



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of City Council

FROM: Bill Peake and Robert Huitt, Council Members

MEETING DATE: August 17, 2016

SUBJECT: Amend Municipal Code Chapter 11.96 to Enact Construction Noise Time Limits

CEQA STATUS: This action is not a project under section 15378 (b),(2) of the CEQA Guidelines, set forth in California Administrative Code, Title 14, Section 15000, et seq.

RECOMMENDATION

Receive report, hold a public hearing and introduce the first reading of an ordinance addressing construction noise time limits, and direct that a summary of a proposed ordinance be published as approved by the City Attorney.

SUMMARY

The proposed ordinance limits noise-generating construction to 7:00 a.m. to 6:00 p.m. from Monday through Friday, 8:00 a.m. to 6:00 p.m. on Saturday, and 10:00 a.m. to 5:00 p.m. on Sunday. This limitation applies regardless if a permit is required or not.

Noise-generating construction activities means all activities associated with construction, alteration, remodeling, demolition or repair that generate persistent or repeated mechanical or percussive sounds that are clearly audible outside the boundaries of the property where the sound is generated.

Provisions are made for exceptions, appeals and enforcement.

DISCUSSION

This action is in response to a request for the City to establish allowable construction hours, so that excessive noise created by construction would not disturb neighbors at unreasonable hours. It is also recognized that future construction projects both large and small which are adjacent to residential neighborhoods have the potential to disrupt quiet.

The desire for quiet residential neighborhoods is well established in the General Plan Chapter 10.14. Goal 7 states: 'Protect Pacific Grove residents from the harmful effects of excessive noise.' Policy 28 states: 'Review possible noise-producing uses and mitigate as necessary.'

Currently the municipal code is silent on the issue of construction hours and thus code enforcement on noisy nighttime construction activities is problematic. This ordinance would fill that gap by establishing city-wide standards.

Other peninsula cities explicitly state allowable construction hours in their municipal codes; see attached Monterey and Carmel municipal codes.

Allowable hours would be made a condition of building permits, however, allowable hours would apply to all construction noise regardless if a permit is required or not.

Provision for exceptions and their appeal are included in the ordinance.

OPTIONS

1. Provide direction on modifications to the draft ordinance
2. Do nothing

FISCAL IMPACT

Cost incurred to amend and enforce the ordinance would be minimal.

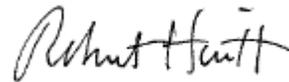
ATTACHMENTS

1. Monterey and Carmel municipal codes
2. Ordinance

RESPECTFULLY SUBMITTED:



Bill Peake, Council Member



Robert Huitt, Council Member

MONTEREY MUNICIPAL CODE

38-112.2 Limitation on Construction Hours (Ord. 3374; 9/2006)

A. Construction Hours: The hours for all construction, alteration, remodeling, demolition and repair activities which are authorized by a valid City Building Permit, as well as the delivery and removal of materials and equipment associated with these activities, are limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday, 8:00 a.m. to 6:00 p.m. Saturday and 10:00 a.m. to 5:00 p.m. Sunday.

B. Exceptions: A permit to allow an exception to these hours may be issued by the Zoning Administrator following Notice and Public Hearing, in accord with Monterey City Code section 38-159 et seq. Requests for exceptions must show that compliance with the hour limitations would be impractical and that the exception is necessary to accommodate unique factors specific to the property. The exception shall be for a limited duration, and may be conditioned to require renewal after a period of three months.

C. Exceptions for Oversized Vehicle Deliveries: Oversized vehicles with a valid City of Monterey Transportation Permit that are allowed by the transportation permit conditions to travel at night are exempt from the limitation on construction hours. Oversized vehicle deliveries are authorized for delivery only and are subject to all of the provisions of the transportation permit. No construction activities are permitted with the oversized delivery.

D. Appeals: Decisions of the Zoning Administrator may be appealed by any person, in accord with Monterey City Code section 38-203 et seq.

E. Notice of Construction Hours: The limitations on construction hours shall be noted on the City Building Permit and approved building plans.

CARMEL MUNICIPAL CODE

15.08.180 Hours of Construction.

For projects requiring a building permit, the permitted hours of construction shall be from 8:00 a.m. to 6:30 p.m. Monday through Saturday, unless other specified hours are approved or required by the Building Official or the Director of the Department of Community Planning and Building. These hours apply in all land use districts. For the purpose of this section, the term "hours of construction" is defined as all times when builders, contractors, work crews or other persons associated with the project are present on the property and engaged in any Class B noise activities related to or including construction. (Ord. 2006-02 § 1, 2006; Ord. 89-29 § 1, 1989).

ORDINANCE NO. 16 – _____

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE TO
ENACT CONSTRUCTION NOISE TIME LIMITS BY MODIFYING
MUNICIPAL CODE CHAPTER 11.96**

WHEREAS, in 1995, the City of Pacific Grove (City) determined regulation of noise was necessary and enacted Pacific Grove Municipal Code (PGMC) Chapter 11.96; and

WHEREAS, the City has many residential neighborhoods where residents value peace and quiet; and

WHEREAS, the City desires to protect residents from the harmful effects of excessive noise; and

WHEREAS, construction, alteration, remodeling, demolition and repair activities are inherently noisy and can affect adjacent neighbors; and

WHEREAS, this action is not a project under section 15378 (b),(2) of the CEQA Guidelines, set forth in California Administrative Code, Title 14, Section 15000, et seq.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. Chapter 11.96 of the Pacific Grove Municipal Code shall be modified as shown in Section 3 of this ordinance.

SECTION 3. The text set forth in this section shall be added as a new section 11.96.040 of the Pacific Grove Municipal Code, entitled "Construction Noise Time Limits," as follows:

11.96.040 Construction Noise Time Limits

(a) Purpose. The purpose of this section is to protect neighbors and the community from excessive noise caused by construction activities while not unduly restricting lawful construction, by establishing specific hours when construction noise is not allowed.

(b) Time Limits. All noise-generating construction activities, as well as delivery and removal of materials and equipment associated with those construction activities, are limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, 8:00 a.m. to 6:00 p.m. on Saturday, and 10:00 a.m. to 5:00 p.m. on Sunday.

(c) Notice of Construction Hours: Limits on construction hours shall be noted on the City Building Permit and approved building plans.

(d) Definition. Noise-generating construction activities means all activities associated with construction, alteration, remodeling, demolition or repair that generate persistent or repeated mechanical or percussive sounds that are clearly audible outside the boundaries of the property where the sound is generated.

(e) Exception. A permit to allow an exception to these time limitations may be issued by the Zoning Administrator or designee if it is found that the exception is warranted by unique and overriding circumstances, is in furtherance of the purpose of this section, and is of short duration. Each permit shall be for a limited term, and shall be conditioned to require renewal after that term. Before issuing a permit under this section the city shall post and mail notice of the proposed permit to neighbors within 300 feet of the construction site. Notice shall include a statement of the proposed construction time limits, duration of the exception and the process by which the permit may be appealed.

(f) Appeals. Decisions of the Zoning Administrator to allow an exception pursuant to this section may be appealed to the Planning Commission by any person, in accord with Pacific Grove Municipal Code Chapter 23.74.

(g) Enforcement. A violation of this section shall be an infraction, and may be enforced pursuant to PGMC Chapters 1.16 or 1.19.

SECTION 4. Implementation Actions.

The City Manager and City Clerk are directed to execute all documents and to perform all other necessary City acts to implement this ordinance.

SECTION 5. Effective Date.

In accord with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following passage and adoption hereof.

SECTION 6. Severability.

If any provision, section, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutionally by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
this ____ day of _____, 2016 by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney