

CALIFORNIA COASTAL COMMISSION

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November 20, 2008

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, Deputy Director
Teresa Henry, District Manager
Karl Schwing, Supervisor, Regulation & Planning, Orange County Area
Meg Vaughn, Staff Analyst

SUBJECT: City of Laguna Beach Minor LCP Amendment No. 2-05 (Noise)

The City of Laguna Beach is requesting an amendment to its certified Local Coastal Program (LCP) Implementation Plan to delete the noise standards in Section 25.16.050 (Artists' Live/Work) and Section 25.32.006 (M-1A Light Industrial) and inserting a cross reference to the City's Noise Ordinance Chapter 7.25 of the Municipal Code. Chapter 7.25 of the Municipal Code is not part of the certified Local Coastal Program.

The language in Section 25.16.050 regarding noise currently states: "Noise resulting from the conduct of the approved art use shall be muffled so as not to become disruptive to surrounding neighbors due to volume, tone, intermittence, beat, frequency or shrillness." The language currently in Section 25.32.006 includes limits on sound pressure levels as measured in decibels and based on time of day and duration (see attached Ordinance No. 1448). The language in Section 25.16.050 is proposed to be replaced with: "The allowable exterior noise levels from the conduct of the approved art use shall comply with the requirements specified in Chapter 7.25." The language in Section 25.32.006 is proposed to be replaced with "The allowable exterior noise levels of allowed uses within the M-1A Zone shall comply with the requirements specified in Chapter 7.25." The City's Noise Ordinance (Chapter 7.25 of the Municipal Code) is contained in the attached Ordinance No. 1448.

The proposed cross reference to the City's Noise Ordinance would not result in the Noise Ordinance (which is not part of the certified LCP) taking precedence over the existing certified Land Use Plan polices. Development would have to be found consistent with both documents. The noise standards proposed to be removed are not necessary to implement the certified Land Use Plan. The Noise Ordinance does not contain any standards that are in conflict with the City's certified LUP or the public access policies of the Coastal Act. Noise impacts on sensitive habitats would be addressed through existing Land Use Plan ESHA (environmentally sensitive habitat) policies, including policies addressing appropriate setback requirements. The proposed removal of the noise references will not prevent the application of these ESHA or other certified LUP policies.

The Executive Director has determined that the proposed amendment is minor in nature in accordance with Section 13554(c) of the California Code of Regulations because it

Minor LCP Amendment No. 2-05
City of Laguna Beach (Noise)
Page 2

constitutes a change to the Implementation Plan that makes the applicable noise standards more specific and does not change the kind, location, intensity, or density of use, and is consistent with the City's Land Use Plan as certified by the Commission.

The purpose of this notice is to advise interested parties of the Executive Director's determination (pursuant to CCR Section 13555) that the proposed LCP amendment is minor. The Executive Director will report this determination to the Coastal Commission at its **December 10-12, 2008** hearing in **San Francisco**. The Executive Director will also report any objections to this determination that are received within ten working days of posting of this notice. The proposed minor amendment will be deemed approved and will become effective immediately unless one-third of the appointed members of the Commission request that it be processed as a major LCP amendment (CCR Section 13555(b)).

If you have any questions or need additional information regarding the proposed LCP amendment or the Commission's procedures, please contact Meg Vaughn of the Commission's South Coast District at the address and phone number shown on this letterhead. If you wish to register an objection to the proposed LCP amendment, please do so by **December 1, 2008**.

Attachments:

City Council Resolution No. 05-035
City of Laguna Beach Ordinance No. 1448

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RESOLUTION NO. 05.035

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT 04-07 AND REQUESTING ITS CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Planning Commission of the City of Laguna Beach held at least one public hearing to consider the adoption of Laguna Beach Local Coastal Program Amendment 04-07; and

WHEREAS, the City Council, after giving notice as prescribed by law, held at least one public meeting regarding the proposed Laguna Beach Local Coastal Program Amendment 04-07, and the City Council finds that the proposed amendment is consistent with the Certified Laguna Beach Coastal Land Use Plan and Chapter 6 of the California Coastal Act; and

WHEREAS, the City Council of the City of Laguna Beach intends to implement the Local Coastal Program in a manner fully consistent and in conformance with the California Coastal Act;

NOW, THEREFORE, the City Council of the City of Laguna Beach does hereby resolve as follows:

SECTION 1. That the Laguna Beach Local Coastal Program Amendment 04-07 is hereby approved, consisting of Ordinance No. 1448 pertaining to amendments to Title 25 – Zoning. Copies of the aforesaid Ordinance are attached hereto as Exhibit A, and are incorporated by this reference as though fully set forth herein.

SECTION 2. That the California Coastal Commission is hereby requested to consider, approve and certify Laguna Beach Local Coastal Program Amendment No. 04-07.

LGB LCPA min 2-05 Noise

1

Minor LCP Amendment No. 2-05
City of Laguna Beach (Noise)
Page 4


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SECTION 3. That pursuant to Section 13551(b) of the Coastal Commission Regulations, Laguna Beach Local Coastal Program Amendment No. 04-07 will automatically take effect immediately upon California Coastal Commission approval, as provided in Public Resources Code Sections 30512, 30513 and 30519.

ADOPTED this 5th day of April, 2005.


Elizabeth Pearson-Schneider, Mayor

ATTEST:


City Clerk

I, MARTHA ANDERSON, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing Resolution No. 05.035 was duly adopted at a Regular Meeting of the City Council of said City held on April 5, 2005, by the following vote:

- AYES: COUNCILMEMBER(S): Kinsman, Egly, Iseman, Dicterow, Pearson-Schneider
- NOES COUNCILMEMBER(S): None
- ABSENT COUNCILMEMBER(S): None


City Clerk of the City of Laguna Beach, CA

LGB LCPA min 2-05

ORDINANCE NO. 1448

**AN ORDINANCE OF THE CITY OF LAGUNA BEACH AMENDING
CHAPTER 7.25 – NOISE AND SECTIONS 25.16.050 AND 25.32.006
REGARDING NOISE PERFORMANCE STANDARDS FOR ARTIST
LIVE WORK UNITS AND USES IN THE M-1A ZONE**

WHEREAS, the Planning Commission conducted legally noticed public hearings and, after reviewing and considering all documents, testimony and other evidence presented, unanimously voted to recommend that the City Council approve amendments to Chapter 7.25, and Sections 25.16.050 and 25.32.006 regarding noise control requirements; and

WHEREAS, the City Council conducted a legally noticed public hearing and has reviewed and considered all documents, testimony and other evidence presented;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES ORDAIN, as follows:

SECTION 1. Chapter 7.25 of the Municipal Code regarding noise control requirements is hereby amended to read in its entirety as specified in Attachment “A.”

SECTION 2. Section 25.16.050 of the Municipal Code regarding noise performance standards for artist live/work units is hereby amended to read in their entirety as specified in Attachment “B.”

SECTION 3. Section 25.32.006 regarding noise performance standards for uses in the M-1A Zone is hereby amended to read in its entirety as specified in Attachment “C.”

SECTION 4. Pursuant to Section 15063 of the California Environmental Quality Act, an Initial Study was prepared for the project. The study found the project has or creates no significant environmental impacts requiring mitigation.

SECTION 5. This Ordinance is intended to be of Citywide effect and application.

All ordinances and provisions of the Laguna Beach Municipal Code and Sections thereof

LGB LCPA 2-05
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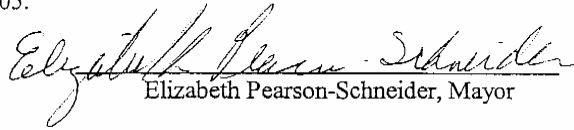
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Minor LCP Amendment No. 2-05
City of Laguna Beach (Noise)
Page 6

inconsistent herewith shall be hereby repealed to the extent of such inconsistency and no further.

SECTION 6. The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published in the same manner required by law in the City of Laguna Beach. This Ordinance shall become effective thirty (30) days after the final approval by the City Council.

ADOPTED this 5th day of April, 2005.


Elizabeth Pearson-Schneider, Mayor

ATTEST:

City Clerk

I, Martha Anderson, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance No. 1448 was introduced at a regular meeting of the City Council on March 15, 2005 and was finally adopted at a regular meeting of the City Council of said City held on April 5, 2005 by the following vote:

AYES: COUNCILMEMBER(S): Kinsman, Egly, Iseman, Dicterow, Pearson-Schneider

NOES: COUNCILMEMBER(S): None

ABSENT: COUNCILMEMBER(S): None

City Clerk of the City of Laguna Beach, CA

LGB LCPA min 2-05

Attachment "A"

Chapter 7.25

NOISE

Sections:

| | |
|----------|---|
| 7.25.010 | Declaration of Findings and Policy. |
| 7.25.020 | Definitions. |
| 7.25.030 | Designated Noise Zones. |
| 7.25.040 | Exterior Noise Standards. |
| 7.25.050 | Exemptions. |
| 7.25.060 | Loud and Disturbing Noise. |
| 7.25.070 | Real Property Maintenance Noise Regulations. |
| 7.25.080 | Construction Activity Noise Regulations. |
| 7.25.090 | Other Public Agency Exceptions. |
| 7.25.100 | Schools, Day Care Centers, Churches, Libraries, Museums, Health Care Institutions – Special Provisions. |
| 7.25.110 | Sound-Amplifying Equipment. |
| 7.25.120 | Loudspeakers. |
| 7.25.130 | Heating, Venting, Pool/Spa and Air Conditioning – Special Provisions. |
| 7.25.140 | Motor Vehicles. |
| 7.25.150 | Noise Level Measurement. |
| 7.25.160 | Prima Facie Violation. |
| 7.25.170 | Violations. |
| 7.25.180 | City Manager Waiver. |
| 7.25.190 | Noise Abatement Programs. |

7.25.010 Declaration of Findings and Policy.

Excessive noise is a serious hazard to the public health, welfare, safety and the quality of life. Community members have a right to, and should be ensured of, an environment free from excessive noise. Therefore, it is the policy of Laguna Beach to prevent excessive noise that may jeopardize the health, welfare or safety of the citizens or degrade their quality of life.

7.25.020 Definitions.

The following words and terms, when used in this Ordinance, shall have the following meanings.

“Ambient Noise Level” means the all-encompassing noise level associated with a given environment and is a composite of sounds from all sources, excluding the alleged offensive noise or excessive sound, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

LGB LC PA min 2-05

Minor LCP Amendment No. 2-05
City of Laguna Beach (Noise)
Page 8

“A-Weighted Sound Level” means the sound pressure level in decibels (dBAs) as measured with a sound level meter using the A-Weighted filter network (scale) at slow response and at a pressure of 20 micropascals. The A-Weighted filter de-emphasizes the very low and a very high frequency component of sound in a manner similar to the response of the human ear, and is a numerical method of rating human judgment of loudness.

“Applicable (Noise) Zone” means the Noise Zone category based on the actual use of the property, provided that the actual use is a legal use in the City of Laguna Beach.

“Decibel (dBA)” means a unit for measuring the amplitude of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure of 20 micropascals.

“Equivalent Sound or Noise Level (Leq)” means the International Electrotechnical Commission (IEC) 60804 Standard for measurement, or the most recent revision thereof, for the sound level corresponding to a steady state noise level over a given sample period with the same amount of acoustic energy as the actual time varying noise level or the energy average noise level during the sample period. The measurement period for the purposes of this Chapter is 15 minutes.

“Impulsive Noise” means a noise of short duration usually less than one second and of high intensity, with an abrupt onset and rapid decay. Such objectionable noises may also be repetitive.

“Intrusive Noise” means that noise which intrudes over and above the ambient noise at a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency, time of occurrence and tonal or information content, as well as the prevailing ambient noise level.

“Maintenance” means the upkeep, repair or preservation of existing property or structures.

“Noise” means any unwanted sound or sound which is undesirable because it interferes with speech and hearing, or is intense enough to damage hearing or is otherwise annoying. The State Noise Control Act defines noise as “. . . excessive undesirable sound. . .”

“Noise Level (Sound Level)” means the weighted sound pressure level obtained by use of a sound level meter having a standard frequency filter for attenuating part of the sound spectrum. For purposes of this Chapter, all noise levels (sound levels) shall be A-weighted sound pressure level.

LGB LCPA min 2-05

Minor LCP Amendment No. 2-05
 City of Laguna Beach (Noise)
 Page 9

“Noise (Sound) Level Meter” means an instrument, including a microphone, an amplifier, an output meter and frequency weighting networks for the measurement and determination of noise and sound levels. For the purposes of this Chapter the sound level meter must meet the International Electrotechnical Commission (IEC) 60651 and 60804 Standards, or the most recent revisions thereof, for Type 1 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

7.25.030 Designated Noise Zones.

The properties hereinafter described shall be assigned to the following noise zones:

- Noise Zone I -- All single, two and multiple-family residential properties;
- Noise Zone II -- All commercial properties;
- Noise Zone III -- The residential portion of mixed use properties; or
- Noise Zone IV -- Certain Districts in the Downtown Specific Plan area – CBD1, CBD2, CBD Visitor Commercial, CBD Central Bluffs and the Civic Arts District.
- Noise Zone V -- All manufacturing or industrial properties and all other uses.

The actual use of the property shall be the determining factor in establishing whether a property is in Noise Zone I, II, III, IV or V provided that the actual use is a legal use in the City of Laguna Beach.

7.25.040 Exterior Noise Standards.

(A) The following exterior noise standards, unless otherwise specifically indicated, shall apply to all properties within a designated noise zone.

| ALLOWABLE EXTERIOR NOISE LEVEL ⁽¹⁾ | | | |
|---|--|---|-------------------|
| Noise Zone | Type of Land Use | Allowed Equivalent Noise Level, Leq. ⁽²⁾ | |
| | | 7 a.m. to 10 p.m. | 10 p.m. to 7 a.m. |
| I | Residential | 60 dBA | 50 dBA |
| II | Commercial | 65 dBA | 65 dBA |
| III | Residential Portion | 65 dBA | 55 dBA |
| IV | Downtown Specific Plan Area – CBD1, CBD2, CBD Visitor Commercial, CBD Central Bluffs & Civic Arts District | 70 dBA | 70 dBA |
| V | Other Uses | 70 dBA | 60 dBA |

⁽¹⁾ If the ambient noise level exceeds the resulting standard, the ambient noise level shall be the standard.

⁽²⁾ Measurements for compliance are made on the affected property. (See Section 7.25.150 for details.)

(B) It is unlawful for any person at any location within the incorporated area of the City to create noise, or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any other property, to exceed either of the following:

- (1) The noise standard for the applicable zone for any 15-minute period.

LGIB LCPA min 2-05 3

Minor LCP Amendment No. 2-05
City of Laguna Beach (Noise)
Page 10

- (2) A maximum instantaneous (single instance) noise level equal to the value of the noise standard plus 20 dBA for any period of time (measured using A-Weighted slow response).
- (C) In the event the ambient noise level exceeds the noise standard, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.
- (D) The Noise Zone III standard shall apply to that portion of residential property falling within 100-feet of a commercial property or use, if the noise originates from that commercial property or use.
- (E) If the measurement location is on a boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply.

7.25.050 Exemptions.

The following activities shall be exempted from the provisions of this Chapter:

