

SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET

ITEM NO: D-1
DATE: October 9, 2008
SUBJECT: Special Events and Noise Ordinance
CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

This is a placeholder to discuss the community input and feedback received at the community forum hosted by Councilmember Davenport-Smith on Saturday, October 4, 2008 on the City's noise regulations and proposed special events permit.

STAFF RECOMMENDATION:

Discuss the outcomes from the community meeting and direct staff on how to proceed.

SUMMARY:

Councilmember Sarah Davenport-Smith hosted a meeting on Saturday, October 4, 2008 with local business owners and community members to discuss the Sultan's noise ordinance regulations under the Sultan Municipal Code 8.10 (Attachment A). The meeting was also an opportunity to gather input on the staff proposal to adopt a special events permit to regulate the impacts of special events on the City's infrastructure and services.

Councilmember Davenport-Smith and staff will share the outcomes from the meeting. City Staff are seeking direction from the Mayor and Council on how to proceed.

BACKGROUND:

The City has experienced conflicts between business owners and residents over noise generated from business establishments. This issue is not unique to Sultan. The Sultan Municipal Code has noise regulations codified in Chapter 8.10 of the Sultan Municipal Code. The noise ordinance is similar to ordinances adopted by other cities throughout Washington State. The key issue for the police department is enforcement of the regulations.

Currently, the regulations are enforced by civil penalties (SMC 8.10.060). Interim Police Chief Rick Hawkins has recommended the Council adopt criminal penalties which

provide more legal protections for potential violators and have more “teeth” because violators may be arrested as opposed to receiving a ticket for a civil infraction.

City staff have recommended the City Council repeal SMC 5.12 (Dancing and Live Music) since, in the previous City Attorney’s opinion, the chapter is unconstitutional. City staff have used SMC 5.12 to “permit” live music events within the City limits. Staff recommend replacing SMC 5.12 with a special events permit to regulate activities on public property such as the Sultan Shindig, lumberjack classes, and live music events at the gazebo. A special events permit could also be used to regulate activities on private property which would affect the public rights-of-way and city services.

The City Council discussed these issues at its July 27, 2008 meeting. Councilmember Davenport-Smith volunteered to host a community meeting to take input and feedback on potential changes to the city’s noise regulations and implementation of a special events permit.

The community forum was advertised in the Sky Valley Chamber October newsletter. Invitations were sent to local business owners and community members who have expressed an interest in this issue. City staff sent a notice regarding the meeting to participants in the City’s listserv e-mail list.

RECOMMENDED ACTION:

Discuss the outcomes from the community meeting and direct staff on how to proceed.

ATTACHMENTS

A – SMC 8.10

COUNCIL ACTION:

DATE:

Chapter 8.10 PUBLIC DISTURBANCE NOISE

Sections:

- [8.10.010](#) Definitions.
- [8.10.020](#) Exemptions.
- [8.10.030](#) Infraction.
- [8.10.040](#) Enforcement.
- [8.10.050](#) Separate offenses.
- [8.10.060](#) Punishment.
- [8.10.070](#) Evidence in proceedings.

8.10.010 Definitions.

For the purposes of this chapter, the following definitions shall apply:

“Public disturbance noise” shall mean the following sources of sound:

A. Frequent, repetitive or continuous sound from any horn or siren attached to a motor vehicle except as a warning of danger or specifically permitted or required by law;

B. Frequent, repetitive or continuous sound in connection with the starting, operating, repairing, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine in any residential zone which unreasonably interferes with the peace, comfort and repose of owners or occupants of real property in the residential zone;

C. Loud or raucous sound from any activity which unreasonably interferes with the operation of any school, church, hospital, sanitarium or nursing or convalescent facility;

D. Frequent, repetitive or continuous sound which emanates from a building structure or property, and created by musical instrument, whistle, sound amplifier, stereo, jukebox, radio, television or other device capable of reproducing or creating sound, such as sounds originating from a band session, tavern operation or commercial sales lot which unreasonably interferes with the peace, comfort and repose of owners or occupants of nearby property;

E. Sound from a motor vehicle audio sound system, such as a radio, tape player or compact disc player, when the volume is such that the sound can be clearly heard by a person of normal hearing at a distance of more than 50 feet from the vehicle itself;

