



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 12/17/2019

ITEM NO: 18

DATE: December 17, 2019
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: First Reading and Introduction of an Ordinance of the Town of Los Gatos Amending Chapter 16, Article II, Section 16.020.035 of the Town Code Entitled Construction.

RECOMMENDATION:

Staff recommends that Town Council accept public comment and then move for the introduction and first reading of an Ordinance, by title only, amending Chapter 16, Article II, Section 16.020.035 Entitled Construction. (Attachment 1)

BACKGROUND:

Earlier this year, during a Town Council meeting, the public voiced their concerns regarding the Town's Ordinance for Construction hours and the fact that the Town allows construction on Sundays and holidays. Council directed staff to look into the practices of surrounding jurisdictions and analyze what the Town could do differently.

DISCUSSION:

The existing Town Ordinance, Chapter 16, Article II, Sec. 16.20.035. – Construction states:

Notwithstanding any other provision of this chapter, between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities which are authorized by a valid Town permit or as otherwise allowed by Town permit, shall be allowed if they meet at least one of the following noise limitations:

PREPARED BY: Lynne Lampros
Deputy Town Attorney

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DISCUSSION (continued):

(1) No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible.

(2) The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.

Upon discussion with the Community Development Director it has been determined that "permitted construction" means construction for which a permit is required. A home improvement project that doesn't require a permit would not be subject to these time restraints and there are no other Town Code Sections that pertain to construction hours for home improvement projects performed by the homeowner that do not require a permit.

Peer Review

Surrounding jurisdictions contain the following regulations (summarized):

Monte Sereno: Outside construction or repair work' (which means literally work done outside) is allowed from 8:00 a.m. to 8:00 p.m. Monday through Friday and Saturdays from 9:00 a.m. to 5:00 p.m. It is not allowed on Sundays or public holidays. However, there is an exception for homeowners or tenants doing work on their property that does not require permit, and an exception for work done for an emergency that imperils public safety.

Saratoga: Construction activities may be conducted between the hours of 7:30 a.m. and 6:00 p.m. Monday through Friday, and between 9:00 a.m. and 5:00 p.m. on Saturday. Construction is prohibited on Sundays and holidays. Residential construction activities that do not require a permit and do not exceed fifty percent of the structure can be conducted between 9:00 a.m. and 5:00 p.m. on Sundays and holidays.

Campbell: Construction activity is limited to 8:00 a.m. to 5:00 p.m. Monday through Friday and 9:00 a.m. to 4:00 p.m. on Saturdays. There is no construction activity allowed on Sundays or holidays. There is an exception for homeowner permits when the work is being performed by only the owner of the property. In that case work is allowed from 6:00 a.m. to 7:00 p.m. Monday through Saturday and 8:00 a.m. to 6:00 p.m. on Sundays and holidays. There is also an exception for emergency repair.

San Jose: Unless expressly allowed by permit, permitted construction activity within 500 feet of a residential unit is only allowed from 7:00 a.m. to 7:00 p.m. Monday through Friday. It is not allowed on weekends. This only applies to construction work authorized by permit or other planning approval.

DISCUSSION (continued):

Santa Clara County allows construction activity Monday through Saturday from 7:00 a.m. to 7:00 p.m. at a certain decibel level, and allows it Sundays and holidays from 7:00 a.m. to 7:00 p.m. at a lower decibel level.

Cupertino allows construction at certain decibel levels during daytime hours seven days a week, except prohibits grading, street construction demolition or underground utility work within 750 feet of a residential area on Saturdays, Sundays and holidays. All construction is prohibited on holidays, except "construction conducted by the homeowner or resident of a single dwelling using domestic construction tools is allowed on holidays between 9:00 a.m. and 6:00 p.m."

Recommended Town Code Enhancements

Los Gatos Town Code Section 16. 10.015 states "that unnecessary, excessive and disturbing noise and vibration is detrimental to the health, safety and welfare of the public and is contrary to public interest, and that residents of Los Gatos are to be entitled to the reasonable use and enjoyment of their property without exposure to noise disturbances." In order to more fully implement this Section of Town Code, the Town Staff suggests the following amendments to Chapter 16, Article II, Section 16.020.035 of the Town Code:

(a) Notwithstanding any other provision of this chapter, between the hours of 8:00 a.m. to ~~8:00~~ 6:00 p.m., weekdays and 9:00 a.m. to ~~7:00~~ 4:00 p.m. ~~weekends and holidays~~, Saturdays, construction, alteration or repair activities which are authorized by a valid Town permit or as otherwise allowed by Town permit, shall be allowed if they meet at least one of the following noise limitations:

(1) No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible.

(2) The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.

(b) The term "construction, alteration or repair activities" shall include any physical activity on the construction site or in the staging area, including the delivery of materials.

(c) Construction, alteration or repair activities shall be prohibited on Sundays and legal holidays with the following exceptions:

(1) A homeowner or tenant may perform construction, alteration or repair activities on their own property between 8:00 a.m. to 8:00 p.m. Monday through Saturday and 9:00 a.m., to 5:00 p.m. on Sundays and holidays, as long as the work being performed does

DISCUSSION (continued):

not require a permit from the Town. All noise levels contained in Section 16.20.035 (1) apply to this section.

(2) If the Town Manager or designee finds evidence that an emergency exists that imperils the public safety, or immediate health and safety of the occupants, the Town Manager or designee may allow the construction or maintenance work to proceed during such hours as may be necessary for the duration of the emergency.

(3) At any time before commencement of or during construction activity, the chief building official may modify the permitted hours of construction upon twenty-four (24) hours written notice to the contractor, applicant, developer or owner. The chief building official can reduce or increase the allowable hours of construction activity. In approving modified hours, the chief building official may specifically designate and/or limit the activities permitted during the modified hours. If the hours of construction activity are modified, then the general contractor, applicant, developer or owner may be asked to erect a sign at a prominent location on the construction site to advise subcontractors and material suppliers of the working hours. The contractor, owner or applicant shall immediately produce upon request any written order or permit from the chief building official pursuant to this section upon the request of any member of the public, the police or Town staff.

(4) Violation of the allowed hours of construction activity, the chief building official's order, required signage or this section shall be a violation of this code.

CONCLUSION:

Approval of the changes to Section 16.20.035 – Construction will help ensure the fulfillment of the Town Code to promote the reasonable use and enjoyment of property without being subject to noise disturbances while also allowing homeowners and tenants the flexibility to conduct some repair and construction activity on their homes without being in contravention of the law.

ALTERNATIVES:

1. Not approve the recommended amendments
2. Approve different amendments and return with revised Ordinance.
3. Refer the issue back to staff with direction.

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SUBJECT: Chapter 16 Article II Section 16.20.035

DATE: December 3, 2019

COORDINATION:

The rewrite of this Code section was circulated to the Director of Community Development and the Code Compliance Officer and the Building Officials for feedback. Outreach was conducted by email to Architect, Building, Real Estate groups and other interested community members.

FISCAL IMPACT:

There is no negative fiscal impact on the Town from this Ordinance change.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. Draft Ordinance.