



Staff Report

DISCUSSION AND DIRECTION ON DRAFT BELMONT MUNICIPAL CODE AMENDMENT REGARDING NOISE CONTROL

Honorable Mayor and Council Members:

Summary/Background

At the direction of Council at the July 26, 2005 meeting, a subcommittee was assembled to develop a draft noise ordinance which is being presented this evening for review and comments. This subcommittee consisted of members of the City Council, Planning Commission and staff members of the City Managers office, Police Department, and Community Development Department. The committee met on November 30, 2005, and completed its review and crafting of a draft ordinance on December 8, 2005.

Based on the comments provided by the Council at this meeting, a proposed ordinance will be returned at a later date for public hearings and adoption (expected in March, 2006). No public hearing is scheduled at this meeting but comments from the public may be offered.

Discussion

The subcommittee developed a draft noise ordinance using the City of Menlo Park's noise ordinance as a guide. While developing the draft ordinance for Belmont the subcommittee, using the Council's previous direction, attempted to balance the expectation for maintenance of quality of life values for Belmont residents and the need for use of noise generating equipment to maintain commercial businesses and residential property.

Some of the issues the draft noise ordinance addresses are:

- a. Establishment of daytime/nighttime hours for acceptable forms of noise
- b. Noise limits in residential and commercial districts
- c. Hours of operation for deliveries
- d. Construction noise
- e. Power equipment
- f. Noise from community events and other outdoor functions

At this time, staff is asking for Council's input and comments on the proposed draft ordinance in preparation for a future ordinance submittal for approval and adoption.

Fiscal Impact

None at this time. Establishment of a noise ordinance will likely place additional code enforcement demands on staff time and will require the purchase of decibel readers to perform noise measurement readings in association with potential violations.

Public Contact

Posting of City Council agenda.

Recommendation

It is recommended that the Council discuss and provide comments on the proposed noise ordinance that has been developed. Based on Council direction, staff will prepare a final draft noise ordinance for review and adoption at a further meeting.

Alternatives

1. Modify scope of ordinance parameters.
2. Discontinue completion of this priority calendar item.

Attachments

- A. Draft Ordinance
- B. Staff Report (May 24, 2005)
- C. Meeting Minutes (May 24, 2005, excerpt)
- D. Staff Report (July 26, 2005)
- E. Meeting Minutes (July 26, 2005, excerpt)

Respectfully submitted,

Kirk Buckman
Code Enforcement Officer

Carlos de Melo
Community Development
Director

Jack R. Crist
Interim City Manager

Staff Contact

Kirk Buckman, Code Enforcement Officer
(650) 637-2968
kbuckman@belmont.gov

x.xx.010 Declaration of policy.

It is declared to be the policy of the city to protect the peace, health and safety of its citizens from unreasonable noises from all sources including, but not limited to, those specified in this chapter.

x.xx.020 Definitions.

The definitions set forth in this section shall govern its construction.

- (a) "A-Weighting" means a filter network designed to transform a frequency spectrum to that which is heard by the human ear.
- (b) "Construction activities" means the grading, demolition, alteration, repair or remodeling of existing structures and construction of new structures including the use of power equipment in connection with activities. "Construction activities" does not include radios or other forms of amplified music on a construction site.
- (c) "Daytime" means the period from 7 a.m. to 9 p.m., Monday through Friday; and 9 a.m. to 7 p.m., Saturday, Sunday and Holidays
- (d) "Decibel (dB)" means a unit for measuring the amplitude of sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.
- (e) "Delivery" means the delivery or pickup or the arrival for delivery or pickup of goods, wares and merchandise by the use of a motorized vehicle, other than an automobile or train.
- (f) "Equivalent-energy level (Leq)" means the level of a steady-state noise that has the same sound energy as a given time-varying noise.
- (g) "Holidays" means the follow days: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving, and Christmas Day.
- (h) "Impulsive sound" means sound of short duration, usually less than one (1) second, with an abrupt onset and rapid decay. Examples of impulsive sounds include explosions, drop impacts and firearm discharge.
- (i) "Motor vehicles" means any and all self-propelled vehicles as defined in the Vehicle Code of the state, including all on-highway types of vehicles subject to registration under said code and all off-highway type of motor vehicle subject to identification under said code.
- (j) "Multifamily dwelling" means any housing unit where two (2) or more dwellings are separated by a common wall, floor or ceiling, including but not limited to apartments, condominiums and townhouses.
- (k) "Nighttime" means the period outside the hours of "daytime" as herein defined.
- (l) "Noise disturbance" means any source of sound which exceeds the noise limitations permitted in Section x.xx.030 . For purposes of this section sources of sound shall include but not be limited to the following: amplified music, loudspeakers, radios, televisions, stereos, musical instruments, powered toys or models, swimming pools or spas, industrial machinery, manufacturing equipment, pile drivers, air compressors, paint sprayers, motors, pumps, blowers, air conditioners, cooling towers, ventilating fans, fork lifts, loaders, tractors, animals, concerts, mechanical equipment, human voices, electrical appliances, vacuum cleaners, powered equipment, chain saws, beepers, motor vehicles and attached equipment not operated on a street or highway, etc.
- (m) "Noise level" means the amplitude of sound pressure referenced to twenty (20) micropascals, measured in decibels, using the A-weighting network (for the purposes of this chapter).
- (n) "Noise level measurement" means the procedure of measuring sound consisting of the usage of a precision sound level meter (SLM), as defined in the section, set to "fast"

