



City Council Agenda Bill

20032

Bill Number

Subject: Public Hearing on an ordinance to amend BMC 10.24.120 (C)(4) relating to construction noise

Summary Statement: On July 1, 2013 the Bellingham City Council requested that staff bring forth an ordinance to expand the time period within which construction or industrial noise is considered a nuisance in residential areas. Currently, such noise is considered a nuisance during a period beginning at 10:00 p.m. each day and ending at 7:00 a.m. the following morning. Under the attached ordinance, this period would start at 8:00 p.m. instead of 10:00 p.m., and on weekends and holidays the period would end at 9:00 a.m. instead of 7:00 a.m. Council also requested that a public hearing be held on this proposed change. Council may vote on the proposed ordinance after the hearing on September 30, 2013.

Previous Council Action: March 25, 2013, Council request for consideration of noise ordinance revision; July 1, 2013, direct staff to develop an ordinance; July 15, 2013, direct staff to hold public hearing.

Fiscal Impact: None.

Funding Source: N/A

Attachments: Ordinance to revise BMC 10.24.120.

Public Hearing Notice
No written comment was received by City Council.

Meeting Activity	Meeting Date	Staff Recommendation	Presented By	Time
Public Hearing Council Vote Requested	30-Sep-2013		Mark Gardner	5 min.

Council Committee:

Agenda Bill Contact:

Mark Gardner, 778-8204

Committee Actions:

Reviewed By	Initials	Date
M. Lillquist, City Council	<i>ML</i>	9-23-13
S. Fleetwood, CI. President		

Legal
Mayor

AM 9/20/13

Council Action:

ORDINANCE NO. _____

AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE SECTION 10.24.120 TO PROTECT RESIDENTIAL AREAS FROM EVENING NOISE DISTURBANCE BY MODIFYING PERMITTED HOURS FOR CONSTRUCTION RELATED NOISE.

WHEREAS, the City of Bellingham has the responsibility and authority to preserve the peace and protect the public welfare; and

WHEREAS, the City of Bellingham through BMC 10.24.120 has a declared policy "to minimize the exposure of all city residents to excessive noise," and has expressed an intent to balance the needs of commerce, the value of use and enjoyment of property, and the interests of residents for sleep and repose while at home; and

WHEREAS, the City of Bellingham recognizes the value and importance of building construction, and recognizes the need to accommodate the sometimes noisy activities that are necessary aspects of that activity, including but not limited to motorized construction and equipment operation, hammering, blasting, drilling, and sawing; and

WHEREAS, existing city noise disturbance rules do not prohibit construction or industrial noises in non-residential areas, and do not prohibit construction noises in residential areas during daytime hours, even when such noise may "unreasonably disturb or interfere with the peace, comfort and repose of others"; and

WHEREAS, the prohibition against loud construction related noise in residentially zoned areas currently applies only to the hours between 10:00 p.m. and 7:00 a.m.; and other cities have adopted restricted hours that begin as early as 6:00 p.m. on weekdays and include stricter limits for weekends; and

WHEREAS, the City held a public hearing on September 30, 2013, on the issue of changing the times for permitted construction activity noise in residential areas and heard public comment;

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Bellingham Municipal Code, Section 10.24.120(C)(4) is amended to read as follows:

C. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound that is a public disturbance noise. The following sounds are determined to be public disturbance noises:

1. Frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or

internal combustion engine within a residentially zoned area, so as to unreasonably disturb or interfere with the peace, comfort and repose of others.

2. Frequent, repetitive or continuous sounds which emanate from any building, structure, apartment, or condominium, which unreasonably disturb the peace, comfort, and repose of a person or persons on public or private property, other than the property from which the sound emanates, such as sounds from musical instruments, audio sound systems, band sessions.

3. Sound from portable audio equipment, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than 50 feet from the source and outside the property of the operator.

4. Construction and industrial noises, including, but not limited to, motorized construction and equipment operation, hammering, blasting, drilling and sawing in residentially zoned areas, between the hours of 4:00 p.m. and 7:00 a.m. on weekdays and between the hours of 8:00 p.m. and 9:00 a.m. on weekends and federal holidays, which unreasonably disturb or interfere with the peace, comfort and repose of others; provided, that this subsection shall not apply to noises caused by projects required in an emergency to repair public facilities or utilities or to prevent immediate damage or harm to persons or property; and further provided, that this subsection shall not apply if the city council grants a variance from the provisions of this subsection for the construction or repair of a public facility or utility upon a finding that it is either necessary or in the public interest for all or a portion of the work to be performed between the hours of 4:00 p.m. and 7:00 a.m. on weekdays and between the hours of 8:00 p.m. and 9:00 a.m. on weekends and federal holidays. The council may impose such conditions as it deems appropriate upon the granting of a variance.

Section 2: EFFECTIVE DATE. This ordinance shall take effect 90 days after final approval.

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

Council President

APPROVED by me this _____ day of _____, 2013.

Mayor

ATTEST: _____
Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published:
