



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Introduction of an Ordinance Amending Section 12.16.140A of the Sausalito Municipal Code regarding Time Limits on Operating Construction Devices in Residential Zones

RECOMMENDED MOTION:

Waive first reading, read by title only and introduce An Ordinance of the City Council of the City of Sausalito Amending Section 12.16.140A of the Sausalito Municipal Code Regarding Time Restrictions on Operating Construction Devices in Residential Zones.

SUMMARY

Chapter 12.16 of the Sausalito Municipal Code establishes regulations regarding noise control. This includes limitations on the hours of construction in residential zoning districts and the immediately surrounding area. The City has received complaints about construction noise particularly on holidays such as the 4th of July. The proposed ordinance amends Chapter 12.16 to prohibit construction in and around residential zones on City recognized holidays and to limit the hours of construction on weekdays from 8:00 a.m. - 6:00 p.m.

BACKGROUND

The City's regulations regarding noise control are set forth in Chapter 12.16 of the Sausalito Municipal Code (SMC). Section 12.16.140 imposes time restrictions on operating construction devices and equipment in residential zones. Currently construction activity in residential zoning districts and areas within a 500' radius of such zones is limited as follows:

Weekdays: between 8:00 am - 7:00 p.m.

Saturdays: between 9:00 am - 5:00 p.m.

Sundays: prohibited

Holidays officially recognized by the City of Sausalito not including Sundays:
between 9:00 a.m. and 7:00 p.m.

There are exceptions which allow for work to be performed by residents on their own property on Sundays between 9:00 am - 7:00 pm and in emergency situations.

The City has received complaints from residents regarding noise generated by construction activity - particularly on holidays. One recent example related to construction activity which took place on the 4th of July which fell on a Saturday this year. In response to these complaints,

Item #: 5B
Meeting Date: 10-6-09
Page #: 1

the proposed ordinance amends Section 12.16.140A to prohibit construction activities in residential zoning districts and within a 500' radius of such districts on City recognized holidays.

The holidays currently recognized by the City of Sausalito are:

- | | |
|---------------------------------------|---|
| January 1: | New Year's Day |
| 2 nd Monday in January: | Martin Luther King's Birthday |
| 3 rd Monday in February: | President's Day |
| 4 th Monday in May : | Memorial Day |
| July 4: | Independence Day |
| 1 st Monday in September: | Labor Day |
| 4 th Thursday in November: | Thanksgiving Day and the day after Thanksgiving |
| December 24: | Christmas Eve |
| December 25: | Christmas Day |

In addition, the proposed ordinance reduces the hours for construction activities on weekdays to require that construction cease one hour earlier. Currently construction activity on weekdays is allowed between the hours of 8:00 am and 7:00 pm. The proposed ordinance would limit those hours from 8:00 am to 6:00 pm.

The Legislative Committee (Mayor Leone and Vice Mayor Weiner) have met and discussed this issue and recommend approval of the proposed ordinance.

ISSUES

Currently construction activities in and around residential zones are prohibited on Sundays but residents are allowed to conduct such activities on their own property on Sundays between the hours of 9:00 a.m. and 7:00 p.m. Staff seeks Council direction on whether such an exception should also be included for work by residents on City recognized holidays. If the Council desires to add such an exception Section 12.16.140B would be amended to allow for work by residents on City recognized holidays.

FISCAL IMPACT

None.

STAFF RECOMMENDATIONS


Waive first reading, read by title only and introduce An Ordinance of the City Council of the City of Sausalito Amending Section 12.16.140A of the Sausalito Municipal Code Regarding Time Restrictions on Operating Construction Devices in Residential Zones.

ATTACHMENTS

A. Draft Ordinance of the City Council of the City of Sausalito Amending Section 12.16.140 A of Title 12 of the Sausalito Municipal Code Regarding Time Restrictions on Operating Construction Devices in Residential Zones.

B. Current SMC Section 12.16.140.

PREPARED BY:

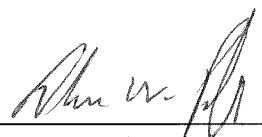


Mary Anne Wagner, Esq.
City Attorney

REVIEWED BY:

Charlie Francis
Administrative Services Director/Treasurer

SUBMITTED BY:



Adam W. Politzer
City Manager

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
AMENDING SECTION 12.16.140A OF THE SAUSALITO MUNICIPAL CODE
REGARDING TIME RESTRICTIONS ON OPERATING CONSTRUCTION
DEVICES IN RESIDENTIAL ZONES**

THE CITY COUNCIL OF THE CITY OF SAUSALITO DOES HEREBY ORDAIN AS
FOLLOWS:

Section 1. Section 12.16.140 of the Sausalito Municipal Code is hereby amended to read
as follows:

- A. The operation of construction, demolition, excavation, alteration or repair devices
and equipment shall only take place during the following hours:
1. Weekdays - Between eight a.m. and six p.m.
 2. Saturdays - Between nine a.m. and five p.m.
 3. Sundays - Prohibited.
 4. Holidays officially recognized by the city of Sausalito not including Sundays -
Between nine a.m. and seven p.m.

