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OFFICE OF THE
CITY MANAGER

CITY OF SACRAMENTO
CALIFORNIA

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SACRAMENTO, CA
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July 9, 1991

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Law and Legislation Committee
Sacramento, California

SUBJECT: An Emergency Ordinance Adding Sections 66.210 through 66.212 to Chapter 66 of the Sacramento City Code, Relating to Sound Level Restrictions for Outdoor Recreational Activities

Honorable Members in Session:

SUMMARY

This report recommends adoption of an emergency ordinance adding Sections 66.210 through 66.212 to Chapter 66 of the Sacramento City Code, relating to sound level restrictions for outdoor recreational activities. The ordinance is designed to facilitate more effective enforcement of noise regulations designed to protect residential areas from excessive noise.

BACKGROUND

For many years, City officials, County officials and local state legislators have received numerous and ongoing complaints about noise generated by amplified sound being used in connection with outdoor activities, such as sporting events and concerts. The activities generating the noise have occurred at Hughes Stadium, Village Marina, the Raddison Hotel, and Cal Expo, among other locations. Cal Expo has generated the most complaints, because it has the longest and most active series of outdoor events, concerts running from June through October.

Noise complaints about outdoor activities usually increase after Labor Day, for at least two reasons. First, weather conditions which cause sound to carry unusual distances from its source and to locations which are not accustomed to receiving such sounds, are most prevalent in Sacramento in September and October. These conditions, known as temperature inversions, cause warm air to be trapped below cooler air. During temperature inversions, sound generated from a source such as Cal Expo may bounce to unexpected locations at unexpected distances from the facility. The direction of the winds on any particular day or evening also influence the travel of sound.

Secondly, Labor Day marks the end of the summer season, and the return of most children to school. Undisturbed sleep becomes a higher priority for Sacramento families.

The City's existing noise regulations (Chapter 66 of the City Code) provide for noise to be measured in decibels at the residential location where it is heard, not at the noise source. If the sound level measured at a residential location exceeds the decibel levels permissible at that residential location, for a time in excess of that permitted by the ordinance, a violation of the noise ordinance occurs.

The City's noise regulations are administered by the County of Sacramento Environmental Management Department, Environmental Health Division. County staff have been most cooperative in attempting to resolve noise problems relating to outdoor activities. In order to determine whether the noise level of an outdoor activity, such as a concert, violates our noise ordinance, the County must send staff to various neighborhoods around the city to measure the ambient sound level, and the level of the concert noise, and must do so for an extended period of time. Because the sound (especially after Labor Day) may be heard in different neighborhoods, depending on weather and wind conditions, County staff have to travel from one location to another searching for the sound. It is obvious that this method of enforcement is inefficient and ineffective.

Several months ago, staff brought to the Law and Legislation Committee a proposed revision of the City's concert permit ordinance. The proposal required government-owned facilities to obtain concert permits and imposed sound limits for outdoor concerts. At the Law and Legislation Committee hearing, the proposed ordinance was opposed by CSUS, the Los Rios Community College District, Bill Graham Presents, and Bart Cavanaugh, who expressed concerns about the ordinance's effect on the Downtown Cultural and Entertainment District. Based on this feedback, staff has determined that it is appropriate to separate the issue of revised concert permit provisions from the issue of excessive amplified sound emanating from outdoor activities. The proposal recommended in this report is a straightforward amendment of the City's noise regulations which addresses only the noise issues. It reflects the Committee's prior direction to set the outdoor noise limits at 96 decibels, rather than 94.

During the summer 1990 concert season at Cal Expo, Bill Graham Presents, the County and the City cooperated to see if a solution to noise complaints could be found. A sound level monitor was placed near the sound mixing booth during Bill Graham Presents concerts. In addition, county sound technicians measured noise levels at various locations around the City during the concerts. In all, it is estimated that the cost of county staff time invested into measuring sound levels and analyzing the results during the 1990 Cal Expo concert season alone exceeds \$35,000.