- (A) Any activity conducted on public property, or on private property with the consent of the owner, by any public entity or its officers, employees, representatives, agents, subcontractors, permittees, licensees or lessees, which the public entity has authorized are exempt from the provisions of this Chapter. This includes, without limitation, sporting and recreational activities which are sponsored, co-sponsored, permitted or allowed by the City of Laguna Beach or Laguna Beach Unified School District. This also includes, without limitation, occasional outdoor gatherings, public dances, shows or sporting and entertainment events, provided said events are conducted pursuant to an approval, authorization, contract, lease, permit or sublease by the appropriate public entity, specifically the Laguna Beach Design Review Board, Planning Commission, City Council or Irvine Bowl Policy Committee relative to the staging of said events;
- (B) Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle, work or warning alarm or bell, provided the sounding of any bell or alarm on any building or motor vehicle shall terminate its operation within 15 minutes in any hour of its being activated;
- (C) Any noise sources associated with people and/or music associated with a social gathering on private property. Such noise generating activities are subject to the provisions of Section 7.25.060;
- (D) Noise sources associated with the maintenance of real property. Such noise generating activities are subject to the provisions of Section 7.25.070;
- (E) Noise sources associated with construction, repair, remodeling, demolition or grading of any real property. Such noise generating activities are subject to the provisions of Section 7.25.080;
- (F) Any activity to the extent regulation thereof has been preempted by State or Federal law. (Preemption may include motor vehicle and aircraft in flight noise regulations);
- (G) Noise sources associated with construction, repair, remodeling, demolition or grading of public rights-of-way or during authorized seismic surveys; and
- (H) Any noise sources associated with barking dogs or other intermittent noises made by animals on any property within the City of Laguna Beach. Such noise is difficult to measure under the terms of this Chapter and instead shall be subject to the provisions of Chapter 6.16 of this Code.

LG B LC PA min 2-05

Minor LCP Amendment No. 2-05
City of Laguna Beach (Noise)
Page 11

(I) Noise sources related to uses approved by a permit, such as a Conditional Use Permit, in effect prior to the effective date of this Chapter and which contain acoustic or noise standard conditions of approval. This exemption shall only be applicable during the effective period of the City approved permit.

7.25.060 Loud and Disturbing Noise.

It is unlawful for any person or property owner within the City to make, cause or allow to be made any loud, excessive, impulsive or intrusive noise, disturbance or commotion which disturbs the peace or quiet of any area or which causes discomfort or annoyance to any reasonable person of normal sensitivities in the area, after a Peace or Code Enforcement Officer has first requested that the person or property owner cease and desist from making such noise. The types of loud, disturbing, excessive, impulsive or intrusive noise may include, but is not limited to, yelling, shouting, hooting, whistling, singing, playing a musical instrument, and emitting or transmitting any loud music or noise from any mechanical or electrical sound making or sound-amplifying device.

The factors, standards, and conditions which may be considered in determining whether a violation of the provisions of this section has been committed, include, but are not limited to, the following:

- (1) The level of the noise;
- (2) The level and intensity of the background (ambient) noise, if any;
- (3) The proximity of the noise to residential or commercial sleeping areas;
- (4) The nature and zoning of the area within which the noise emanates;
- (5) The density of inhabitation of the area within which the noise emanates;
- (6) The time of day and night the noise occurs;
- (7) The duration of the noise;
- (8) Whether the noise is constant, recurrent or intermittent;
- (9) Whether the noise is produced by a commercial or noncommercial activity; and
- (10) Whether the use is lawful under the provisions of Title 25 of this Code and whether the noise is one that could reasonably be expected from the activity or allowed use.

7.25.070 Real Property Maintenance Noise Regulations.

(A) No person, while engaged in maintenance of real property, shall operate any tool, equipment or machine in a manner which produces loud noise that disturbs a person of normal sensitivity who works or resides in the vicinity, or a Peace or Code Enforcement Officer, except between the hours of 8:00 a.m. and 6:00 p.m.

(B) Trimming or pruning which requires the use of chain saws or mulching machines shall only be allowed between the hours of 8:00 a.m. and 6:00 p.m. on a weekday, which is not a Federal Holiday, and between the hours of 10:00 a.m. and 5:00 p.m. on a Saturday. Trimming or pruning which requires the use of chain saws or mulching machines shall not be allowed on Sundays.

(C) No landowner, gardener, property maintenance service, contractor, subcontractor or employer shall permit or allow any person or persons working under their direction and control to operate any tool, equipment or machine in violation of the provisions of this Section.

LCP LC PA 2-05
min

Minor LCP Amendment No. 2-05
City of Laguna Beach (Noise)
Page 12

(D) The use of electrical or gasoline powered blowers, such as commonly used by gardeners and other persons for cleaning lawns, yards, driveways, gutters and other property is prohibited at any time within the City limits.

