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City Council Report

Meeting Date: November 1, 2021
Agenda Item: Revisions to Title 13: Noise Ordinance (SMC § 13.02.11)
Prepared By: Eric Miller, Staff Attorney

Background/History

Title 13 lists unlawful actions and offenses within the City of Sturgis, and gives the City the authority to police activities and assess penalties for violations. Sturgis Municipal Code (SMC) § 13.02.11 regulates noise within the City boundary. The current version of the noise ordinance restricts any disruptive noise or use of sound equipment between 2:00 a.m. and 8:00 a.m. These restrictions are applicable seven days a week. The recommended revisions to Title 13 would modify the restrictions to begin at 11:00 p.m. Sunday night through Friday morning, and 12:00 a.m. beginning on Friday and Saturday at midnight. The recommended revisions also modify the restricted times during the 10 days of the Rally, and 3 days prior to those dates. During this timeframe, the restricted time begins at 1:00 a.m.

Prior discussions regarding SMC § 13.02.11 included setting decibel levels as a means of determining whether noise violations occur. As noted in these prior discussions, the City of Sturgis is unique compared to other municipalities because of the large influx of motorcycles and other vehicles known for having loud exhausts. This uniqueness makes enforcement using decibel levels impracticable, especially during the Rally, based on a potential violation occurring every time a motorcycle passes. Based on the impracticable nature of using decibel levels, Staff does not recommend including these enforcement measures in the revised ordinance.

Also, prior discussions between the City and local downtown business owners resulted in an informal agreement that these businesses would limit outdoor noise past 11:00 p.m. The proposed revisions to the noise ordinance reflects this agreement and attempts to balance the needs of local business owners with those of local residents.

Discussion

The purpose of the revisions to Title 13 is to limit potentially disruptive noise during late evening and early morning hours. Further limiting disruptive noise during the late hours on weekdays and weekends balances the needs of an active and thriving downtown with the local residents' use and quiet enjoyment of their property. Also, providing a specific Rally timeframe to the noise restrictions further supports an active and thriving downtown during the peak commercial time-period.

The current version of the revised noise ordinance reflects many of the concerns raised by both residents and downtown property owners. Comments at the October 18, 2021, City Council Meeting make it apparent that the current layout of the noise ordinance, and initial proposed revisions, were unclear. The proposed revised version simplifies the ordinance by laying out specific restricted time



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periods and providing for an enumerated list of exceptions to the time period. Also, the revised version includes a definition of what is considered a violation during the restricted period (ie. plainly audible at the property boundary of the source). Also, to simplify the ordinance, a table outlining the specific restricted noise times is included.

The proposed revised restricted times reflect the recommendations from the downtown business owners. The proposed restricted times are: between 11:00 p.m. and 8:00 a.m. Sunday night through Friday mornings. 12:00 a.m. to 8:00 a.m. beginning Friday night at midnight (Saturday morning) to 8:00 a.m. Saturday morning, and Saturday night at midnight (Sunday morning) to 8:00 a.m. Sunday morning. Beginning 3 days prior to the Rally, and running through the 10 day Rally, the restricted times change to 1:00 a.m. to 8:00 a.m.

The proposed revised ordinance also includes a permitting system that allows relief from the noise restrictions. This enables downtown business owners to apply for a permit if there is a large act or band playing at one of their businesses.

Budget Impact

The provisions of this ordinance are not projected to have a measurable increase in either City revenues or City expenses. Projected enforcement of the revised ordinance will likely not add significant strain to current police and code enforcement levels.

Staff Recommendation:

Staff recommends the approval at a first reading of this amendment to subsection 13.02.11 of Title 13.

City Manager Approval:

Dani Aolzi



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13.02.11: NOISE REGULATION AND LIMITATION

A. PURPOSE AND INTENT

The purpose and intent of this section is to protect, preserve and promote the health, safety, welfare, peace, quiet, and tranquility for the citizens of the city and persons or visitors frequenting the city through the reduction, control and prevention of noise which is disruptive and constitutes an annoyance to such citizens and persons. The city recognizes and acknowledges the topography of the city and that businesses are located primarily along the streets and highways which travel through the bottom of the valley of the city and that sound and noise rising from such highways and streets is easily heard and echoes above such streets and alleys to the surrounding area where most of the citizens of the city reside. The city acknowledges and recognizes that the Sturgis Rally has created a certain business environment which now dominates the business community of the city. This environment has also greatly increased the number of visitors and tourists visiting the city and greatly increased both vehicle traffic and pedestrian traffic and general noise level on the streets and sidewalks of the city.

B. PROHIBITIONS

- (1) *Restricted Times and Violations:* Any noise or acts which fall under the General Prohibitions in Section (B)(2) or the listed acts in Section (B)(3) are declared to be in violation of this chapter if they occur during the restricted period as outlined in the table below, or if occurring during the unrestricted timeframe, becomes unreasonably loud, raucous, jarring, disturbing, disruptive, or annoying to residents and other persons within the city.
- (a) Any activity which emits noise or acts prohibited during the restricted hours are in violation if done in such a manner as to be plainly audible at the property boundary of the source or plainly audible at 20 feet from such activity when done within a vehicle parked on a public right-of-way, or plainly audible at 50 feet when done within a moving vehicle. A plainly audible noise is defined as any noise for which the information content of that noise is unambiguously transferred to the listener, such as, but not limited to, understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

Restricted Times Table

Type of Activity	Restricted Timeframe
Make or Permit any disruptive noise or use sound equipment in public or outside.	<u>Sunday to Thursday</u> – Beginning at 11:00 p.m. and ending at 8:00 a.m. the following morning.
Make or Permit any disruptive noise or use sound equipment in public or outside.	<u>Friday and Saturday*</u> – Beginning at 12:00 a.m. and ending at 8:00 a.m. the following morning.
Make or Permit any disruptive noise or use sound equipment in public or outside.	<u>Sturgis Motorcycle Rally – Official Rally Dates and 3 days prior to the Rally</u> – Beginning at 1:00 a.m. and ending at 8:00 a.m. the following morning.
Operate construction equipment, tools, or conduct construction activities, including power equipment.	<u>Everyday</u> – Beginning at 10:00 p.m. and ending at 6:00 a.m. the following morning.

