

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF BELMONT AMENDING CHAPTER 15,
ARTICLE VIII OF THE MUNICIPAL CODE REGARDING NOISE CONTROL

WHEREAS, on July 26, 2005, the City Council provided direction to staff to create a noise subcommittee to evaluate and propose changes the noise ordinance for the City of Belmont; and,

WHEREAS, on February 14, 2006, March 14, 2006, , April 11, 2006, May 9, 2006 and June 27, 2006 the City Council conducted public hearings and provided direction to the Noise Ordinance Subcommittee after considering public testimony and staff reports on the aforementioned amendments; and,

WHEREAS, on July 11, 2006, The City Council following notification in the prescribed manner, conducted a public hearing, at which hearing the Council considered public testimony and a staff report for the aforementioned amendments; and,

WHEREAS, the City Council did hear and use their independent judgment and considered all said reports, the recommendations and testimony herein above set forth.

SECTION 1: NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Belmont that Chapter 15, Article VIII (Noise Control) of the Belmont Municipal Code is hereby amended as follows:

**Chapter 15
Article VIII
Noise Control**

15-100 Declaration of policy

In accordance with adopted goals and policies of the general plan which call for "a noise environment that maintains a healthy living environment; fosters relaxation and recreation; is conducive to the work environment; and provides pleasant living conditions," 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.

15-101 Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

- (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, remodeling or other improvements of existing or new structures, or property

which require any City permit, and the use of powered equipment in connection with such activities.

- (c) “Daytime” means the period from 8 a.m. to sunset, Monday through Friday; and 10 a.m. to sunset, 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) “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.
- (j) “Nighttime” means the period outside the hours of “daytime” as herein defined.
- (k) “Noise disturbance” means any source of sound which exceeds the noise limitations permitted in Section 15-102. 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, concerts, mechanical equipment, human voices, electrical appliances, vacuum cleaners, powered equipment, chain saws, beepers, motor vehicles, carpet cleaning vehicles, and attached equipment not operated on a street or highway, etc.
- (l) “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).
- (m) “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.

- (n) “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.
- (o) “Powered equipment” means a motorized device (other than a motor vehicle) powered by electricity, batteries or fuel. Powered equipment includes but is not limited to: lawn mowers, hedgers, parking lot sweepers, carpet cleaning vehicles, saws, sanders, motors, pumps, generators, blowers, wood chippers, vacuums, drills and nail guns.
- (p) “Residential property” means any property legally used for a single family or multifamily dwelling as defined in the Belmont Zoning Ordinance.

15-102 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 15-102 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 15-102(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) Construction activities are subject to the following regulations:
 - (1) *Construction activity noise.* All construction and related activities, which require a city permit, including the use of powered equipment in connection with such activities, shall be allowed only during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. Saturdays. No construction activity or related activities shall be allowed outside of the aforementioned hours or on Sundays and Holidays. All gasoline-powered construction equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
 - (g) *Powered equipment noise.* Powered equipment used for non-construction activities, shall be allowed only during daytime hours. No powered equipment shall be allowed outside of the aforementioned hours. All gasoline-powered equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
 - (h) It shall be unlawful to create, permit, allow or maintain a noise disturbance in Belmont.

15-103 Exceptions

The following are exceptions to the noise limitations set forth in Section 15-102.

- (a) Residential Property Maintenance
 - (1) Residential property maintenance that does not involve construction activities as defined in Section 15-102(f) or the use of powered equipment as defined in Section 15-102(g), personally done by residents or property owners to maintain or improve their property, may occur between the hours of 8 a.m. to 9 p.m. Monday through Friday and between the hours of 9 a.m. to 9 p.m. Saturday, Sunday and Holidays.
- (b) 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.
 - Businesses (as described in section (1) and (2) above) with an active Conditional Use Permit (CUP) which regulate hours of operation must adhere to the approved hours as specified in the CUP.*
- (c) Street Sweeping
 - (1) Street sweeping is allowed Monday through Friday between the hours of 5 a.m. to 6 p.m.
- (d) Parking Lot Sweeping
 - (1) Parking lot sweeping is allowed Monday through Friday between the hours of 7 a.m. to 6 p.m.
- (e) Garbage Collection.
 - (1) Garbage collection times are governed by the City's franchise agreement.
- (f) Conditionally Permitted Activities.

- (1) In the event that the provisions of this ordinance conflict with any provisions of the Belmont Municipal Code, Belmont Zoning Ordinance, or a valid Conditional Use Permit, those provisions would control.
- (g) Special Events.
 - (1) Any event or use for which a special event permit has been issued by the city that specifically allows noise levels to be exceeded.
- (h) The following activities are not subject to the regulations of this chapter:
 - a. Emergency construction, emergency clean-up, and emergency maintenance activities approved by a city department.
 - b. Capital improvement projects if the city council, at the time of advertising for bids, allows for a construction schedule which would provide for work outside the hours authorized by this article.
 - c. The City may respond to emergencies as an appropriate exercise of the police power to protect health, safety and welfare of the citizens and property in the city. The city will, if timing allows, provide notice to properties immediately adjacent to the emergency prior to commencement of this work.

15-104 Time for compliance

- (a) Commercial or industrial uses in existence prior to August 24, 2006 that require mechanical equipment upgrades or changes to comply with this chapter, 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 to be excluded from the provisions of this chapter. Staff may grant the permit upon finding that diligent efforts are being made to comply and a firm date that full compliance is provided.
- (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

15-105 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.

15-106 Violations

Violations of this chapter shall be considered a public nuisance. Violations may be enforced by any civil, administrative or criminal remedies, including but not limited to the provisions of the Belmont Municipal Code Section 1-8 and Chapter 30.

SECTION 2: SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 3: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 4: The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

INTRODUCED this _____ day of _____, 2006.

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PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the _____ day of, 2006.

AYES,COUNCIL MEMBERS: _____

NOES,COUNCIL MEMBERS: _____

ABSTAIN,COUNCIL MEMBERS: _____

ABSENT,COUNCIL MEMBERS: _____

RECUSED,COUNCIL MEMBERS: _____

MAYOR of the City of Belmont

ATTEST:

CLERK of the City of Belmont