



Agenda Item #: 07/1002.13

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Aldinger and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Rod Uyeda, Chief of Police
John Dye, Lieutenant

DATE: October 2, 2007

SUBJECT: Consideration of an Ordinance Regarding the City Council's Work Plan Item to Amend Manhattan Beach Municipal Code Section 5.48.150, Amplified Sound Permits, to Extend Time Limitations of Amplified Sound Equipment for Specifically Requested Special Events and to Limit the Number of Such Permits to any Individual or Location to No More than Two in a Calendar Year.

RECOMMENDATION:

Staff recommends that the City Council consider amending Manhattan Beach Municipal Code section 5.48.150 to extend the time limit to 11 pm on Friday and Saturday nights for amplified sound permits for specifically requested special events and to limit the number of such permits issued to any individual or location to no more than two in a calendar year.

FISCAL IMPLICATION:

There are no fiscal implications associated with the recommended action.

BACKGROUND:

Due to a number of residents asking the Police Department to be less strict in their interpretation of the current amplified sound permit ordinance, Staff was tasked with researching the possibility of extending the time limit of amplified sound, on a limited basis, for special events in the City as part of the 2007 – 2008 City Council Work Plan.

The City currently has noise regulations under Chapter 5.48 of the Manhattan Beach Municipal Code which is used to limit the effect of various noise issues in our community. Manhattan Beach Municipal Code Section 5.48.150 – Amplified Sound Permits outlines requirements of a permit process for the public to obtain a permit when they intend to utilize amplified sound at a gathering or event on public or private property. The current ordinance limits the hours of permitted amplified sound to no later than 10 pm on Friday and Saturdays, and 8 pm on other days of the week.

In the last few years, a number of residents have requested the Police Department to be less strict in

their application of the amplified sound ordinance as they would like their amplified sound to continue past the time limitation, always on a Friday or Saturday evening. Unfortunately, the code does not lend itself to leniency or loose interpretation and when there are complainants, the amplified sound must cease.

DISCUSSION:

During the course of the year, the Police Department receives many calls and complaints by residents upset with loud noise emitting from locations within close proximity to their homes. The far majority of these complaints are for loud parties and gatherings with and without amplified sound. Also, the far majority of these parties and gatherings did not seek an amplified sound permit. Officers spend a lot of time responding to these locations and taking actions to ensure the enforcement of our noise ordinance.

Some residents and other entities conduct events in which amplified sound occurs (usually DJ's or live bands) and the permit process for this amplified sound is followed. A small number of these permit holders clearly desire for the time limitation to be extended, and when they choose to allow their amplified sound to go beyond the time limitation, the police are usually called to enforce the law.

From August 2006 to August 2007, 43 permits for amplified sound were issued. On six occasions, the police were summoned because the permit holder went beyond their time limitation. On a more global scale, the Police Department, during that same time period, responded to 536 complaints of loud parties, most of which, did not have a permit and were just loud or unruly according to neighbors. Most of these calls result in simply making contact with the people at the location and asking them to quiet down due to complaints.

It should be noted that as part of the amplified sound application process, those seeking permits are required to gather signatures from their neighborhood, with an emphasis being placed on neighbors adjacent to and across the street from the location where the permit is sought. It is through this process that the police department is assured that most of the residents in the neighborhood are aware of the gathering and are not opposed to reasonable amplified sound within the permitted time period. If a high number of neighbors do not support the amplified sound permit, the permit is not issued.

It should be noted that the issuance of an amplified sound permit only allows the holder to be legally within the requirements of the City's ordinances. Should a special event/party result in complaints, an officer would respond to the scene to determine the reasonableness of the level of sound being emitted from the gathering. The number of complainants would be a major factor in determining the reasonableness of the sound. If it is determined that the level of sound is unreasonable and in violation of our general noise ordinance and state law, the permit would be revoked. In any instance where a decision is made to revoke a permit, a supervisor would be called to make the final determination and the permit holder would be asked to cease their amplified sound. Every effort would be made to record the level of sound at the gathering from other locations near the complainants. Those seeking amplified sound permits are explained the limits that the permit allows and the procedures that would be followed by the police should their gathering result in complaints.

In researching other cities, it would appear that only Hermosa Beach in Los Angeles County has allowed amplified sound to exceed 10pm (11:45pm on Friday and Saturday evenings with a special permit), with some cities not allowing amplified sound beyond 9pm on any day of the week.

CONCLUSION:

Staff recommends that the City Council should consider whether extending the amplified sound permit hours and limiting the number of permits issued per calendar year to a person or location is a reasonable modification to our existing noise ordinance.

Attachment: A. Ordinance No. 2107

ORDINANCE NO. 2107

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING SECTION 5.48.150 OF CHAPTER 5.48 OF THE MANHATTAN BEACH MUNICIPAL CODE TO EXTEND THE HOURS OF AMPLIFIED SOUND PERMITS AND TO LIMIT THE NUMBER OF AMPLIFIED SOUND PERMITS GRANTED EACH CALENDAR YEAR

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Manhattan Beach hereby finds as follows:

- A. That the peace and tranquility of the community and neighborhoods is an important ideal to maintain within our City.
- B. That there is an interest by the City to strike a balance between residents who wish to obtain amplified sound permits on Friday and Saturday nights, and other neighbors who live in close proximity to those wishing to utilize amplified sound.
- C. That the City believes extending the time limitation on amplified sound permits on Friday and Saturday night should be extended to 11 p.m.
- D. That a limitation on the number of amplified permits that may be obtained by any individual or location should be limited to two permits per calendar year.
- E. That the Police Chief or his designee will be responsible for approving or denying the permit.

SECTION 2. Section 5.48.150 of Chapter 5.48 of Title 5 of the Manhattan Beach Municipal Code is hereby amended in its entirety to read as follows:

Every user of sound amplifying equipment on public or private property shall file an application with the Chief of Police at least ten (10) days prior to the date on which the sound amplifying equipment is to be used.

A. Restrictions. The commercial and non-commercial use of sound amplifying equipment shall be subject to the following restrictions:

1. The only sounds permitted shall be either music or human speech, or both.
2. The operation of sound amplifying equipment shall occur only between the hours of:
8:00 a.m. through 8:00 p.m. Monday through Thursday;
8:00 a.m. through 11:00 p.m. Friday;
10:00 a.m. through 11:00 p.m. Saturday;
10:00 a.m. through 8:00 p.m. Sunday and City specified holidays.

Exempt from these hours of operation are those activities which are authorized by the City of Manhattan Beach or the public school districts serving the residents of the City, including the use of the Civic Center facilities, athletic fields and courts, community centers, and the conduct of City approved special events.

3. Notwithstanding the provisions of this chapter, sound amplifying equipment shall not be operated within one hundred (100) feet of churches, schools during school hours, hospitals, or City buildings during normal business hours.

4. Individuals or locations may only be granted up to two amplified sound permits in any one calendar year.

B. Contents of the Application.

1. The name, address, and phone number of both the owner and the user of the sound amplifying equipment;
2. The address where the sound amplifying equipment will be used;
3. The dates and times the sound amplifying equipment will be used;
4. The maximum sound producing power of the sound amplifying equipment which shall include the wattage to be used, the volume in decibels of sound which will be produced,

and the approximate distance for which sound will be audible from the sound amplifying equipment;

5. The license and motor number if a sound truck is to be used;

6. A general description of the sound amplifying equipment which is to be used;

7. Whether the sound amplifying equipment will be used for commercial or non-commercial purposes;

C. Fees. Prior to the issuance of the permit, a fee established by the City Council shall be paid to the City.

D. Approval of Permit. The Chief of Police or his designee shall approve the application unless he finds that:

1. Use of the equipment would constitute a detriment to traffic safety;

2. The issuance of the permit would be otherwise detrimental to the public health, safety or welfare;

3. The issuance of the permit will substantially interfere with the peace and quiet of the neighborhood or the community;

4. The applicant would violate the provisions of this Code or any other law.

E. Disapproval of Permit. In the event the permit application is declined, the Chief of Police or his designee shall state the reason(s) for disapproval and return the written disapproval to the applicant.

F. Right of Appeal. Any person whose permit application is disapproved may appeal to the City Council within ten (10) calendar days from the date of notification of decision.

SECTION 3. All other provisions of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. This ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 7. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

PASSED, APPROVED and ADOPTED this 18th day of October, 2007.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:

By 

City Attorney;