As to any particular concert, it can be difficult to correlate the sound levels produced with actual noise ordinance violations out in the neighborhoods. Although a concert generates a large number of complaints, it may be that county staff attempting to do measurements in the neighborhoods will be in the wrong place at the right time, or the right place at the wrong time. However, based on the data that have been collected, County staff has concluded that it is possible to set a decibel level at the sound source about which it can be said that

- (1) sound exceeding the designated level is substantially likely to result in violations of the standards in the City's existing noise regulations; and
- (2) sound not exceeding the designated level is likely to result in few violations of the standards in the City's existing noise regulations.

That level, as recommended by County staff, is 96 dBA Leq, measured at the sound booth or other reasonable location which is not more than 150 feet from the source of the sound. (There are two ways of measuring average sound levels over a period of time, "Leq" and "L50." Leq is selected because L50 measurements allow the sound source to incorporate longer periods of louder sounds without exceeding the maximum level. Leq measurements reduce the permissible noise spike often the very noise that generate violations of our regulations and complaints in the community.) A sound level of 96 dBA is as loud as or louder than a refuse truck three feet from the listener, a jet plane taking off 1000 feet from the listener, or a train horn 100 feet from the listener.

The outdoor recreational activities affected by the proposed ordinance include athletic events, sporting events, entertainment events and concerts. All of these activities can be conducted either in outdoor facilities or indoor facilities. It is only the outdoor facilities which are affected by the proposed ordinance. A promoter who wishes to produce amplified sounds in excess of the designated level may use an indoor facility.

The proposed ordinance also requires that amplified sound not be used at outdoor activities after 11:15 p.m. during ten months of the year. From September 1st to October 31st, when temperature inversions are common and most noise complaints regarding outdoor activities are received, the time to discontinue amplified sound is set at 10:30 p.m. Promoters whose activities will continue after this hour may use an indoor facility or non-amplified sound.

The proposed ordinance contains a variance procedure. The operator of an outdoor activity may seek a variance from the maximum sound level limit or the time limits if it can be shown that due to the nature or design of the operator's facility or its location, it is capable of handling a higher sound level or amplified sound ending at a later time without substantially increasing the likelihood that violations of the City's existing standards would occur in residential areas.

Existing provisions in Chapter 66 exempt certain activities from its regulations. The same exemptions would apply to the sections being added to Chapter 66 by this ordinance, and include:

- (a) School bands, school athletic and school entertainment events. School entertainment events shall not include events sponsored by student organizations.
- (b) Outdoor gatherings, public dances, shows and sporting and entertainment events conducted pursuant to a discretionary license or permit issued by the City or County of Sacramento.
- (c) Activities conducted on parks and public playgrounds owned and operated by a public entity.

The ordinance declares that it is an emergency measure to take effect immediately. This is necessary in order to have the ordinance in effect throughout the months of September and October, the two-months during which temperature inversions exacerbate the excessive noise problems associated with amplified sound used at outdoor recreational activities.

FINANCIAL DATA

Enactment of the proposed ordinance would have no direct financial impact on the City. The more effective and efficient regulation of outdoor noise sources will substantially decrease city and county resources devoted to measuring outdoor noises and handling noise complaints.

POLICY CONSIDERATIONS

Enactment of the proposed ordinance is consistent with the City's existing noise regulations, which seek to protect citizens from excessive noise levels.

MBE/WBE

Not applicable.

Law and Legislation Committee

RE: An Emergency Ordinance Adding Sections 66.210 through 66.212
to Chapter 66 of the Sacramento City Code, Relating to
Sound Level Restrictions for Outdoor Recreational Activities

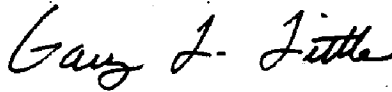
July 9, 1991

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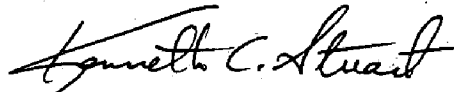
RECOMMENDATION

It is recommended that the Law and Legislation Committee recommend that the City Council enact the proposed ordinance adding Sections 66.210 through 66.212 to the Sacramento City Code, relating to limits on volume and late night use of amplified noise, amplified music, and amplified sound at outdoor recreational activities as an emergency measure.

