



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Mayor Laurel Lunt Prussing

FROM: Elizabeth H. Tyler, FAICP, Director

DATE: May 2, 2013

SUBJECT: Amendment to Chapter 16 of the Urbana Code of Ordinances (Noise and Vibrations)

Discussion

At the April 22, 2013 meeting of the Urbana City Council Committee of the Whole, staff presented proposed changes to Chapter 16 of the Code of Ordinances (Noise and Vibrations). The proposed changes are primarily intended to address industrial and commercial noise by providing enforceable and fair standards which can be effectively administered by City staff. At that meeting Council voted to forward the proposed changes for adoption. At the meeting, the Mayor and some City Council members asked for further information on particular concerns regarding certain aspects of the proposed ordinance. Following are answers to some of those questions. Staff is also proposing a slight modification to the proposed language in order to address a concern regarding air conditioner noise.

The Mayor asked when was the last time we raised the fine for noise violations. According to the Finance Department the fines for noise violations increased in December, 2009. The fine amount for a motor vehicle noise violation was previously \$135.00. It is now \$165.00. The fine amount for a domestic noise violation, such as a house party, was previously \$200.00. The fine amount is now \$215.00.

Regarding helicopter noise, the Federal Aviation Administration (FAA) regulates all aspects of air traffic. However, FAA regulations primarily pertain to safety. There is a 2004 FAA report on helicopter noise that primarily deals with sight-seeing and heli-taxi services. The report recommends law enforcement and emergency medical helicopter uses should be exempt from air traffic control procedures that would impose operational limitations. There is also a 2004 FAA advisory that asks for helicopter operators to voluntarily maintain a 2,000 foot altitude above sensitive areas such as residences and to avoid prolonged takeoffs and landings near those areas. Staff could not find any city ordinances that regulate helicopter noise.

There was also a question regarding why vehicle idling is only prohibited on private property within 150 feet of a residence. Staff researched anti-idling ordinances from states and other cities. The state of Illinois has a law that prohibits drivers from leaving a vehicle running while unattended. Many

other states have anti-idling laws, most of which place a time limit on idling for trucks and buses. Some states and cities have more general laws that prohibit idling of any vehicle, with exceptions for extremely cold or hot weather. A compilation of such laws can be found on the EPA's web site at <http://epamap10.epa.gov/website/StateIdlingLaws.pdf>.

Very few of these anti-idling ordinances are framed as an attempt to limit noise pollution, and most of those that mention noise only list noise as one of the reasons for the anti-idling ordinance. Other reasons given for preventing idling are safety and tailpipe emissions. Most anti-idling ordinances are stand-alone ordinances or part of the traffic code. Staff recommends that the City maintain the current anti-idling language in the noise ordinance at this time, but to study the issue further to see if a stand-alone ordinance would be more appropriate.

In addition to Council's questions, staff has identified an issue of concern in the proposed noise ordinance. Normally functioning air conditioners emit 55-60 decibels, which exceeds the proposed 55 decibel nighttime limit for mechanical stationary sources. Air conditioning units are not allowed to encroach into the required side yard, but may be five feet from the property line in most cases for residential lots. Air conditioner noise is a common ambient noise that urban residents generally tolerate, although the City occasionally receives complaints about excessively loud or malfunctioning units. In order to ensure new regulations do not cause an undue burden on the public, staff is proposing to add the following exception to the definition of Mechanical Stationary Noise in the proposed ordinance:

“Mechanical Stationary Noise” shall mean any Noise caused or produced by mechanical motion, including but not limited to harmonic, periodic, vibrational, oscillating, rolling, or rotary motion. For the purposes of this definition, the term shall not include construction or maintenance-related noise prohibited by Section 16-7 or noise from a properly maintained and functioning residential heating and/or cooling mechanical system.

Recommendation

At the City Council Committee of the Whole meeting on April 22, 2013, the Committee voted to forward the original proposed ordinance changes to City Council with a recommendation for approval. Staff recommends that City Council adopt the revised attached ordinance, which has slightly modified language to ensure limits on mechanical stationary noise do not cause an undue burden on homes with air conditioners.

