

Noise and Hours of Operation

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Context:

- In light of recent complaints regarding noise generated by several outdoor businesses located on State Highway 5 (McDonald Street), the Mayor and Mayor Pro Tem requested that Staff evaluate the City's current regulations.
- The outdoor businesses generating the most recent and noteworthy complaints are permanent, concrete batch plant facilities with direct adjacency to residential zoning districts.
- Multiple sections of the Code of Ordinances currently address types of noise generated during specific times of day:
 - Section 70-120 (Specific Noise Disturbance Prohibited)
 - Section 146-134(8) (Construction Hours)
- The average business's hours of operation are not specifically regulated by the City.

Section 146-134(1) includes, in part:

- **Allowable decibel ranges for sounds/noises are established.**
- **Exemptions from noise regulations established for specific uses:**
 - Noises not under the property user's control
 - Construction noise during the daytime (6 a.m. to 9 p.m.)
 - Noise from sirens, warning devices, etc.
 - Transient noise from vehicles
- **Allowable construction hours are specified:**
 - Mon – Fri: 6 a.m. to 9 p.m.
 - Sat: 8 a.m. to 5 p.m.
 - Sun: 1 p.m. to 5 p.m.

Section 70-120(b) includes, in part:

- **Noise disturbances are prohibited in quiet zones.**
 - These regulations are subjective and difficult to enforce (other than noise disturbances per se) and should be revisited with future comprehensive ordinance amendments.
- ***Quiet zones* generally mean an area within 500 feet of a residential district or any hospital, school, or other noise-sensitive land use.**
- **Construction and maintenance work is not permitted between 9 p.m. and 6 a.m. in a quiet zone.**
 - Variances to pour concrete between 9 p.m. and 6 a.m. may be permitted.
- **Power equipment may not be used in quiet zones between 10 p.m. and 7 a.m.**
 - **Staff will begin actively enforcing this provision on Aug. 1 however, it could be modified to be more specific.**

Section 70-120(b)(7) currently states:

Specific noise disturbances prohibited: Power Equipment. Operating or permitting to be operated any power equipment (as defined herein and excluding construction equipment which is specifically regulated above) within a residential district or quiet zone, or within 500 feet of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 10:00 p.m. and 7:00 a.m.

- **Noise Disturbance** means any sound which annoys or disturbs, or which causes or tends to cause an adverse psychological or physiological effect upon, the sensibilities of a reasonable, prudent, adult person; and unreasonably loud or disturbing noise which renders the enjoyment of life or property uncomfortable or interferes with public peace and comfort.
- **Noise Disturbance per se** means not requiring extraneous evidence or support to establish the existence of a noise disturbance.
- **Power Equipment** means any motorized electric or fuel powered equipment, including, but not limited to, tractors, lawnmowers, and other similar device or equipment.
- **Quiet Zone** means any territory adjacent to or within a distance of 500 feet from the nearest property line of (1) any residential district or (2) any real property on which a school, college, hospital, clinic, library or other noise-sensitive facility is situated.

Section 70-120(b)(7) COULD state:

Specific noise disturbances prohibited: Power Equipment. Operating or permitting to be operated any power equipment (as defined herein and excluding construction equipment which is specifically regulated above) which is not wholly contained within a building (as defined in Section 146-46) within a residential district or quiet zone, or within 1,000 ~~500~~ feet of any residence or quiet zone, in such a manner as to cause a noise disturbance. Furthermore, any such activity shall create a noise disturbance per se if conducted between the hours of 10:00 p.m. and 7:00 a.m.

- **Noise Disturbance** means any sound which annoys or disturbs, or which causes or tends to cause an adverse psychological or physiological effect upon, the sensibilities of a reasonable, prudent, adult person; and unreasonably loud or disturbing noise which renders the enjoyment of life or property uncomfortable or interferes with public peace and comfort.
- **Noise Disturbance per se** means not requiring extraneous evidence or support to establish the existence of a noise disturbance.
- **Power Equipment** means any motorized or mechanical electric, hydraulic or fuel powered equipment, including, but not limited to equipment which is free standing or mounted or attached to a vehicle. ~~tractors, lawnmowers, and other similar device or equipment.~~
- **Quiet Zone** means any territory adjacent to or within a distance of 1,000 ~~500~~ feet from the nearest property line of (1) any residential district or (2) any real property on which a school, college, hospital, clinic, library or other noise-sensitive facility is situated.
- **Building** means any structure built for the support, shelter, and enclosure of persons, animals, chattel or moveable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Summary of Possible Amendments:

- **Would increase the size of the quiet zone from 500' to 1,000'.**
 - **Pro:** Would increase the area protecting residential uses from the use loud power equipment outdoors between 10 p.m. and 7 a.m.
 - **Con:** Would not impact the subjectivity of “noise disturbances” thereby not improving overall enforcement capabilities.

- **Would allow for power equipment to be used indoors but not allow the use of power equipment outside of buildings between 10 p.m. and 7 a.m.**
 - **Pro:** Does not materially change the current regulations but does add clarity for businesses and residents who use power equipment inside a building.
 - **Con:** Would not impact the subjectivity of “noise disturbances” thereby not aiding in enforcement between 7 a.m. and 10 p.m.

Staff would recommend that the all of the City's noise regulations be revisited in the future as part of a comprehensive update of the development regulations.

Discussion/Questions?