Respectfully submitted,

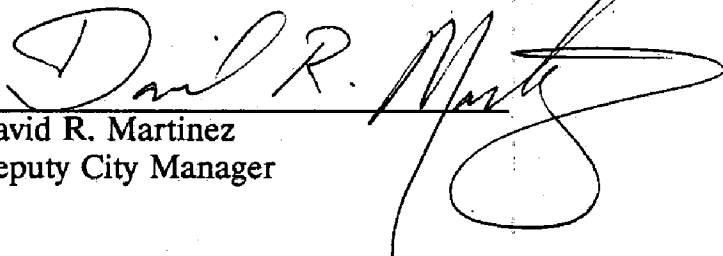


GARY LITTLE
Citizens Assistance Officer
City Manager's Office



KENNETH C. STUART, Chief
Environmental Health Division
County of Sacramento
Environmental Management Department

Recommendation Approved:



David R. Martinez
Deputy City Manager

Contact Person to
Answer Questions:

Gary Little
Citizens Assistance Officer
449-5704

Law and Legislation
July 18, 1991
All Districts

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE ADDING SECTIONS 66.210 THROUGH 66.212 TO THE SACRAMENTO CITY CODE, PLACING LIMITS ON VOLUME AND LATE NIGHT USE OF AMPLIFIED NOISE, AMPLIFIED MUSIC AND AMPLIFIED SOUND AT OUTDOOR RECREATIONAL ACTIVITIES AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Sections 66.210 through 66.212 are hereby added to the Sacramento City Code to read as follows:

§ 66.210 Findings.

1. Outdoor recreational activities involving amplified sound, including but not limited to athletic events, sporting events, entertainment events and concerts, may create excessive noise which is detrimental to the public health, safety, welfare and the peace and quiet of the inhabitants of the City and its environs.
2. Prevailing weather conditions within the City, including temperature inversions, cause the sounds of outdoor activities to bounce in varying directions and reach varying residential locations at different times, sometimes close to the source of sound and sometimes farther away, sometimes in one direction from the sound source and sometimes in another direction. These conditions are particularly acute during the months of September and October.
3. The City's existing noise regulations, which require extended off-site measurements of the sound rather than measurements at its source, are very cumbersome and expensive to enforce, especially in connection with outdoor recreational activities.
4. Studies by the Environmental Health Division of the Sacramento County Environmental Management Department conclude that imposing a volume limit of 96 dBA Leq measured at the sound booth or other reasonable location within 150 feet of the source of amplified sound at an outdoor activity is generally equivalent to the limits already imposed by the

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City's noise regulations which measure sound levels off-site, in that it is substantially likely that sound levels in excess of 96 dBA Leq will result in many violations of provisions of this chapter, while sound levels of 96 dBA Leq or lower are likely to result in few such violations.

5. Limiting sound levels of outdoor activities to 96 dBA Leq and requiring amplified sound not to be used at outdoor activities after 10:30 p.m. during September and October and after 11:15 p.m. at other times is necessary to protect the public health, safety, welfare and the peace and quiet of the inhabitants of the City and its environs.
6. A sound level of 96 dBA is as loud as or louder than a refuse truck three feet from the listener, a jet plane taking off 1000 feet from the listener, or a train horn 100 feet from the listener.
7. Limiting sound levels at the source is content neutral. It helps to avoid the problem of complaints being received, and therefore measurements being made and enforcement undertaken, only in connection with certain kinds of activities, or certain kinds of music, which some people may consider objectionable and not other kinds of activities or music which may be just as loud.
8. A variance procedure can be devised to raise the sound limit or modify the time restrictions upon a showing that a facility, because of its design, location or other characteristics, is capable of handling higher sound levels or later activities without substantially increasing the likelihood that violations of the other provisions of this chapter will occur.

§ 66.211 Outdoor recreational activities.

- (a) It shall be unlawful for any person to conduct, or permit to be conducted, on its property, any outdoor recreational activity, including, but not limited to, athletic events, sporting events, entertainment events and concerts at which amplified noise, amplified music, or amplified sound exceeding 96 dBA Leq is created. The noise, music or sound shall be measured at the sound booth or other reasonable location which is not more than 150 feet from the source. Every person conducting, or permitting to be conducted, on its property, any outdoor recreational activity shall, upon request, permit the Chief of the Environmental Health Division, Sacramento Environmental Management Department, or the Chief's designee, to place a sound level monitor (with or without an accompanying staff member) at a location described in this subsection to monitor sound levels.
- (b) During the period beginning on September 1st and ending on October 31st of the same year the amplified sound associated with the outdoor activities described in subsection (a) shall be terminated no later than 10:30 p.m. At any other time, the amplified sound associated with the outdoor activities shall be terminated no later than 11:15 p.m.