Attachments:

Exhibit A: Proposed Noise Ordinance

ORDINANCE NO. 2013-04-036

An Ordinance Amending Chapter 16 of the Urbana City Code (Noise Ordinance)

WHEREAS, the City of Urbana, Illinois, is a home-rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

WHEREAS, the Urbana City Code has periodically been recodified and republished by the City of Urbana to incorporate the numerous amendments; and

WHEREAS, the Urbana City Council has adopted a goal directing staff to "develop and enact an industrial noise ordinance that limits noise generated after normal business hours from industries and commercial businesses"; and

WHEREAS, the Urbana Zoning Administrator proposes to enact an amendment to Chapter 16 of the Urbana City Code in order to improve quality of life and to make noise standards easier to enforce; and

WHEREAS, after due and proper consideration, the Urbana City Council has deemed it to be in the best interest of the City of Urbana to amend the text of the Urbana City Code as described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, that Chapter 16 of the Urbana City Code shall be amended as follows:

Section 1. Urbana City Code Chapter 16, "Noise and Vibrations", Article I, Section 1, is hereby amended and as amended shall read as follows:

Section 16-1. - Policy.

It shall be the policy of the City of Urbana to discourage, reduce and, where reasonably feasible, require the mitigation of any noise, regardless of how generated, produced, or broadcasted, which is perceived by an individual

of ordinary and reasonable sensibilities and sensitivities to be of such a level, duration, nature, or character as annoying, disturbing, injurious, harmful, dangerous, or otherwise unsafe.

Section 2. Urbana City Code Chapter 16, "Noise and Vibrations", Article I, Section 2, is hereby amended and as amended shall read as follows:

Sec. 16-2. - Definitions.

"Boundary Line" shall mean and include the actual property line which constitutes the perimeter of a real estate parcel as defined by that parcel's legal description.

"City" shall mean the City of Urbana.

"Complainant" shall mean and include an individual of ordinary and reasonable sensibilities and sensitivities who reports any potential violation of this Chapter to the City of Urbana, or Police Chief of the City of Urbana, or their agent, where such agent determines that any sound may be a violation of this Chapter.

"Construction Equipment" shall mean any tool, device, or machine, whether motorized or non-motorized, which is powered by combustion, electricity, or compressed gas and used for construction or property maintenance purposes. The term shall include, but not be limited to, graders, bulldozers, dump trucks, tractors, jack hammers, pumps, generators, nail guns, air compressors, lawn mowers, and leaf blowers. For the purposes of this definition, the term shall additionally include use of any hand-powered hammering.

"Loud and Raucous Noise" shall mean any noise which, because of its volume level, duration and/or character, would be reasonably deemed to annoy, disturb, injure or endanger the comfort, health, peace or safety of any Complainant. The term shall exclude those noises listed as exceptions in Section 16-5 hereof.

"Mechanical Stationary Noise" shall mean any Noise caused or produced by mechanical motion, including but not limited to harmonic, periodic, vibrational, oscillating, rolling, or rotary motion. For the purposes of this definition, the term shall not include construction or maintenance-related noise prohibited by Section 16-7 or noise from a properly maintained and functioning residential heating and/or cooling mechanical system.

"Non-Residential Property" shall mean and include any real property which is used or which is intended for use by other than any Residence.

"Residence" shall mean any dwelling, dormitory, rooming house, or nursing home which is legally established and occupied per the Urbana Zoning Ordinance.

Section 3. Urbana City Code Chapter 16, "Noise and Vibrations",

Article I, Section 3, is hereby amended and as amended shall read as follows:

Sec. 16-3. - Loud and Raucous Noise Prohibited.

a. It shall be unlawful and a violation of this Ordinance for any person to generate, produce, create, broadcast, manufacture, maintain, or cause or facilitate the generation, production, creation, broadcast, manufacture, or maintenance of any Loud and Raucous Noise when such noise is audible from any:

- i. public street;
- ii. public park;
- iii. school, whether public or private, or upon the grounds of any such school;
- iv. publicly-owned building or upon the grounds of any publicly owned building;
- v. religious house of worship, affiliated building associated with any such religious house of worship, or the grounds of any religious house of worship or affiliated building associated with any such religious house of worship;
- vi. hospital, clinic, surgical center or the grounds of any such entity unless necessary for the direct provision of patient;
- vii. parking lot, whether public or private; or
- viii. Residence.

Section 4. Urbana City Code Chapter 16, "Noise and Vibrations",

Article I, Section 4, is hereby amended and as amended shall read as follows:

Section 16-4 (Reserved)

Section 5. Urbana City Code Chapter 16, "Noise and Vibrations",

Article I, Section 5, is hereby amended and as amended shall read as follows:

Sec. 16-5. - Exceptions.

