


**ADMINISTRATION MEMORANDUM
15-12**

DATE: April 27, 2015
TO: Honorable Mayor Joyce Downing and City Council members
FROM: John Pick, City Manager 
SUBJECT: CB- 1852 – Construction Noise Ordinance Amendment

RECOMMENDATION:

I recommend that the Council adopt the attached ordinance changing the time during which noise-producing construction activities can take place in Northglenn to reduce the potential for loud noises to disturb residents. This version reflects several changes from the original draft to address concerns raised by the Council.

BACKGROUND:

When the proposed amendment to the noise ordinance was discussed by Council at your March 16, 2015 Study Session, a number of concerns were raised about the effect of this ordinance on utilities needing to perform emergency work at night and on construction activities that don't generate noise. Since that Study Session, the City Attorney has reviewed the ordinance and added an exemption for utilities performing emergency work. In addition, he added back to this draft a provision from the current ordinance to provide that construction activities that don't produce noise that would constitute a disturbance "across a residential real property boundary" would not be prohibited. With these changes, we believe that the objections to this ordinance have been addressed.

BUDGET/TIME IMPLICATIONS:

There are no budget or time implications involved with this recommendation.

STAFF REFERENCE:

If you have any comments or questions, please contact John Pick at jpick@northglenn.org or at 303-450-8706.

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1852
Series of 2015

Series of 2015

A BILL FOR AN ORDINANCE AMENDING THE NORTHGLENN NOISE CONTROL ORDINANCE ADDRESSING CONSTRUCTION NOISE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 9-13-3, subsections (b) and (t) are amended to read as follows:

(b) **“Construction ACTIVITIES”** means any AND ALL ACTIVITY INCIDENTAL TO THE ERECTION, DEMOLITION, ASSEMBLING, ALTERING, INSTALLING OR EQUIPPING OF BUILDINGS, STRUCTURES, ROADS OR APPURTENANCES THEREOF, INCLUDING LAND CLEARING, GRADING, EXCAVATING AND FILLING ~~site preparation, assembly, erection, substantial repair, alteration, or similar action, excluding demolition, for or of public or private rights of way, structures, utilities, or similar property.~~

* * *

(t) **“Residential”** means an area of single or multi-family dwellings where businesses may or may not be conducted in such dwellings. The zone includes areas where multiple unit dwellings AND high-rise apartment districts, ~~and redevelopment districts~~ are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. **“Residential Zone”** includes educational facilities, hospitals, nursing home and similar institutions

Section 2. Section 9-13-4(b)(5) is amended to read as follows:

(b)(5) Construction ACTIVITIES. ~~Operating or permitting the operation of any tools or equipment in connection with construction, drilling, or demolition work~~ Between the hours of ~~10~~ 7 p.m. and 7 a.m. ~~the following day on weekdays and between the hours of 10 p.m. and 8 a.m. on weekends, or holidays such that the sound therefrom creates a noise disturbance, across a residential real property boundary except for emergency work on public service utilities, work by City of Northglenn personnel, or by special variance issued pursuant to section 9-14-7(e) of this article,~~ NO PERSON SHALL OPERATE, OR CAUSE TO BE USED OR OPERATED, ANY EQUIPMENT USED IN CONSTRUCTION ACTIVITIES IN ANY ZONING DISTRICT SUCH THAT THE SOUND THEREFROM

CREATES A NOISE DISTURBANCE, ACROSS A RESIDENTIAL REAL PROPERTY BOUNDARY, EXCEPT:

- (i) WORK BY CITY OF NORTHGLENN PERSONNEL;
- (ii) EMERGENCY WORK BY A UTILITY PROVIDER; OR
- (iii) WORK AUTHORIZED BY PERMIT A ISSUED BY THE CITY MANAGER PURSUANT TO SECTION 9-13-7(f) OF THIS ARTICLE.

Section 3. Section 9-13-7 is amended by the addition of Subsection (f) as follows:

- (f) Construction Activities Permit. The City Manager or the City Manager's designee may grant a request for a permit for noise from construction activities to occur outside the times in Section 9-13-4(b)(5) if in the City Manager's discretion there exists one of the following conditions:
 - (1) An emergency requires that such a permit be issued;
 - (2) The City Manager finds that no adverse effect to neighboring or proximate properties would occur as a result of the issuance of a permit; or
 - (3) The permit is necessary to reduce the public inconvenience.

The City Manager is further authorized to impose such conditions as are determined to be reasonable as a condition of the issuance of such a construction activities permit.

Section 4. Section 9-13-8 is amended to read as follows:

Abatement Orders. In lieu of issuing a notice of violation, the NCO or other official responsible for enforcement of any provisions of this article may issue an order requiring abatement of any source of sound alleged to be in violation of this article within a reasonable time period and according to the requirement for abatement of a nuisance contained in Article 11 ~~42~~ of Chapter 9 of this Municipal Code.

Section 5. Section 9-13-10 is amended to read as follows:

- (a) Violations and Penalties. Any person who violates the construction activities prohibition is guilty of a misdemeanor and a nuisance pursuant to Section 9-11-3 of this Code. Any persons convicted of a violation of the construction activities prohibition shall be punished as provided in Section 1-1-10(a)(2) of this Code.
- (b) Other Remedies. No provision of this Ordinance shall be construed to impair any common law or statutory cause of action, or legal or equitable remedy therefrom, of any person for injury or damage arising from any violation of this Ordinance or from other law or to abate a noise nuisance under the laws of this State.

INTRODUCED, READ AND ORDERED POSTED this ____ day of _____,
2015.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____,
2015.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney