

ORDINANCE NO. 451

AN ORDINANCE OF THE CITY OF COLUSA REPEALING AND RE-ADOPTING CHAPTER 11A OF THE COLUSA MUNICIPAL CODE PERTAINING TO NOISE REGULATIONS

The City Council of the City of Colusa does hereby ordain as follows:

Section 1. Repeal and Re-adoption of Chapter 11A

Chapter 11A, "Noise Regulations" is hereby repealed in its entirety and replaced with a new Chapter 11A, "Noise Regulations," as follows:

"Sec. 11A-1 Legislative Purpose and Policy

It is hereby declared to be the policy of the City of Colusa, in the exercise of its police power pursuant to Section 7 of Article XI of the California Constitution, to protect the peace, health, safety and general welfare of the citizens of Colusa from excessive and unreasonable noises from any and all sources in the community. It is the intention of the City Council to control the adverse effect of such noise sources on the citizens by prescribing standards prohibiting detrimental levels of noise and providing remedies for violation of such standards. The remedies provided herein are cumulative and are not intended to replace any otherwise available civil or criminal remedy. In addition, the provisions of this chapter shall not substitute for any noise analysis required to be conducted as a part of the City's environmental review process for discretionary permit approvals, nor shall the provisions of this chapter prohibit the City from adopting additional noise control requirements for discretionary permit approvals, should such requirements be found necessary to protect the health and welfare of the citizens of the Colusa.

Sec. 11A-2 Prohibition Against Excessive Noise

Notwithstanding any other provision of this chapter, it is unlawful for any person to willfully make, create, maintain or continue, or cause to be made or continued, directly or indirectly any loud, raucous or excessive noise within the City which because of its volume, duration or character causes discomfort to a reasonable person of normal sensitivities. In addition, it is unlawful for any person to make, create, maintain or continue, or cause to be made or continued, directly or indirectly any noise in a manner prohibited by the provisions of this chapter.

The factors which should be considered in determining whether a violation of this section exists include the following:

1. The sound level of the objectionable noise.
2. The sound level of the ambient noise.
3. The proximity of the noise to residential property.
4. The zoning of the area.
5. The population density of the area.
6. The time of day or night.
7. The duration of the noise.
8. Whether the noise is recurrent, intermittent, or constant.
9. Whether the noise is produced by an industrial, commercial or noncommercial activity.

10. Whether the nature of the noise is usual or unusual.

Sec. 11A-3 Construction Noise

No person shall perform construction work or any construction related activity between the hours of 7 p.m. and 7 a.m. on weekdays, or between 7 p.m. and 8 a.m. on Saturdays and Sundays. For the purposes of this chapter, the term "construction" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public or private right-of-way, streets, structures, utilities, facilities, or other similar property.

Sec. 11A-4 Refuse Collection

No person shall operate or permit to be operated a refuse compacting, processing or collection vehicle between the hours of 7 p.m. and 7 a.m. in any residential area of the City, unless a permit has been obtained in accordance with this chapter or a franchise has been granted by the City of Colusa and the franchise agreement between the City and franchisee specifically includes the hours that the franchisee may operate a refuse compacting, processing or collection vehicle within the City.

Sec. 11A-5 Exemptions

The following activities are exempt from the provisions of this chapter:

- (a) Emergency Work. The provisions of this chapter shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work, or activities involving the execution of the duties of governmental personnel and others in providing emergency response to the general public, including but not limited to sworn peace officers, emergency personnel, utility personnel, and the operation of emergency response vehicles and equipment. For purposes of this chapter, "emergency work" shall mean any work necessary to protect lives or restore property to a safe condition following an emergency or natural disaster.
- (b) Federal or State Preempted Activities. The provisions of this chapter shall not apply to any other activity the noise level of which is regulated by state or federal law.
- (c) Maintenance to Residential Property. The provisions of this chapter shall not apply to noise sources associated with the maintenance of residential property, provided the activities take place between the hours of 7 a.m. and 8 p.m. on weekdays, or between 8 a.m. and 8 p.m. on Saturdays and Sundays.
- (d) Public Health, Welfare and Safety Activities. The provisions of this Chapter shall not apply to construction, maintenance and repair operations conducted by public agencies, franchisees of the City and/or utility companies or their contractors which are deemed necessary to serve the best interests of the public and to protect the public health, welfare and safety, including but not limited to tree removal, debris and limb removal, street sweeping, removal of downed wires, restoring electrical service, repairing traffic signals, sewer maintenance, repairing of damaged poles, removal of abandoned vehicles, and repairing of water hydrants and mains, gas lines, oil lines, sewers, storm drains, roads, sidewalks.

Sec. 11A-6 Exception—Permits

If an applicant can show to the satisfaction of the City Manager, or his/her designee that compliance with the requirements of this chapter would be impractical or unreasonable, a permit to allow an exception from all or a portion of the provisions this chapter may be issued, with appropriate conditions to minimize the public detriment caused by such exception. Any permit issued pursuant to this section shall be for as short a duration as possible. Any applicant aggrieved by the decision of the City Manager or his/her designee may appeal the decision in accordance with the procedures provided in chapter 12B of this code.

Sec. 11A-7 Violation

Each day such violation is committed after notification to desist shall constitute a separate offense. A first violation of this chapter during a consecutive twelve (12) month period shall be deemed an infraction punishable by a fine not to exceed one hundred dollars (\$100). A second violation of this chapter during a consecutive twelve (12) month period shall be deemed a misdemeanor punishable, pursuant to California Penal Code Section 415, by a fine not to exceed four hundred dollars (\$400) and/or imprisonment in the county jail for not more than ninety (90) days.

Sec. 11A-8 Public Nuisance

In addition to or in lieu of the criminal remedies provided in section 11A-7 above, violations of this chapter may be declared a public nuisance and abated in the manner provided for in chapter 12B of this code.

Section 2. Severability. The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the ordinance or their applicability to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and/or posted as required by law.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Colusa, California held on September 1, 2009 and was passed and adopted at a regular meeting of the City Council held on September 15, 2009 by the following vote:

AYES: MacKaben, Hosmer, Critchfield, Reische, Kelleher

NOES:

ABSENT:

ABSTAIN:


Robert J. MacKaben, Mayor

ATTEST:


Cathy Higgins, Deputy City Clerk

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