* As the restricted time begins at 12:00 a.m., this restricted period technically begins Saturday

and Sunday mornings and ends at 8:00 a.m. the same morning.

- (2) *General Prohibitions*: It is unlawful for any person to make, continue, or cause to be made any loud or unusual noise so as to disturb the peace of the public, any neighborhood, any business operation, family, lawful assembly of persons, or a person by committing any act or acts of disturbance within the limits of the city.
- (3) *Specific Prohibitions*. The following acts are declared to be in violation of this chapter if done in a manner which violates Sections B(1) or B(2).
 - (a) *Horns and signaling devices*. Sounding of any horn or signaling device on any motor vehicle on any street or public place within the city therein, except as a danger warning signal, or the sounding of any such signaling device for an unnecessary and unreasonable period of time.
 - (b) *Radios, televisions sets, musical instruments, and similar devices*. Using, operating, or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum, or other machine or device for the production or reproduction of sound.
 - (c) *Live concerts and entertainment*. Performing, or permitting any live concert, show, or entertainment. Live concerts or entertainment consists of any person or group performing in person.
 - (d) *Public loudspeakers*. Using, operating, or allowing the use or operation of a loudspeaker or sound amplifying equipment in a fixed or movable position, or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place or public property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of person.
 - (e) *Loading operations*. Loading, unloading, opening, or otherwise handling boxes, crates containers, garbage containers, or other objects.
 - (f) *Construction work*. Operating, or causing to be used or operated, any equipment used in construction, repair, alteration, or demolition work on buildings, structures, streets alleys, or any associated appurtenances.
 - (g) *Power equipment*. Operating or permitting to be operated any power equipment used for home repair, building repair, or grounds maintenance, including but not limited to power saws, sanders, lawn mowers, generators, or garden equipment.
 - (h) *Dynamic Engine Breaking*. Operating any motor with a dynamic braking device engaged, except for the aversion of imminent danger. A dynamic braking device, commonly referred to as a "Jake Brake," means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of the wheel brakes. The use of a dynamic braking device is prohibited during any unrestricted timeframe.
 - (i) *Recreational vehicles and snowmobiles*. Operating a recreational vehicle or snowmobile.

C. EXCEPTIONS

- (1) The following uses and activities are exempt from any noise regulations. These uses and activities are not required to obtain a sound permit unless otherwise stated:
 - (a) Noise of safety signals, warning devices, and emergency pressure relief valves.
 - (b) Noise resulting from any authorized emergency vehicles when responding to an emergency call or acting in time of emergency, such as police, fire, and ambulance sirens, or warning devices and loudspeakers used in connection with crimes, disasters, or emergencies.
 - (c) Noise resulting from emergency work.
 - (d) School outdoor concerts and music activities including marching band activities, concerts, and parades, sporting activities with musical components, art festivals, and student fundraisers.
 - (e) Religious organizations conducting worship services outdoors, including, but not limited to, operation of a bell for religious activity.
 - (f) City sponsored events including, but not limited to, events organized or sponsored by the City Rally and Events Department.
 - (g) Other Events as allowed by the City in approving a Special Event application, for the times and dates established by the City.
 - (h) Athletic games or contests such as football games, softball games, baseball games, soccer games, rodeos, bicycle races, and other similar events.
 - (i) City authorized activities, such as parades, community events, festivals or celebrations, or any event or celebration in conjunction with declared special events.
 - (j) An employee of a governmental entity engaged in the employee's official duty.
 - (k) Any activity where an unrevoked Noise Permit is posted.

D. NOISE PERMITS

- (1) *Permit and Application.* Applications for a permit for relief from the noise restrictions in this chapter for an activity will be made to the City Manager, or specified designee. Permits must comply with the following:
 - (a) Application must be made on a form provided by the City;
 - (b) Application shall be made a minimum of 48 hours before the City Council meeting, at which the permit will be considered. (For instance, to be considered at the Monday meeting, the application must be submitted to the City on the preceding Thursday);
 - (c) Permits must be posted at the activity; and

- (d) The permit may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the city or the surrounding neighborhood.
- (2) *Revocation of Permit.* A permit issued under this chapter may be revoked or terminated by the city if the noise which is produced under the permit becomes unreasonably loud, raucous, jarring, disturbing, disruptive, or annoying to residents or other persons within the city.

E. ENFORCEMENT RESPONSIBILITY

- (1) *Enforcing Agency.* The Sturgis Police Department has exclusive responsibility to investigate, issue citations, and submit reports regarding the enforcement of this chapter.
- (2) It is unlawful for any person to hinder or interfere with any authorized person while in the performance of their duties under this chapter.

(13.02.11 revised with Ordinance _____, effective _____)