The term "Loud and Raucous Noise" shall not be deemed to include or apply to any noise which is produced, generated, manufactured, or broadcasted by:

- a. Cries or loud calls for emergency assistance or of warning;
- b. Radios, sirens, horns, or bells which emanate from police, fire, ambulance, or other emergency response vehicles;
- c. Special events such as parades, races, fireworks displays, and block parties for which the City of Urbana has issued a Special Events Permit, as well as sidewalk cafes licensed pursuant to City Council approval, so long as the aforesaid are conducted pursuant to the conditions of the permit or license and all City ordinances.
- d. Activities on or in municipal and school athletic facilities and on or in publicly owned property and facilities provided that such activities have been authorized by the owner or operator of such municipal or school property;
- e. Fire alarms and security alarms prior to the giving of notice and a reasonable opportunity for the owner or tenant of the premises, police department, fire department, or other first responders to turn-off or otherwise cancel the alarm or security system;
- f. Religious worship activities including but not limited to the ringing of bells, the playing of musical instruments, the singing or chanting of choirs, or the singing or chanting of those in attendance at such worship activities;
- g. Clock towers, bell towers, and carillons;
- h. Rail locomotives and other railroad equipment;
- i. Aircraft;
- j. Generators and pumps used to relieve an emergency situations such as electrical power outages or flooding of buildings; or
- k. Mechanical Stationary Noise of less than 80 decibels.

Section 6. Urbana City Code Chapter 16, "Noise and Vibrations",

Article I, Section 6, is hereby amended and as amended shall read as follows:

Sec. 16-6. (reserved)

Section 7. Urbana City Code Chapter 16, "Noise and Vibrations", Article II, Section 7, is hereby amended and as amended shall read as follows:

Sec. 16-7. - Construction and Maintenance Noise.

It shall be unlawful for any person to use any Construction Equipment to perform any construction or maintenance outside of any completely enclosed building at any time between the hours of 8:00 p.m. and 7:00 a.m. where such Construction Equipment is operated within six hundred (600) feet of any Residence, hospital, or place of worship, unless the use of such equipment or tools is necessary to address an emergency which, if left unaddressed, would cause or create harm, danger, or serious inconvenience to any person or property.

Section 8. Urbana City Code Chapter 16, "Noise and Vibrations", Article II, Section 8, is hereby amended and as amended shall read as follows:

Sec. 16-8. - Motor Vehicles and Automobile Horns.

Notwithstanding anything to the contrary elsewhere in this Chapter:

a. It shall be unlawful for any person to operate any motor or engine of a motor vehicle which weighs in excess of four (4) tons gross weight for a consecutive period longer than two (2) minutes while such motor vehicle is standing on private property which is located within one hundred fifty (150) feet of any Residence except where such vehicle:

- i. is standing within a completely enclosed structure;
- ii. is required to remain stationary due to weather or traffic conditions; or
- iii. is engaged in, addressing or responding to an emergency situation or condition.

b. It shall be unlawful for any person to operate or permit the operation of any sound amplification system in or on any motor vehicle which can be heard outside the vehicle from a distance of seventy-five (75) feet from the vehicle where such vehicle is located or operated on a public right of way unless such sound amplification is a necessary part of any response to or attendance of an emergency situation or condition.

c. It shall be unlawful for a person to operate or permit the operation of a motor vehicle:

- i. which is equipped with a siren, whistle, bell, or auditory signaling device unless such vehicle is an emergency vehicle or unless such device is present as part of an anti-theft or security device which cannot be activated except as a result of efforts to unlawful take, use or harm a motor vehicle;
- ii. which is not equipped with a muffler and exhaust system in good working order and which is in operation at all times during the operation of the vehicle's motor or engine;
- iii. which is equipped with an exhaust system which has been modified or otherwise altered so as to amplify or increase the sound level of the said vehicle's motor or engine beyond that sound which would otherwise be produced, generated or broadcasted should such vehicle be equipped with the exhaust system which the manufacturer of said vehicle would normally install in said vehicle; or
- iv. in such a manner and on any public right of way, street, or highway so as to cause that vehicle's tires to produce, generate or broadcast a squealing, screeching, or similar sound by reason of rapid acceleration of the said vehicle.

d. It shall be unlawful for any person to sound any horn or audible signal device of any motor vehicle of any kind while the vehicle is not in motion nor shall any such horn or audible signal device be sounded except otherwise provided by law. Notwithstanding the foregoing, it shall not be deemed a violation of this Section should a horn or audible signal device be sounded in connection with responding to or attendance at an emergency situation or condition.

e. This Section shall apply to motor vehicles which are defined or classified as such pursuant to the Illinois Vehicle Code as from time-to-time amended. However, this Ordinance shall not apply to motor vehicles which are engaged in interstate commerce.

f. The penalty for violating this Section shall be seven hundred fifty and no/hundredths dollars (\$750.00).

