not change the City's thresholds of significance.

The Public Health Department, Environmental Health Division, has the responsibility to enforce the Noise Ordinance using a complaint-based program. The most common noise complaints received by the Department are loud music, noisy backyard air conditioning and pool equipment, and powered leaf blowers. Whenever possible, City staff enforces the ordinance with an on-site visit with the complainant and obtains a noise measurement with a noise meter from the offending noise source measured at the complainant's property line. A violation of the noise ordinance occurs when the offending noise source is measured at 5 decibels or more above the ambient noise level.

### **NOISE RESTRICTION ORDINANCE REVIEW**

The ambient noise level is defined as the all-encompassing or surrounding noise associated with a given environment, and is typically a composite of many sources near and far. As compared to 1973, when the ordinance was originally adopted, the ambient noise level measured today has increased as the result of new activities and developments established in the City, including but not limited to the following:

- the population of Pasadena has grown 28% to 145,000 and the regional growth of the San Gabriel Valley has increased by approximately 30%;
- vehicular traffic congestion has increased as the result of increased population and transit through the City;
- mixed-use developments allowing residential housing to be built closer to businesses;
- the Metro Gold Line gates;
- increased public use of the Arroyo Seco, including Kidspace, Aquatic Center, and numerous special events held throughout the year; and

- special events on public properties using amplified sound equipment.

Public Health Department staff has undertaken a comprehensive review of the Noise Restrictions Ordinance, in association with representatives from the Public Works Department, the Planning and Development Department and the City Attorney's Office. The proposed amendments to the Noise Restrictions Ordinance would provide the City with an updated noise ordinance to reflect the changes in the City since the ordinance was originally adopted in 1973. Updating the noise ordinance will also provide a simplified and more easily accessible ordinance for the public.

### **Interior Noise Standard**

Staff recommends that the Noise Restrictions Ordinance incorporate an interior noise standard. The Noise Ordinance currently has no provision for addressing noise complaints between residents in a multi-family housing property.

It is recommended that an interior noise standard be added to the Noise Ordinance, similar to the City of Davis' Noise Ordinance, to address future noise complaints between residents living adjacent to each other in apartment, condominium and town home properties. The City of Davis' noise standard for an interior dwelling unit prohibits a person in a dwelling unit of a multi-family housing from creating a noise that would exceed the interior noise standard (Table A) when measured inside any dwelling unit on the same property or twenty feet from the outside of the dwelling unit in which the noise is located.

**Table A Interior Noise Standard**

Time Interval	Interior Noise Standards (dBA)
7:00 am – 10:00 pm	60
10:00 pm – 7:00 am	50

### **Noise Districts**

It is recommended that all current references to the three Noise Districts be deleted from the ordinance for the purpose of simplifying enforcement, eliminating confusion for the public, and for protecting residential neighborhoods from unwanted sound.

Noise Districts 1, 2 and 3 are areas referenced in Section 9.36.040 of the ordinance and defined by specific boundaries in the City with an assigned presumed ambient noise level for daytime and nighttime hours (Table B). Noise District 1 is primarily the residential area not part of District 2 or 3. District 2 is the city area bounded by Del Mar on the north, California on the south, Sierra Bonita on the east and Fair Oaks on the west. It also includes the area just west of the proposed 710 Freeway extension. Noise District 3 is the east/west corridor that runs through the city bounded by Walnut on the

north and Del Mar on the south. It also includes the area just east of the proposed 710 Freeway extension.

**Table B Presumed Ambient Noise Level d(B)A**

Noise District	6:00 am – 11:00 pm	11:00 pm – 6:00 am
1	50	40
2	55	45
3	60	50

The boundaries forming each of the districts were based on the land usage (residential, commercial and industrial) at that time. An extensive noise study was conducted to determine the presumed ambient noise level by measuring the ambient noise level at many different locations in the City. The resulting ambient noise level measurements were then averaged to create the presumed ambient noise level for each of the district. A noise violation currently exists when the offending noise source is 5 decibels or more above the higher of either the presumed ambient noise level for that district or the actual ambient noise level. For the past several years, the ambient noise levels for District 2 and 3 are seldom used because the actual ambient noise levels have been the higher number used in determining a noise violation.

The removal of the noise districts from the ordinance will have minimal impact on enforcement efforts in the City. Moreover, most residential neighborhoods would benefit from discontinuing the use of the presumed ambient noise level because the actual ambient noise level has been found to be at or below the presumed ambient. As a result, enforcement of the noise ordinance in neighborhoods would be more restrictive when using the actual ambient noise level for most areas.

