



## MAYOR AND COUNCIL COMMUNICATION

DATE: 12/20/2016

**REGULAR**

ITEM #: 29

**AGENDA ITEM:** Noise Ordinance Amendment  
**SUBMITTED BY:** Emily Becker, City Planner  
**THROUGH:** Kristina Handt, City Administrator  
**REVIEWED BY:** Stephen Wensman, Planning Director

---

### **BACKGROUND:**

The Planning Commission held a public hearing and made recommendation on an amendment to the City's Noise Ordinance in April of 2016. The amendment was requested by the City Engineer, who suggested that extending working hours similarly to other cities may allow for more competitive pricing on City projects and allow more timely completion of projects to minimize disruption to Lake Elmo properties. The recommended amendment amended the following in the City's Noise Ordinance as it pertains to construction activity:

- Further clarified construction activity that was prohibited.
- Added exemptions from the prohibition of construction activity, including snow removal activity, parking lot maintenance or sweeping, and work on public infrastructure projects.
- Clarified that the City Administrator was able to grant certain exemptions for activity that is of urgent necessity and in the interest of public health and safety.
- Removed language that allowed a special permit to be granted for economic loss and replaced with a provision that allows the City Administrator to grant permission to allow construction during outlined times. There was also a change that restricts construction occurring during specially-allowed hours to at least 1000 feet away from any dwelling (previously 600 feet).

Staff tabled the issue and did not bring the ordinance amendment to Council in order to give the amendment a more in-depth review and gain more input from the City Attorney. The Builders Association of the Twin Cities also weighed in on the proposed amendment, expressing concern about arbitrarily restricting private construction projects and exempting public projects; there being lack of evidence of a problem; and noise thresholds. Staff would like to bring forth a further look at the ordinance for the following reasons:

- The City Administrator is often asked for permission to allow construction on Saturdays 8:00am or 9:00 am to 3:30pm or extended hours until 7:00pm on weekdays. These requests are almost always granted, and so Staff feels that this standard should be given another thought. Only one complaint has been received by Staff from an Oakdale resident by granting permission for these extended hours. Additionally, amending the ordinance will save Staff time by not having to write approval letters each time a request is made.

- To add clarification to the Construction subdivision of the Noise Ordinance, taking in to consideration feedback received from the City Engineer, Planning Commission and Builders Association of the Twin Cities.

### **ISSUE BEFORE COUNCIL:**

Staff respectfully requests the Council to consider the proposed Noise Ordinance amendment.

### **PROPOSAL DETAILS/ANALYSIS:**

The revised, proposed ordinance amends the following:

- The table in Section 130.46: Measurement of Noise is repealed and replaced with standards set forth by Minn. Administrative Rules Ch. 7030. These standards are below\*, \*\*:

Noise Area Classification	Daytime		Nighttime	
	L <sub>50</sub>	L <sub>10</sub>	L <sub>50</sub>	L <sub>10</sub>
1 (Residential housing, religious activities, camping and picnicking areas, health services, hotels, educational services.)	60	65	50	55
2 (Retail, business and government services, recreational activities, transit passenger terminals.)	65	70	65	70
3 (Manufacturing, fairgrounds and amusement parks, agricultural and forestry activities.)	75	80	75	80

Nighttime is defined as the hours between 10:00 p.m. and 7:00 a.m. and Daytime is defined as the hours between 7:00 a.m. and 10:00 p.m. The “L” measurements in the table signify the time during a one-hour period of monitoring that decibel level can occur; L<sub>10</sub>=10% of that time (6 minutes) and L<sub>50</sub>=50% of that time (30 minutes).

\* There is a land use classification 4: Undeveloped and unused land, water areas, under construction. These land use activities are not regulated in the table above.

\*\* Noise Emission Reference Levels and Usage Factors is attached, giving examples of noise producers at various decibel levels.

- Saturday construction 9:00 a.m. – 3:30 p.m. is allowed.
  - This allows time for residents to comfortably sleep in and be quiet in time for dinner on Saturdays.
  - The City Administrator has communicated that requests for this are almost always granted (from 8:00 a.m. or 9:00 a.m. to 3:30 p.m.), so this provision eliminates the time the Administrator must review and approve these requests.
  - 9:00 a.m. to 3:30 p.m. is still as or more restrictive than other cities.

- This would help allow for more competitive pricing on City projects and allow more timely completion of projects to minimize disruption to Lake Elmo properties. It does not limit these extended hours to City projects so as to not be viewed as arbitrary.
- Construction hours are extended from 6:00 p.m. to 7:00 p.m.
- The ordinance still allows the City Administrator to grant written permission for construction activity to occur when he/she finds that the activity is of urgent necessity and in the interest of public health and safety. This seems to be a common standard in other City ordinances.
- The ordinance no longer states that permission may be granted for construction during specific extended hours. It does still allow construction noise of up to 95 decibels to take place during any hour of any day if the construction takes place no less than 1200 feet from any dwelling. Noise of this decibel level will dissipate to ambient levels at 1200 feet from the noise source.

**FISCAL IMPACT:**

Allowing extended working hours may allow for more competitive pricing on City projects and allow more timely completion of projects to minimize disruption to Lake Elmo properties.

**OPTIONS:**

The Council may:

- Approve the ordinance amendment as presented.
- Amend the ordinance amendment and approve as amended.
- Deny the ordinance amendment.

**RECOMMENDATION:**

Staff recommends that the Council approve the ordinance amendment as presented.

***“Move to approve Ordinance 08-\_\_ amending Chapter 130: Noise Control.”***

If approved, the Council may adopt Resolution 2016- , approving summary publication of Ord. 08-.

***“Move to adopt Resolution 2016- , approving summary publication of Ord. 08- “***

**ATTACHMENTS:**

- Ord 08- amending Chapter 130: Noise Control
- Resolution 2016- Summary Publication of Ord 08-
- Ord 08- amendment to Chapter 130: Noise Control, as recommended by the Planning Commission
- Other Cities Noise Ordinance Comparison Table
- Summary of Construction Noise Approval Letters
- Noise Level Chart
- Estimating Sound Levels Diagram