Section 2. The adoption of this ordinance is exempt from the application of the
California Environmental Quality Act, Public Resources Code section 21000, *et seq.*, in
accordance with section 15305 (Minor Alterations in Land Use Limitations).

Section 3. This ordinance shall be liberally construed to achieve its purposes and
preserve its validity. If any section, subsection, sentence, clause or phrase of this
ordinance is for any reason held to be unconstitutional or invalid, such decision shall not
affect the validity of the remaining portion of this ordinance. The City Council hereby
declares that it would have passed this ordinance and every section, subsection, sentence,
clause or phrase thereof, irrespective of the fact that any one or more sections,
subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 4. This Ordinance shall be in full force and effect thirty (30) days after the date
of its adoption.

Section 5. This Ordinance shall be published once within fifteen (15) days after its
passage and adoption in a newspaper of general circulation in the City of Sausalito.

THE FOREGOING ORDINANCE was read at a regular meeting of the Sausalito City
Council on the _____ day of _____, 2009, and was adopted at a regular meeting of the
City Council on the _____ day of _____, 2009 by the following vote:

AYES: COUNCILMEMBER:

NOES: COUNCILMEMBER:

ABSENT: COUNCILMEMBER:

ABSTAIN: COUNCILMEMBER:

Jonathan Leone, Mayor

ATTEST:

Debbie Pagliaro, City Clerk

~~12.16.120 Animal and fowl keeping. No person shall keep or maintain, or permit the keeping of upon any premises owned, occupied, or controlled by such person, any animal or fowl otherwise permitted to be kept which, by any sound, cry, or behavior, shall cause annoyance or discomfort to a reasonable person of normal sensitiveness. (Ord. 783 Art. II §4, 1972)~~

~~12.16.130 Machinery, equipment, fans and air conditioning. It is unlawful for any person to operate any machinery, equipment, pump, fan, air conditioning apparatus, or similar mechanical device in any manner so as to create any noise which would cause the noise level at the property line of any property to exceed the ambient base noise level by more than five decibels. (Ord. 783 Art. II §5, 1972)~~

ARTICLE III. CONSTRUCTION

12.16.140 Time restrictions on operating construction devices in residential zones. In order to preserve and enhance a sense of tranquility in the city of Sausalito, the following rules on the operation of construction, demolition, excavation, alteration or repair devices and equipment shall apply to all residential zones and the areas within a five hundred (500) foot radius of residential zones:

A. The operation of construction, demolition, excavation, alteration or repair devices and equipment shall only take place during the following hours:

1. Weekdays - Between eight a.m. and seven p.m.
2. Saturdays - Between nine a.m. and five p.m.
3. Sundays - Prohibited.

4. Holidays officially recognized by the city of Sausalito not including Sundays - Between nine a.m. and seven p.m.

B. Exceptions.

1. Homeowners currently residing on the property and other legal residents may operate construction, demolition, excavation, alteration or repair devices and equipment themselves on their own property on Sundays, provided that such operations occur between nine a.m. and seven p.m. and otherwise comply with the city's laws regulating noise.

2. Emergency work may be performed during any of the above-referenced restricted hours pursuant to a permit obtained from the city manager prior to the operations. "Emergency work" means work made necessary by and limited to restoring property to a safe condition following a public calamity such as an act of God, work required to protect persons or property from an imminent exposure to danger or work by private or public utilities to restore utility service.

C. Nothing herein shall be interpreted to conflict with any provisions in the Sausalito Municipal Code, including without limitation Chapter 12.16 (Noise Control) and Title 8 (Buildings and Construction) or the noise policies in the Health and Safety Element of the City of Sausalito's General Plan. (Ord. 1143 §1, 2000: Ord. 1048 §1, 1989: Ord. 783 Art. III §1, 1972).

ARTICLE IV. VEHICLES

~~12.16.150 Repairing, rebuilding or testing in residential zones. It is unlawful for any person within any residential zone, as defined in the zoning regulations of the city, to repair, rebuild, or test any motor vehicle in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance. (Ord. 783 Art. IV §1, 1972).~~

~~12.16.160 Operation of motor-driven vehicles. It is unlawful for any person to operate any motor-driven vehicle within the city in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance; provided, however, any such vehicle which is operated upon any public highway, street, or right-of-way shall be excluded from the provisions of this section. (Ord. 783 Art. IV §2, 1972).~~

ARTICLE V. AMPLIFIED SOUND

~~12.16.170 Purpose of regulations. The council enacts this legislation for the sole purpose of securing and promoting the public health, comfort, safety, and welfare of its citizenry. While recognizing that under some circumstances, amplifying equipment is protected by the constitutional rights of freedom of speech and assembly,~~