(E) Exceptions. The provisions of this Section shall not apply to the following:

- (1) Emergency property maintenance authorized by the Building Official;
- (2) The maintenance, repair or improvement of any public work or facility by public employees, by any person or persons acting pursuant to a public works contract, or by any person or persons performing such work or pursuant to the direction of, or on behalf of, any public agency; provided, however, this exception shall not apply to the City of Laguna Beach, or its employees, contractors or agents, unless:
 - (a) The City Manager or Department Director determines that the maintenance, repair or improvement is immediately necessary to maintain public service;
 - (b) The maintenance, repair or improvement is of a nature that cannot feasibly be conducted during normal business hours; or
 - (c) The City Council has approved project specifications, contract provisions, or an environmental document that specifically authorizes maintenance during hours of the day which would otherwise be prohibited pursuant to this Section.
- (3) Any maintenance that complies with the noise limits specified in Section 7.25.040.
- (4) Maintenance activities for certain public benefit non-profit art organizations, specifically the Sawdust Festival, Art-A-Fair and the Laguna Art Museum, shall be permitted between the hours of 8:00 a.m. and 10:00 p.m. Monday through Friday, 8:00 a.m. and 8:00 p.m. on Saturday and Sunday.

7.25.080 Construction Activity Noise Regulations.

(A) Weekdays. No person, while engaged in construction, remodeling, digging, grading, demolition or any other related building activity, shall operate any tool, equipment or machine in a manner which produces loud noise that disturbs a person of normal sensitivity who works or resides in the vicinity, or a Peace or Code Enforcement Officer, on any weekday except between the hours of 7:30 a.m. and 6:00 p.m.

(B) Weekends and Holidays. No person, while engaged in construction, remodeling, grading, demolition or other related building activity, shall operate any tool, equipment or machine in a manner which produces loud noise that disturbs a person of normal sensitivity who works or resides in the vicinity, or a Peace or Code Enforcement Officer, on any weekend day or any Federal holiday.

(C) No landowner, construction company owner, contractor, subcontractor, or employer shall permit or allow any person or persons working under their direction and control to operate any tool, equipment or machine in violation of the provisions of this Section.

(D) Exceptions.

- (1) The provisions of this Section shall not apply to emergency construction work performed by a private party when authorized by the Director of Community Development, Building Official or their designee.

LGBCPA min 2-05

Minor LCP Amendment No. 2-05
City of Laguna Beach (Noise)
Page 13

- (2) The maintenance, repair or improvement of any public work or facility by public employees, by any person or persons acting pursuant to a public works contract, or by any person or persons performing such work or pursuant to the direction of, or on behalf of, any public agency; provided, however, this exception shall not apply to the City of Laguna Beach, or its employees, contractors or agents, unless:
 - (a) The City Manager or a Department Director determines that the maintenance, repair or improvement is immediately necessary to maintain public services;
 - (b) The maintenance, repair or improvement is of a nature that cannot feasibly be conducted during normal business hours; or
 - (c) The City Council has approved project specifications, contract provisions, or an environmental document that specifically authorizes construction during hours of the day which would otherwise be prohibited pursuant to this Section.
- (3) Any construction that complies with the noise limits specified in Section 7.25.040.
- (4) Construction activities for certain public benefit non-profit art organizations, specifically the Sawdust Festival, Art-A-Fair and the Laguna Art Museum, shall be permitted between the hours of 7:30 a.m. and 10:00 p.m. Monday through Friday, 7:30 a.m. and 8:00 p.m. on Saturday and Sunday.

7.25.090 Other Public Agency Exceptions.

The provisions of this Chapter shall not be construed to prohibit any work at different hours by or under the direction of any other public agency or utility companies in cases of necessity or emergency.

7.25.100 Schools, Day Care Centers, Churches, Libraries, Museums, Health Care Institutions – Special Provisions.

It is unlawful for any person to create any noise which causes the outdoor noise level at any school, day care center, hospital or similar health care institution, church, library or museum while the same is in use, to exceed the noise standards specified in Section 7.25.040 prescribed for the assigned Noise Zone I.