F. Sound from carried or transported portable audio sound equipment, such as a radio, tape player or compact disc player, when the volume is such that the sound can be clearly heard by a person of normal hearing at a distance of more than 50 feet from the source of the sound;

G. Frequent, repetitive or continuous sound which emanates from a residence, structure or property, and created by audio sound equipment, musical instruments or social gatherings which unreasonably interferes with the peace, comfort and repose of owners or occupants of neighboring residential properties;

H. Sound from squealing or screeching of motor vehicle tires in contact with the ground or other roadway surface because of rapid acceleration, braking or excessive speed around corners except such sounds which arise from actions to avoid danger;

I. Sound originating from a motor vehicle on the public highway when the vehicle is operated without a muffler in good working order and in accordance with applicable laws and regulations;

J. Sound from yelling, shouting, hooting, whistling or singing on or near the public streets occurring between the hours of 11:00 p.m. and 7:00 a.m. which unreasonably interferes with the peace, comfort and repose of owners or occupants of real property;

K. Sound originating from residential real property relating to temporary projects for the maintenance or repair of homes, grounds or appurtenances, including sounds from lawnmowers, power hand tools, snow removal equipment and the like when the same occurs between the hours of 10:00 p.m. and 7:00 a.m. weekdays and 10:00 p.m. and 9:00 a.m. on weekends;

L. Sounds originating from construction sites and activities, including but not limited to sounds from construction equipment, power tools and hammering between the hours of 10:00 p.m. and 7:00 a.m. weekdays and 10:00 p.m. and 9:00 a.m. on weekends except such sounds which arise from emergency construction work to protect public or personal health and safety. (Ord. 799-02)

8.10.020 Exemptions.

Though the following sources of sound may fall within the definitions of a “public disturbance noise” as defined in the previous section, the following sounds shall be exempt and shall not be a public disturbance noise:

A. Noise originating from aircraft in flight and sounds which originate in airports and are directly related to flight operations;

B. Noise created by safety and protective devices, such as relief valves where noise suppression would defeat the safety relief intent of the device;

C. Noise created by fire or security alarms, or noise created by emergency equipment;

D. Noise created by auxiliary equipment on motor vehicles used for highway maintenance;

E. Noise created by a special event so long as the event is in compliance with the terms and conditions of its special event permit;

F. Noise created by natural phenomenon;

G. Noise created by public utility facilities including electrical substations;

H. Noise created from local school marching bands while practicing;

I. Noise created by bells, chimes or carillon not operated for more than five minutes in any one hour from the hours of 7:00 a.m. to 10:00 p.m., but not including such noise as is artificially created and amplified and broadcast via loud speaker; and

J. Noise created by the operation of equipment or facilities of surface carriers engaged in commerce by railroad. (Ord. 799-02)

8.10.030 Infraction.

It is unlawful and a civil infraction for any person to cause or allow to be emitted a nonexempt public disturbance noise as defined by this chapter. (Ord. 799-02)

8.10.040 Enforcement.

Where this chapter defines “public disturbance noise” as sound unreasonably interfering with the peace, comfort and repose of owners or possessors of real property

or neighboring property, only after a complaint has been made by such a person may the police department issue a civil infraction notice. In all other instance of a “public disturbance noise” a civil infraction notice may be issued without a complaint. (Ord. 799-02)

8.10.050 Separate offenses.

For enforcement purposes, sound emitted during separate days shall be deemed a separate violation. A day is a 24-hour period beginning at 12:01 a.m. (Ord. 799-02)

8.10.060 Punishment.

A first violation and infraction of this chapter shall be punished with a penalty of \$100.00. A second violation and infraction of this chapter shall be punished with a penalty of \$200.00. A third and/or subsequent violation and infraction of this chapter is a misdemeanor and shall be punished with a fine of \$500.00 and/or incarceration in jail for a period not to exceed 30 days. (Ord. 799-02)

8.10.070 Evidence in proceedings.

In any proceeding under this chapter, evidence of sound level through the use of sound level meter readings shall not be necessary to establish the commission of the violation. (Ord. 799-02)