



STAFF REPORT

DATE: 3/14/2017

REGULAR

ITEM #:

TO: City Council
FROM: Emily Becker, City Planner
AGENDA ITEM: Noise Control Ordinance
REVIEWED BY: Stephen Wensman, Planning Director
Kristina Handt, City Administrator
Councilmember Bloyer

BACKGROUND:

Reason for Ordinance Amendment. Staff had previously proposed to the Council an amendment to the City's Noise Control Ordinance on December 20, 2016. This ordinance amendment was requested for the following reasons:

- *To Allow for Competitive Pricing and Timely Completion of City Projects.* The City Engineer 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.
- *Multiple Permits Issued.* 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.

Feedback Received on Previously Proposed Ordinance Amendment. Prior to bringing the Noise Control Ordinance amendment to Council, a public hearing was held at a Planning Commission meeting. The following comments arose from this public hearing:

- *From the Planning Commission.* The Planning Commission was only comfortable with the following revisions to the City's current ordinance:
 - *Some Extended Hours.* Extending the hours of construction operation from 6pm to 7pm on weekdays.
 - *Exemptions from Prohibition of Construction Activity.* Adding exemptions from the prohibition of construction activity, including snow removal activity, parking lot maintenance or sweeping, and work on public infrastructure projects.
 - Clarifying that the City Administrator is able to grant certain exemptions for activity that is of urgent necessity and in the interest of public health and safety.
 - Removing language that allows a special permit to be granted for economic loss and replacing this 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).
- *From the Builders Association of the Twin Cities (BATC).* BATC provided feedback on the ordinance after the public hearing was held on the ordinance amendment, expressing concern

about arbitrarily restricting private construction projects and exempting public projects; there being lack of evidence of a problem; and noise thresholds.

City Council Decision on Proposed Noise Ordinance. The Council did not ultimately approve the proposed Noise Control Ordinance Amendment. The ordinance amendment was not approved by a vote of 2-2-1.

Amendment Still Needed. Feedback after the meeting indicated that an amendment to the ordinance is still needed, as the ordinance is rather strict and only exempts construction activity and outdoor implements.

ISSUE BEFORE COUNCIL:

What changes should be made to the City’s Noise Control Ordinance?

PROPOSAL DETAILS/ANALYSIS:

Staff has provided the Council with the City’s Noise Control Ordinance along with other City Noise Ordinance examples. Staff would like the Council to provide guidance on the following:

Measurement of Noise. In the previously-proposed ordinance amendment, Staff proposed replacing the following table with the table in Section 130.46: Measurement of Noise. The table below outlines standards set forth by Minn. Administrative Rules Ch. 7030 *,**.

Noise Area Classification	Daytime		Nighttime	
	L ₅₀	L ₁₀	L ₅₀	L ₁₀
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; L10=10% of that time (6 minutes) and L50=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.

- *Analysis.* These standards are set forth by Minn. Administrative Rules. It may be redundant to include them in the Code, but may offer clarification to residents who are referencing City Code for noise regulations. Some cities alternatively list out prohibited activities (noisy assemblies, loud music, discharging of exhaust with no muffler, etc.) rather than included this table.
- *Feedback Requested.* Does the Council wish to include this table within the City's Noise Control Ordinance?

Construction Equipment. The current City Noise Control Ordinance exempts certain construction activity from the noise level standards outlined in the table of Section 130.46.

- *Limited Hours.* This exempted construction activity is limited, however, to weekday hours of 7:00am to 6:00pm.
 - *Analysis.* The attached comparison table comparing Lake Elmo's Noise Control Ordinance to those of other cities shows that Lake Elmo has one of the more limited timeframes during which construction activity is allowed. Construction activity will undoubtedly exceed noise level standards and should be listed as an exemption in the City's Noise Control ordinance. The Council should determine what hours during which the exemption is appropriate.
 - *Feedback Requested.* Does the Council wish to extend the hours allowed for construction equipment? Should weekends or at least Saturday construction be allowed?
- *Maximum Noise Level.* Construction equipment must not produce noise exceeding 100 decibels measured along any property line. Internal combustion engines or any other power unit shall not exceed 83 decibels along any property line.
 - *Analysis.* 100 decibels along the property line is appropriate for maximum noise level allowed for the operation of construction equipment. This is the sound of a handheld drill being operated.
 - *Feedback Requested.* Is the Council amenable to keeping this current provision?
- *Equipment must be used for construction.*
 - *Analysis.* This does not allow a resident to operate a piece of construction equipment for a purpose other than construction.
 - *Feedback Requested.* Is the Council amenable to keeping this current provision?
- *Emergency Situation.* The current ordinance allows special permits to be granted in the event of an emergency situation. Such permits may be granted during any hour of any day, not to exceed 3 days, and may be renewed while the emergency continues.
 - *Analysis.* Emergency situation is not defined, nor does the ordinance outline who determines what is considered an emergency situation.
 - *Feedback Requested.* Does the Council wish to allow permits to be granted in the case of emergency situations? Should the ordinance more clearly define emergency situation and who determines what an emergency situation is?
- *Substantial Economic Loss.* Currently, the ordinance allows a special permit to be granted for the operation of equipment which extends the allowed construction hours to 9:30pm on weekdays and permits construction on weekends from 1:00pm to 5:00pm, provided the construction equipment is operated 600 feet or more from any dwellings. Any hour of any day is allowed for construction equipment operated 1200 feet or more from any dwellings.
 - *Analysis.* Substantial economic loss is not defined, nor should it be a valid reason for granting such a permit.

- *Feedback Requested.* Does the Council wish to remove this provision from the ordinance? Should equipment that is being operated far enough away from dwellings be allowed to be operated at any hour of any day?

Outdoor Implements. Implements designed for outdoor use (power lawn mower, snowblower, power hedge clipper, power saw, etc), if exceeding maximum allowable sound levels, can be operated between the hours of 7:30am to 9:00pm on weekdays and 9:00am to 9:30pm every other day. If such implements do not exceed maximum allowable sound levels, they may be operated at any time.

- *Analysis.* Outdoor implements, like construction equipment, will almost certainly exceed the maximum allowable sound levels. This exemption should be listed in this ordinance.
- *Feedback Requested.* Does the Council wish to amend anything in this section of the ordinance?

Additional Exemptions. The current Noise Control Ordinance does not list any other exemptions to the maximum allowable noise levels.

- *Analysis.* Other cities exempt additional activities from maximum allowable noise levels (church bells, school bells, city-sponsored activities, emergency vehicles, etc.
- *Feedback Requested.* Does the Council wish to add additional exemptions to the maximum allowable noise levels?

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.

ATTACHMENTS:

- Current City Noise Control Ordinance
- Previously-proposed Noise Control Ordinance Amendment
- Comparison table
- Other City Noise Ordinance examples
- Noise Level Chart
- Estimating Sound Levels Diagram