7.25.110 Sound-Amplifying Equipment.

Loudspeakers, sound amplifiers, public address systems or similar devices used to amplify sounds shall be subject to the provisions of Section 7.25.120. Such sound-amplifying equipment shall not be construed to include electronic devices, including but not limited to, radios, tape players, tape recorders, compact disc players, electric keyboards, music synthesizers, record players or televisions, which are designed and operated for personal use, or used entirely within a building and are not designed or used to convey the human voice, music or any other sound to an audience outside such building, or which are used in vehicles and heard only by occupants of the vehicle in which installed.

LGB LCPA 1117 2-05

Minor LCP Amendment No. 2-05
City of Laguna Beach (Noise)
Page 14

7.25.120 Loudspeakers.

(A) It is unlawful for any person, other than personnel of law enforcement or governmental agencies, to install, use or operate a loudspeaker or amplifying device in a fixed or movable position or mounted upon any vehicle within the City for the purpose of giving instructions, directions, talks, addresses or lectures to any persons or assemblages of persons in or upon any street, alley, sidewalk, park, place or public property without a permit so to do from the Chief of Police. The City, in granting or denying such permit, shall consider the constitutional right of free speech of all persons, including the applicant, but shall also consider the volume of traffic, both vehicular and pedestrian, and the effect, if any, of granting such permit upon the orderly movement of traffic, the peaceable passage or presence of persons, in, on, to or across the street, alley, sidewalk, park, place or public property, the possible disorder or unlawful injury to persons or property, the possible tendency to incite crime, the possible invasion of the right of privacy, the threat of the overthrow of the lawfully established government or any agency or portion thereof by force, and the possible unlawful breach or disturbance of the public peace if the permit is granted. This City shall grant or deny the permit after considering such matters.

(B) The use of sound-amplifying equipment and sound trucks in the City shall be subject to the following regulations:

- (1) The only sounds permitted are music and human speech.
- (2) Sound shall not be emitted within 100 yards of hospitals, churches, schools and City Hall.
- (3) The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound-amplifying equipment or sound truck, and so that the volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the range of allowed audibility.
- (4) The sound amplifying equipment or sound truck shall not be used between the hours of 8 p.m. and 8 a.m.

7.25.130 Heating, Venting, Pool/Spa and Air Conditioning – Special Provisions.

Permits for heating, venting and air-conditioning (HVAC) and pool/spa equipment in or adjacent to residential areas shall be issued only after the installation contractor signs an acknowledgment that the installation will meet the noise limits established in Section 7.25.040. Applications for residential mechanical permits for air conditioners may use the methodology specified in Standard 275 "Standard Application of Sound Rated Outdoor Unitary Equipment" of the Air-conditioning and Refrigeration Institute (ARI), 1984, as amended. Applicants of mechanical permits for commercial HVAC equipment may be required to submit a detailed acoustical study that demonstrates compliance with the noise limits established in Section 7.25.040.

LGB LCPA min 2-05

12

7.25.140 Motor Vehicles.

The use of any motor vehicle in such a condition as to create excessive, impulsive or intrusive noises is prohibited. The discharge into the open air of the exhaust of any internal combustion engine, stationary or mounted on wheels, motorboat or motor vehicle, including motor cycle, whether or not discharged through a muffler or other similar device, that creates excessive, unusual, impulsive or intrusive noise is prohibited. Motor vehicles shall comply with the noise regulations of the California Vehicle Code, as amended.

7.25.150 Noise Level Measurement.

(A) The location selected for measuring exterior noise levels in a residential area shall be at any part of a private yard, patio, deck or balcony normally used for human activity and identified by the owner of the affected property as suspected of exceeding the noise level standard. This location may be the closest point in the private yard or patio, or on the deck or balcony, to the noise source, but should not be located in nonhuman activity areas such as trash container storage areas, planter beds, above or contacting a property line fence, or other areas not normally used as part of the yard, patio, deck or balcony. The location selected for measuring exterior noise levels in a nonresidential area shall be at the closest point on the affected property to the noise source. The measurement microphone height shall be 5 feet above finish elevation or, in the case of a deck or balcony, the measurement microphone height shall be 5 feet above the finished floor level or outside any sensitive room window.