Section 9. Urbana City Code Chapter 16, "Noise and Vibrations", Article II, Section 9, is hereby amended and as amended shall read as follows:

Sec. 16-9. - Mechanical Stationary Noise.

a. No person shall operate or permit the operation of any stationary equipment, device, or machine, whether located inside or outside a building structure, in such a manner so as to produce, generate, manufacture, or broadcast Mechanical Stationary Noise at a decibel level greater than 55 decibels during the hours of 10:00 p.m. and 7:00 a.m., or greater than 60

decibels at any other time, when such decibel level is measured in the manner provided for in Section 16.9.d.

b. *Mechanical Stationary Noise Less than 80 decibels.* In the event that a sound condition which is deemed in violation of Section 16-9., whether or not any such violation ticket has been issued, exists for a period of three or more consecutive days, the owner or operator of the property on which such condition exists shall be given seven days in which to submit a plan of remediation to reduce the sound decibel level to below that which is provided in Sub-Section 16-9.a which plan shall provide that such remediation shall be undertaken and completed no later than thirty days from the date when the condition is brought to the attention of the owner or operator of the said premises by the Director of Public Works or his/her designee.

c. *Mechanical Stationary Noise Greater than 80 decibels.* Mechanical Stationary Noise greater than 80 decibels shall be deemed Loud and Raucous Noise. When Mechanical Stationary Noise is reasonably believed by the Police Chief of the City of Urbana, or their agent, to be greater than 80 decibels, the Police Chief, or their agent, may order immediate sound abatement without the need for a remediation plan.

d. *Mechanical Stationary Noise Measurement.* For determining whether a Mechanical Stationary Noise is to be deemed to constitute a violation of this Ordinance, a measurement of the decibel level of such sound shall be undertaken with a decibel meter set to A-weight and in the following manner:

The decibel level measurement of such sound shall be taken from any location within five (5) feet of the Boundary Line of the property on which the Mechanical Stationary Noise is located. If the decibel level of the measurement equals or exceeds the decibel level provided for in Section 16-9.a. of this Ordinance such sound shall be deemed a violation of this Ordinance.

e. *Enforcement and Fines.* The Director of Public Works or his/her agent shall have the authority to enforce the provisions of Section 16-9. The penalty for violating Section 16.9. shall be no more than two hundred and no/hundredths dollars (\$200.00) per offense. Each day during which a violation of Section 16-9. exists shall constitute a separate offense of Section 16.9.

Section 10. Urbana City Code Chapter 16, "Noise and Vibrations", Article III, Section 10, is hereby amended and as amended shall read as follows:

Sect. 16-10. - Noise Abatement and Remediation.

a. Any noise in violation of the Chapter shall be declared a public hazard and it shall be the responsibility of the person identified herein to abate or remediate the violation within a reasonable time given the nature and manner by which the prohibited noise is produced.

b. *Persons Responsible for Noise Abatement.*

Presumption. The occupant of the property or Residence, or the agent of the occupant on which a prohibited noise takes place, shall be presumed to have permitted the noise to occur; this presumption may be rebutted by evidence of a bona fide effort to prevent a violation of this chapter.

Responsibility. The occupant of the property or Residence, or the agent of the occupant, who shall permit another person to create a noise or conduct a noise as prohibited in this Chapter shall be deemed responsible for the noise or activity to the same extent as the person creating the noise or conducting the activity and shall be subject to the same punishment.

Construction Equipment. Any person in charge of operating, ordering, directing or allowing the operation or maintenance of Construction Equipment creating a noise as prohibited in this chapter, shall be deemed guilty of violating this Chapter.

Section 11. Urbana City Code Chapter 16, "Noise and Vibrations",

Article III, Section 11, shall read as follows:

Sect. 16-11. - Legal Actions Unimpaired.

Nothing in this chapter shall be construed to impair any cause of action, or legal remedy therefor, or any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source whatever of noise or earthshaking vibration in such place or manner, or at such levels, so as to constitute a common-law nuisance.

Section 12. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the _____ day of _____, 2013.

PASSED by the City Council this _____ day of _____, 2013.

AYES:

NAYS:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2013.

Laurel Lunt Prussing, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the ___ day of _____, 2013, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "An Ordinance Amending Chapter 16 of the Urbana City Code (Noise Ordinance)" which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. _____, including all of its attachments, was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the _____ day of _____, 2013, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this _____ day of _____, 2013.