



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item 1
October 11, 2010

SUBJECT: Consideration of Introduction of Ordinance No. 10-23.25, an ordinance to amend Chapter 22, "Offenses", Article V of the Novi Code of Ordinances by amending Section 22-96, to modify the standards for the determination of a violation of the public peace due to loud noise.

FIRST READING

SUBMITTING DEPARTMENT: Police *DM*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

Section 22-96, as it currently exists, prohibits only that noise which causes "actual physical discomfort" to "others in the neighborhood." The Police Department has found this standard to be subjective and therefore difficult for the officers to enforce. The matter was referred to the City Attorney's office to amend the ordinance to create more objective standards for determining there has been a violation of the noise ordinance, and thus allow the City's Police Officers greater ability to handle noise complaints.

The text amendment removes "actual physical discomfort" as the standard for determining violations of the noise ordinance, and replaces it with a more extensive set of regulations that more closely parallels modern noise ordinances throughout the country, using a set of definitions and a general regulatory scheme—a general prohibition on noise disturbances, some specific prohibitions, and then a list of exceptions—that has been found acceptable elsewhere.

One of the issues that had to be dealt with was to provide some standards that could be enforced separate and apart from the decibel level limitations set forth in Section 2519 of the Zoning Ordinance. That provision establishes a maximum level for sound at a property line. However, enforcement of it requires the use of a noise meter—which police officers don't have easy access to, particularly in off hours.

This ordinance focuses not on the technical limits but the public peace aspects of noise regulation, and sets forth standards that do not require the use of a noise meter to enforce, using fairly commonplace terms and limitations that, while still somewhat subjective because of the nature of the issue, are more objective than "physical discomfort."

RECOMMENDED ACTION: Consideration of Introduction of Ordinance No. 10-23.25 to amend Chapter 22, "Offenses", Article V of the Novi Code of Ordinances by amending Section 22-96, to modify the standards for the determination of a violation of the public peace due to loud noise.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Crawford				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 10-23.25

AN ORDINANCE TO AMEND CHAPTER 22, ARTICLE V,
SECTION 22-96 TO AMEND THE STANDARDS FOR THE
DETERMINATION OF A VIOLATION OF THE PUBLIC
PEACE DUE TO LOUD NOISE.

The City of Novi Ordains:

PART I.

Chapter 22, "Offenses", Article V, "Offenses Against the Public Peace," Section 22-96 is hereby amended to read as follows:

Sec. 22-96. ~~Operating public address systems.~~ Sound and Noise Prohibited.

~~It shall be unlawful for any person to use, maintain or operate a public address system, commonly called "P.A." system, or any other sound amplification system or apparatus, whether on private or public property, in a loud or otherwise offensive manner so as to cause actual physical discomfort to others in the neighborhood. A violation of this section shall constitute a nuisance.~~

(a) Definitions.

(1) "Noise" shall mean any sound which disturbs humans or animals, or which causes or tends to cause an adverse psychological or physiological effect on humans or other animals.

(2) "Noise Disturbance" shall mean any sound which:

(i) Disturbs a reasonable person of normal sensitivities; or

(ii) Exceeds the sound level limits set forth in Section 2519.10 of the City of Novi Zoning Ordinance; or

(iii) Is plainly audible as defined in this section.

(3) "Sound" shall be broadly interpreted to mean any sound, noise, music, voice, or any other forms of noise or sound, whether generated electronically, by any person, an acoustic instrument(s) or device(s), or any other method of sound creation or transmission.

(4) "Plainly audible" shall mean any sound or noise that can be detected by a person using his or her unaided hearing faculties at a distance of 50 feet or more from the real property line of the source of the sound or noise.

(b) General Prohibition. It shall be unlawful and a violation of this Chapter to make, cause or allow the making of any sound that causes a noise disturbance, as defined herein.

(c) Specific prohibitions. In addition to the general prohibition, and unless otherwise exempted by this chapter, the following specific acts, or the causing or permitting thereof, are limited as follows:

(1) Operating, playing or permitting the playing of any radio, televisions, electronic audio equipment, musical instrument or similar device in a residential area such that a noise disturbance is created across a real property boundary in a residential zoning district between the hours of 9:00 pm and 8:00 am.

(2) Operate, or permitting the operation of, any loudspeaker, public address system, or similar device for any commercial purpose, on any public road or in any public space between the hours of 9:00 p.m. and 8:00 a.m.

(3) Yelling, shouting, hooting, whistling or singing on the public streets shall be prohibited between the hours of 9:00 p.m. and 8:00 a.m., or at any time or place as to cause a noise disturbance.

(4) Emitting or creating any excessive noise which unreasonably interferes with the operation of any school, church or hospital.

(5) Owning, possessing, or harboring an animal or bird that howls, barks, meows, squawks, or makes any sound that:

- (i) creates a noise disturbance across a residential property boundary;
- (ii) is of a frequent or continued duration for ten or more consecutive minutes
- (iii) is intermittent for a period of 30 or more minutes

(6) Constructing, excavating, demolishing, altering or repairing any building or premises in any part of the city, including the streets and highways, in such a manner as to create noise or disturbance unreasonably annoying to other persons, other than between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday, and except in cases of emergency.

(7) Operating any machinery, equipment or mechanical device so as to create a noise disturbance; this prohibition does not include domestic power tools as provided below.

(d) Exceptions. The following uses and activities shall be exempt from the regulations contained in this section:

(1) Use of motorized snow blowers, lawn mowers, and other lawn, landscaping and yard maintenance equipment or domestic power tools shall not be subject to regulation under this section, provided such equipment is utilized between the hours of 8:00 a.m. and 9:00 p.m.

(2) The unamplified human voice, except for yelling, shouting, whistling, hooting, or generally creation of a racket such that it creates a noise disturbance during the nighttime hours (9:00 p.m. to 08:00 a.m.) in a residential area in other than a time of emergency.

(3) Sounds resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

(4) Any non-amplified noise generated by noncommercial public speaking activities conducted on any public property or public right of way pursuant to a permit issued under this section.

(5) Sounds produced at organized sports events, by lawful fireworks, and by permitted parades on public property or public rights of way, between the hours of 08:00 a.m. and 9:00 p.m.

(e) The city council may grant a permit for the generation, operation or use of sound on public property for any non-commercial purpose that would otherwise violate this ordinance when the following conditions are met:

(1) The applicant has a non-commercial message that cannot be effectively communicated to the public except by such means, and

(2) The applicant will not create plainly audible sound in residential areas between the hours of 9:00 p.m. and 8:00 a.m.

(f) Nothing in this section shall be interpreted as preempting or otherwise eliminating those provisions of §2519 of the Novi Zoning Ordinance concerning noise.

Part II.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued,

or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART III.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART IV.

Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ___ DAY OF _____, 2010.

DAVID B. LANDRY – MAYOR

MARYANNE CORNELIUS – CITY CLERK

Ayes:
Nays:
Abstentions:
Absent:

CERTIFICATION OF ADOPTION

I hereby certify that the foregoing is a true and complete copy of an Ordinance passed at a regular meeting of the Novi City Council, held on the ___ day of _____, 2010.

MARYANNE CORNELIUS – CITY CLERK

Adopted:
Published:

Effective:

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