(B) Any decibel measurement made pursuant to the provisions of this Chapter shall be measured in decibels (dBAs) as measured with a sound level meter using the A-Weighted sound pressure level.

7.25.160 Prima Facie Violation.

Any noise exceeding the noise level standard as specified in Section 7.25.040 of this Chapter, shall be deemed to be prima facie evidence, (evidence that is sufficient to establish the issue in question), of a violation of the provisions of this Chapter.

7.25.170 Violations.

(A) Any person who negligently or knowingly violates any provision of this Chapter shall be guilty of an infraction punishable by a fine specified by the Administrative Citation Schedule of Fines adopted by the City Council in accordance with the requirements set forth in Section 1.15.070 of this Code. The manner of enforcement of this Chapter shall follow the procedures specified in Chapter 1.15 of this Code regarding Administrative Citations.

(B) As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this Chapter, which operation or maintenance causes or creates sound levels exceeding the allowable standards as specified in this Chapter, shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

LGB LCPA min 2-05

15

Minor LCP Amendment No. 2-05
City of Laguna Beach (Noise)
Page 16

(C) Any violation of this Chapter is declared to be a public nuisance and may be abated in accordance with law. The expense of enforcing this Chapter is declared to be public nuisance and may be by resolution of the City Council declared to be a lien against the property on which such nuisance is maintained, and such lien shall be made a personal obligation of the property owner.

7.25.180 City Manager Waiver.

The City Manager is authorized to grant a temporary waiver to the provisions of this Chapter for a period of time necessary to correct the violations of this Chapter, if such temporary waiver would be in the public interest and there is no feasible and prudent alternative to the activity, or the method of conducting the activity, for which the temporary waiver is sought. This time period may include a commitment to a program which includes placing necessary orders and entering into necessary contracts within 30 days for repair or installation.

7.25.190 Noise Abatement Programs.

(A) In circumstances which adopted community-wide noise standards and policies prove impractical in controlling noise generated from a specific source, the City Council may establish a noise abatement program which recognizes the characteristics of the noise source and affected property and which incorporates specialized mitigation measures.

(B) Noise abatement programs shall set forth in detail the approved terms, conditions and requirements for achieving maximum compliance with noise standards and policies. Said terms, conditions and requirements may include, but shall not be limited to, limitations, restrictions, or prohibitions on operating hours, location of operations, and the types of equipment.

LGB LCPA min 2-05

14

Attachment "B"

25.16.050 Performance standards.

The following performance standards shall apply to all artists' joint living and working units and all planned artists' developments.

(1) Noise. The allowable exterior noise levels from the conduct of the approved art use shall comply with the requirements specified in Chapter 7.25.

(2) Odor. Every use shall be operated in such a manner that it does not emit an obnoxious odor or fumes beyond the working unit/area.

(3) Smoke. Every use shall be operated in such a manner that it does not emit smoke into the atmosphere.

(4) Dust and Dirt. Every use shall be operated in such a manner that it does not emit any dust or dirt into the atmosphere.

LGB LCPA min 2-05

15

Attachment "C"

25.32.006 Performance standards.

The following performance standards shall apply to all uses within the M-1A zone:

(A) Smoke. Every use shall be so operated that there shall be no smoke whatsoever discharged into the atmosphere.

(B) Odor. Every use shall be so operated that it does not emit an obnoxious odor or fumes beyond any boundary line of the lot.

(C) Dust and Dirt. Every use shall be so operated that any dust or dirt produced shall be confined within a building and shall not be discharged into the atmosphere.

(D) Glare. Every use shall be so operated that any glare incidental to the operations shall not be visible beyond the boundaries of the property.

(E) Noise. The allowable exterior noise levels of allowed uses within the M-1A Zone shall comply with the requirements specified in Chapter 7.25.

LG13 LCRA min 2-05

16