§ 66.212 Variance for outdoor recreational activity.

In addition to the special conditions permits authorized by Section 66.404 and the variances authorized by Section 66.405 of this chapter, the operator of an outdoor activity may seek a variance from the maximum sound limit and/or the time limits set forth in 66.211 on the grounds that due to the nature or design of the

operator's facility or its location, it is capable of handling a higher sound level or amplified sound ending at a later time without substantially increasing the likelihood that violations of any other standards set forth in this chapter will occur. A variance application shall be submitted to the City Manager, shall contain information as the City Manager shall request, including but not limited to a report of the sound-related characteristics of the facility prepared by an acoustical engineer, and shall be accompanied by an application fee set by resolution of the City Council. The City Manager, or the City Manager's designee, shall grant the variance if he or she finds that, due to the nature or design of the operator's facility or its location, it is capable of handling a higher sound level or amplified sound ending at a later time without substantially increasing the likelihood that violations of any other standards set forth in this chapter will occur. Any applicant aggrieved by a decision of the City Manager on an application for a variance may appeal the City Manager's decision to the City-County hearing board by filing a notice of appeal with the board's secretary within ten (10) days after the date of the City Manager's decision and paying an appeal fee set by resolution of the City Council. The board shall conduct a public hearing on the appeal. The board may affirm, modify, or reverse the City Manager's decision. The decision of the board shall be final.

SECTION 2.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting such emergency are the imminence of September and October, the two months during which temperature inversions exacerbate the excessive noise problems associated with amplified sound used at outdoor recreational activities. Unless this ordinance takes effect immediately, the regulations contained herein which will protect the City's citizens from excessive noise in residential areas will not take effect until late in September, leaving citizens without adequate protection during a substantial portion of the most problematic period.

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

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ON DATE OF _____

AN ORDINANCE ADDING SECTIONS 66.210 THROUGH 66.212 TO THE SACRAMENTO CITY CODE, PLACING LIMITS ON VOLUME AND LATE NIGHT USE OF AMPLIFIED NOISE, AMPLIFIED MUSIC AND AMPLIFIED SOUND AT OUTDOOR RECREATIONAL ACTIVITIES AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Sections 66.210 through 66.212 are hereby added to the Sacramento City Code to read as follows:

§ 66.210 Findings.

1. Outdoor recreational activities involving amplified sound, including but not limited to athletic events, sporting events, entertainment events and concerts, may create excessive noise which is detrimental to the public health, safety, welfare and the peace and quiet of the inhabitants of the City and its environs.
2. Prevailing weather conditions within the City, including temperature inversions, cause the sounds of outdoor activities to bounce in varying directions and reach varying residential locations at different times, sometimes close to the source of sound and sometimes farther away, sometimes in one direction from the sound source and sometimes in another direction. These conditions are particularly acute during the months of September and October.
3. The City's existing noise regulations, which require extended off-site measurements of the sound rather than measurements at its source, are very cumbersome and expensive to enforce, especially in connection with outdoor recreational activities.
4. Studies by the Environmental Health Division of the Sacramento County Environmental Management Department conclude that imposing a volume limit of 96 dBA Leq measured at the sound booth or other reasonable location within 150 feet of the source of amplified sound at an outdoor activity is generally equivalent to the limits already imposed by the

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City's noise regulations which measure sound levels off-site, in that it is substantially likely that sound levels in excess of 96 dBA Leq will result in many violations of provisions of this chapter, while sound levels of 96 dBA Leq or lower are likely to result in few such violations.