### **Amplified Sound**

Presently, the City requires an amplified noise permit for an event when the equipment is used on public property, such as a street, alley, sidewalk, park or other public property. The user must follow the usage time and allowable noise level of 15 decibels above the ambient noise level as stated in PMC 9.36.220 (Amplified sound-regulations). The ordinance does not require a permit when amplified sound is used on private property and, as a consequence, staff has interpreted these provisions as not applicable in that circumstance. Nevertheless, the use of amplified sound equipment on private property would still fall under Section 9.36.220 (General Noise Sources) and could not exceed 5 decibels above the ambient noise level, which would be more restrictive than the 15 decibels above the ambient noise level applicable to public property.

It is recommended the City Council maintain the provisions for regulating the use of amplified sound limited to public property only. Should the City Council require all users of amplified sound equipment on public and private properties to obtain a permit, then

additional staff resources would be necessary for the permitting process and to monitor the use of the equipment during the event. A permit fee would then be required for all applicants.

### **Loud Music and other Noise Complaints**

Loud music and other similar noise complaints (e.g. car stereos, mufflers in motor vehicles, and leaf blowers) are common noise complaints in an urban environment. In most instances, these noise sources are short duration, transient in-nature, and can occur during after hours when city staff are unavailable.

During the period, between January 1 and December 19, 2007, the Police Department received 2,816 loud music complaints. Sixty three percent of the complaints were resolved by the responding police officer and the remaining 37% complaints were cancelled, gone-on-arrival, unfounded or unable to locate by the police officer. The Public Health Department also receives loud music complaints and these complaints are handled by sending a letter to the responsible person and compliance is achieved in most cases.

Noisy leaf blowers are handled by the Public Health Department by sending a letter to the responsible property owner about the complaint. The leaf blower user is notified to follow the Leaf Blower Ordinance and, if required, arrange with the Public Health Department to have the leaf blower certified for use in the City. Staff recommends that Section 9.36.105 (Leaf Blowing Machines) be deleted from the Noise Restrictions Ordinance, because regulations related to the use of leaf blowing machines are already included in Chapter 9.37 Leaf Blowing Machines.

Vehicular noise is covered under the California Motor Vehicle Code (CMVC), which regulates loud music, loud mufflers, screeching tires and motorcycles. The Police Department may issue citations when possible during routine patrols.

### **Noise Exemption**

It is recommended that an exemption also be incorporated into the ordinance to exclude certain activities related to public health, welfare and safety activities. Exemption from the noise ordinance would apply to construction or maintenance and repair conducted by public agencies or their contractors which are deemed necessary by the City to serve the best interests of the public and to protect the public health, welfare and safety. These operations include but are not limited to street sweeping, debris and limb removal, removal of downed wires, restoring electrical service, repairing traffic signals, unplugging sewers, vacuuming catch basins, repairing of water hydrants and mains, gas lines, oil lines, sewers, storm drains, roads, sidewalks, etc.

Staff recommends that additional exemptions be incorporated into the ordinance for certain activities in the Central District to include trash pickup, leaf blower use, cleaning and maintenance of buildings and parking structures during hours when pedestrian and vehicular traffic is at its lowest. Conducting these services during after hours is an effective method for maintaining the operational requirements for the commercial offices and shopping areas. Residents moving into the Central District of a mixed-use development project are notified that they are living in an urban area and the noise levels may be higher than in a typical residential area in the City. The signature of the residents on an acknowledgement form confirms receipt and understanding of this information. The typical disclosure language currently included in the lease/rental agreement between the property owner and the resident states the following:

Tenant/Buyer acknowledges and accepts that the leased and purchased unit is within an active part of Pasadena's Central District. This provision serves to provide tenant/buyer with notice that special daytime/nighttime events and commercial activities in the Central District will generate urban noise through-out the year.

With regard to special events, staff proposes that the ordinance allow applicants or entities holding special event permits from the City or events licensed by the Rose Bowl to generate noise levels up to the limits set forth in the Noise Element of the General Plan. Staff has monitored exceptionally large special events (such as rock concerts in the Rose Bowl) in the past, and has found that such events rarely, if ever, exceed the limits in the Noise Element. If this provision is enacted, the need for periodic waiver of the Noise Restrictions Ordinance would be eliminated if it is amended as proposed. The City Manager and the General Manager would have authority to permit such events up to the set decibel level appropriate in the Noise Element, and within specific hour limitations, both of which would be specified in the permit.

**FISCAL IMPACT:**

There is no fiscal impact as the result of this proposed amendment to the Noise Restrictions Ordinance.

Respectfully submitted



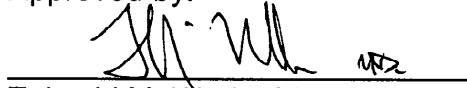
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City Manager

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