response. If the sound level meter is analog with a VU meter, then the response shall be “slow” unless the noise issue is impulsive. The meter must be calibrated before any measurements and the microphone shall be a minimum of three and one-half (3 1/2) feet from any wall, floor or other large sound reflecting surface. The meter shall be protected from wind or other extraneous noise by the use of screens, shields or other appropriate devices.

- (o) “Precision sound level meter” means a sound pressure level measuring instrument which conforms to the American National Standards Institute (ANSI) specification S1.4 for Type 1 or Type 2 measuring instruments.
- (p) “Powered equipment” means a motorized device powered by electricity or fuel used for construction, demolition and property or landscape maintenance or repairs. Powered equipment includes but is not limited to: lawn mowers, hedgers, parking lot sweepers, saws, sanders, motors, pumps, generators, blowers, wood chippers, vacuums, drills and nail guns.
- (q) “Residential property” means any property legally used for a single family or multifamily dwelling as defined in the Belmont Zoning Ordinance.
- (r) “Sound-amplifying equipment” means any machine or equipment or device for the amplification of the human voice, music or any other sound. Sound-amplifying equipment shall not be construed as including automobile radios (which are covered by the California Vehicle Code), warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used for traffic safety purposes.
- (s) “Work personally done by resident or property owner” means work undertaken by the property owner/resident. Resident/property owner may be assisted by a family member, friend or other persons.

x.xx.030 Noise limitations.

- (a) Except as otherwise permitted in this chapter, any source of sound in excess of the sound level limits set forth in Section x.xx.030 shall constitute a noise disturbance. For purposes of determining sound levels from any source of sound, sound level measurements shall be made at a point on the receiving property nearest where the sound source at issue generates the highest sound level. Sound level measurements shall be made with a precision sound level meter (Type 1 or 2) set to A-weighting, and “fast” response for fluctuating sound. Slow or fast response may be used for continual sources. For repetitive, impulsive sound, the one (1) second rms maximum level (Lmax) shall be used. For continuous sound, use the average level or Leq. In multifamily residential structures, the microphone shall be placed no closer than three and one-half (3 1/2) feet from the wall through which the source of sound at issue is transmitting. The microphone shall also be placed five (5) feet above the floor regardless of whether the source of sound at issue transmits through the floor, ceiling or wall.
 - (1) For all sources of sound measured from any residential property:
 - (a) “Nighttime” hours – 55 dBA
 - (b) “Daytime” hours – 65 dBA
 - (b) For all sources of sound within a multifamily residential structure transmitting through a common interior partition (wall, floor or ceiling) from one (1) dwelling unit to another:
 - (a) “Nighttime” hours – 35 dBA
 - (b) “Daytime” hours – 45 dBA
 - (c) For all sources of sound measured from any non-residential property
 - (a) “Nighttime” hours – 55 dBA
 - (b) “Daytime” hours -- 65 dBA

- (d) Corrections for character of sound: In the event the alleged offensive noise contains a steady, audible tone, such as a whine, screech, beating, pulsating, throbbing or hum the standards set forth in Section x.xx.030 (a)(1) and (2) shall be reduced by five (5) dB.
- (e) Any and all excessively annoying, loud or unusual noises or vibrations shall be considered a noise disturbance if such noise or noises:
 - (1) Offend the peace and quiet of persons of ordinary or reasonable sensibilities, or
 - (2) Interfere with the comfortable enjoyment of life or property
- (f) It shall be unlawful to create, permit, allow or maintain a noise disturbance in Belmont.

x.xx.040 Exceptions.

The following are exceptions to the noise limitations set forth in Section x.xx.030.

