



Legislation Details (With Text)

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Title: An Ordinance to Amend Sections 9:361 and 9:363 of Chapter 119, Noise Control, of Title IX of the Code of the City of Ann Arbor (Ordinance No. ORD-12-33)
Sponsors: Christopher Taylor

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Date	Ver.	Action By	Action	Result
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12/3/2012	1	City Council	Adopted on Second Reading	Pass
11/19/2012	1	City Council	Approved on First Reading	Pass

An Ordinance to Amend Sections 9:361 and 9:363 of Chapter 119, Noise Control, of Title IX of the Code of the City of Ann Arbor (Ordinance No. ORD-12-33)

The noise ordinance, in Chapter 119, section 9:363(5), has long prohibited construction activity that creates audible noise beyond the project's property line between 8:00 p.m. and 7:00 a.m. and all day on Sundays (exceptions exist for homeowners doing work on their own home). In recent years, this has become more of an issue particularly in large construction projects where workers have been directed by their superiors to do work that requires the operation of noisy construction machinery at the prohibited times.

The proposed ordinance amendment to section 9:363(5) makes clear that, while the worker could be charged under these circumstances, the persons under whose authority the work is being performed can be held responsible instead. Naturally, there is a reluctance to enforce the ordinance against a person who may fear compliance will lead to job loss. Additionally, the amendment adds legal holidays to the prohibition, which requires amending section 9:361 to define "legal holiday."

As with the current ordinance, the ordinance amendment does not prohibit construction activity. Rather, it prohibits the creation of noise from construction work that disturbs the public peace and quiet at times when it is reasonable to expect no such disturbance.

Prepared by: Kristen Larcom, Senior Assistant City Attorney

Sponsor: Councilmember Taylor

ORDINANCE NO. ORD-12-33

First Reading: November 19, 2012 Published: December 6, 2012

Public Hearing: December 3, 2012 Effective: December 16, 2012

NOISE CONTROL

AN ORDINANCE TO AMEND SECTIONS 9:361 AND 9:363 OF CHAPTER 119, NOISE CONTROL, OF TITLE IX OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor Ordains:

Section 1: That Section 9:361 of Chapter 119, Noise Control, of Title IX of the Code of the City of Ann Arbor be amended to read as follows:

9:361. - Definitions.

As used in this Article:

- (1) "dB(A)" means the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting scale and the fast meter response, as specified in American National Standards Institute standard S 1.4-1971.
- (2) "Commercial" means a use of the property for purposes other than residential.
- (3) "Legal holiday" means the following days: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Veterans' Day, Christmas Day.
- (3-4) "Property line" means the imaginary line which represents the legal limits of property (including an apartment, condominium, room, or other dwelling unit) owned, leased, or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on a public street or other public right-of-way, the "property line" shall be the nearest boundary of the public right-of-way.
- (45) "Residential" means a legal use of property for temporary or permanent dwelling purposes.

Section 2: That Section 9:363 of Chapter 119, Noise Control, of Title IX of the Code of the City of Ann Arbor be amended to read as follows:

9:363. - Specific prohibitions.

The No person shall engage in, assist in, permit, continue or permit the continuance of the following activities are prohibited if they the activity produces clearly audible sound beyond the property line of the property on which they are it is conducted even if the sound level is equal to or less than the dB(A) specified in Section 9:364:

- (1) The operation, between 10:00 p.m. and 7:00 a.m., of power tools or equipment.
- (2) The operation, between 10:00 p.m. and 7:00 a.m., of any device for killing, trapping, attracting, or repelling insects or other pests.
- (3) The sounding, between 10:00 p.m. and 7:00 a.m., of any bell, chime, siren, whistle or similar

device, except:

- (a) To alert persons to the existence of an emergency, danger or attempted crime; or
 - (b) As provided in section 9:365(5).
- (4) The operation or playing between 10:00 p.m. and 7:00 a.m. of any radio, television, phonograph, drum or musical instrument.
- (5) Construction, repair, remodeling, demolition, drilling or excavation work at any time on Sunday or a legal holiday and between 8:00 p.m. and 7:00 a.m. Monday-Saturday, except as permitted by section 9:365(2). The persons to whom this subsection applies shall include, but not be limited to, construction managers, foremen, property owners, developers, contractors, and subcontractors who direct, order, require, authorize, or commission another person to perform these activities in a manner that violates this section. If the person is an entity, this subsection shall also apply to the officers, directors, partners, limited liability company members, or other individuals constituting such entity.
- (6) The operation or use between 10:00 p.m. and 7:00 a.m. of any loudspeaker, sound amplifier, public address system or similar device used to amplify sounds.
- (7) The creation of a loud, unnecessary noise in connection with the loading or unloading of any vehicle or the opening and closing or destruction of bales, boxes, crates, or other containers.
- (8) The use of any drums, loud-speakers, musical devices or other instruments or devices for the purpose of attracting attention by the creation of noise to any performance, show or sale or display of merchandise.
- (9) A noise nuisance as defined in Chapter 107 (Animals) after 10:00 p.m. and before 7:00 a.m.

The prohibitions of this section apply even if the sound level produced by a prohibited activity does not exceed the applicable level specified in section 9:364.

Section 3: In the event any court of competent jurisdiction shall hold any provision of this Ordinance invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision thereof.

Section 4: This Ordinance shall take effect ten days after passage and publication.