5. Limiting sound levels of outdoor activities to 96 dBA Leq and requiring amplified sound not to be used at outdoor activities after 10:30 p.m. during September and October and after 11:15 p.m. at other times is necessary to protect the public health, safety, welfare and the peace and quiet of the inhabitants of the City and its environs.
6. A sound level of 96 dBA is as loud as or louder than a refuse truck three feet from the listener, a jet plane taking off 1000 feet from the listener, or a train horn 100 feet from the listener.
7. Limiting sound levels at the source is content neutral. It helps to avoid the problem of complaints being received, and therefore measurements being made and enforcement undertaken, only in connection with certain kinds of activities, or certain kinds of music, which some people may consider objectionable and not other kinds of activities or music which may be just as loud.
8. A variance procedure can be devised to raise the sound limit or modify the time restrictions upon a showing that a facility, because of its design, location or other characteristics, is capable of handling higher sound levels or later activities without substantially increasing the likelihood that violations of the other provisions of this chapter will occur.

§ 66.211

Outdoor recreational activities.

- (a) It shall be unlawful for any person to conduct, or permit to be conducted, on its property, any outdoor recreational activity, including, but not limited to, athletic events, sporting events, entertainment events and concerts at which amplified noise, amplified music, or amplified sound exceeding 96 dBA Leq is created. The noise, music or sound shall be measured at the sound booth or other reasonable location which is not more than 150 feet from the source. Every person conducting, or permitting to be conducted, on its property, any outdoor recreational activity shall, upon request, permit the Chief of the Environmental Health Division, Sacramento Environmental Management Department, or the Chief's designee, to place a sound level monitor (with or without an accompanying staff member) at a location described in this subsection to monitor sound levels.
- (b) During the period beginning on September 1st and ending on October 31st of the same year the amplified sound associated with the outdoor activities described in subsection (a) shall be terminated no later than 10:30 p.m. At any other time, the amplified sound associated with the outdoor activities shall be terminated no later than 11:15 p.m.

§ 66.212

Variance for outdoor recreational activity.

In addition to the special conditions permits authorized by Section 66.404 and the variances authorized by Section 66.405 of this chapter, the operator of an outdoor activity may seek a variance from the maximum sound limit and/or the time limits set forth in 66.211 on the grounds that due to the nature or design of the

operator's facility or its location, it is capable of handling a higher sound level or amplified sound ending at a later time without substantially increasing the likelihood that violations of any other standards set forth in this chapter will occur. A variance application shall be submitted to the City Manager, shall contain information as the City Manager shall request, including but not limited to a report of the sound-related characteristics of the facility prepared by an acoustical engineer, and shall be accompanied by an application fee set by resolution of the City Council. The City Manager, or the City Manager's designee, shall grant the variance if he or she finds that, due to the nature or design of the operator's facility or its location, it is capable of handling a higher sound level or amplified sound ending at a later time without substantially increasing the likelihood that violations of any other standards set forth in this chapter will occur. Any applicant aggrieved by a decision of the City Manager on an application for a variance may appeal the City Manager's decision to the City-County hearing board by filing a notice of appeal with the board's secretary within ten (10) days after the date of the City Manager's decision and paying an appeal fee set by resolution of the City Council. The board shall conduct a public hearing on the appeal. The board may affirm, modify, or reverse the City Manager's decision. The decision of the board shall be final.

SECTION 2.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting such emergency are the imminence of September and October, the two months during which temperature inversions exacerbate the excessive noise problems associated with amplified sound used at outdoor recreational activities. Unless this ordinance takes effect immediately, the regulations contained herein which will protect the City's citizens from excessive noise in residential areas will not take effect until late in September, leaving citizens without adequate protection during a substantial portion of the most problematic period.

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BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Sections 66.210 through 66.212 are hereby added to the Sacramento City Code to read as follows:

§ 66.210

Findings.

1. Outdoor recreational activities involving amplified sound, including but not limited to athletic events, sporting events, entertainment events and concerts, may create excessive noise which is detrimental to the public health, safety, welfare and the peace and quiet of the inhabitants of the City and its environs.
2. Prevailing weather conditions within the City, including temperature inversions, cause the sounds of outdoor activities to bounce in varying directions and reach varying residential locations at different times, sometimes close to the source of sound and sometimes farther away, sometimes in one direction from the sound source and sometimes in another direction. These conditions are particularly acute during the months of September and October.
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§ 66.212 Variance for outdoor recreational activity.

In addition to the special conditions permits authorized by Section 66.404 and the variances authorized by Section 66.405 of this chapter, the operator of an outdoor activity may seek a variance from the maximum sound limit and/or the time limits set forth in 66.211 on the grounds that due to the nature or design of the

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