- (a) Construction Activities.
 - (1) Construction activities between the hours of 8 a.m. to 5 p.m., Monday through Friday; and 10 a.m. to 6 p.m. on Saturday. No construction related activities permitted on Sundays and Holidays.
 - (2) A sign, containing the permitted hours of construction activities exceeding the noise limits set forth in Section x.xx.030, shall be posted at all entrances to a construction site upon the commencement of construction, for the purpose of informing contractors and subcontractors and all other persons at the construction site of the basic requirements of this chapter. The sign shall be at least five (5) feet above ground level and shall consist of a white background with black letters,
 - (3) Notwithstanding any other provision set forth above, all powered equipment shall comply with the limits set forth in Section x.xx.040 (c)
- (b) Residential Property Maintenance
Work that does not require a building permit or other City approval, personally done by residents or property owners to maintain or improve their property during daytime hours.
- (c) Powered Equipment.
Powered equipment used on a temporary, occasional or infrequent basis operated between the hours of 8 a.m. to 5 p.m., Monday through Friday; and 10 a.m. to 6 p.m. on Saturday, Sunday and Holidays. No piece of equipment shall generate noise in excess of eighty-five (85) dBA at fifty (50) feet.
(This section applies to commercial establishments not regulated by a Conditional Use Permit or Zoning Ordinance Regulations)
- (d) Deliveries.
 - (1) Deliveries to food retailers and restaurants,
 - (2) Deliveries to other commercial and industrial businesses between the hours of seven (7) a.m. and six (6) p.m. Monday through Friday and between the hours of nine (9) a.m. to five (5) p.m. Saturdays, Sundays and holidays;
- (e) Street Sweeping/Parking Lot Sweeping. Street sweeping/parking lot sweeping Monday through Friday between the hours of 4 a.m. to 6 p.m., Monday through Friday.
- (f) Garbage Collection. Garbage collection Monday through Friday between the hours of 6 a.m. to 6 p.m., throughout the city.
- (g) Conditionally Permitted Activities. In the event that if the provisions of the new ordinance conflict with any provisions of our Muni ordinance, zoning code, or CUP, those provisions would control

x.xx.050 Exemptions.

The following noise disturbances shall be exempt from the noise limitations set forth in Section x.xx.030:

- (a) Sound Generated by Motor Vehicles. Sound generated by motor vehicles, trucks and buses, whether operated on streets and highways or private property, aircraft, trains, and other public transport.
 - (1) This exemption shall not apply to the operation of any vehicle including any equipment attached to any vehicle (such as attached refrigeration and/or heating units or any attached auxiliary equipment) for a period in excess of ten (10) minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion.
 - (2) This exemption shall not apply to vehicles equipped with sound amplifiers that are not exempt. No person shall operate or drive any vehicle or cause any vehicle to be operated or driven, or otherwise used, on any public street or private property, which vehicle is equipped with a sound amplifying device or other machine or device for the production or reproduction of sound, which causes sound to carry onto private property or causes sound to be heard by others using the public streets or thoroughfares which exceeds the noise levels established in Section x.xx.030;
- (b) Emergencies. Emergency repairs that deal with health or safety risk and emergency generators or powered equipment used during a power outage or other emergency;
- (c) Emergency Warning Devices. Emergency warning devices such as fire alarms, burglar alarms, warning devices on emergency vehicles and train horns. This exemption shall not apply to the sounding of any burglar or fire alarm or any motor vehicle burglar alarm, except for emergency purposes, unless such alarm is terminated within ten (10) minutes of activation and no more than two (2) false activations within a four (4) hour period;
- (d) City and State Projects. City and state construction work performed by the city and / or the state, their respective agents or contractors, for city and / or state maintenance, repair or construction projects which cannot be performed during the construction hours of Section xxx.040(a);
- (e) Special Events. Any event or use for which a special event permit has been issued by the city in accordance with Section xxx.060 that specifically allows noise levels to be exceeded;
- (f) Use Permits. Any use for which a use permit has been issued by the city that specifically allows noise levels to be exceeded;

x.xx.070 Time for compliance.

- (a) Nonresidential operations in existence prior to xx/xx/xx (effective date of ordinance), shall be granted a six (6) month period within which to comply with provisions of this chapter. Any facility not in compliance by the end of such six (6) month period may apply for a temporary permit, as described in Section x.xx.060 (a) to be excluded from the provisions of this chapter. This section shall apply only to nonresidential facilities already in existence or for which work or improvement had commenced prior to the date this chapter went into effect.
- (b) Except as provided in subsection (a) of this section, all other operations in existence prior to the date this chapter went into effect shall have three (3) months to comply with the provisions of this chapter or apply for a temporary permit for additional time to comply

x.xx.080 Administration.

The provisions of this chapter shall be administered by the Chief of Police and his or her authorized representatives, except where expressly provided otherwise. All other officers and employees of the city shall assist and cooperate in the administration and enforcement of this chapter.

x.xx.090 Violations.

First time violators will be warned and subsequent violations of the provisions of this chapter shall be guilty of an infraction and shall be punished as provided in Chapter xxx.xx.xx (Infractions)