



## CITY of NOVI CITY COUNCIL

Agenda Item 1  
October 25, 2010

**SUBJECT:** Consideration of Adoption of Ordinance No. 10-23.25, an ordinance to amend Chapter 22, "Offenses", Article V of the Novi Code of Ordinances by amending Section 22-96, to modify the standards for the determination of a violation of the public peace due to loud noise.  
**SECOND READING**

**SUBMITTING DEPARTMENT:** Police

**CITY MANAGER APPROVAL:** *AM*

### BACKGROUND INFORMATION:

At the October 11, 2010 City Council meeting, the Council considered the introduction of an amendment to the Code of Ordinances, Chapter 22, relating to disturbances of the public peace, and more specifically relating to noise disturbances. Comments were made that some provisions of the ordinance seemed too restrictive, or could prove to be difficult to enforce consistently and equally.

The following changes have been made for second reading to address those issues:

- The morning/night hours have been changed in many instances from 8:00 a.m. and 9:00 p.m. to 7:00 a.m. and 10:00 p.m. This is actually more consistent with the definition of "nighttime hours" in the zoning ordinance (defined as between the hours of 10:00 p.m. and 7:00 a.m.).
- A distinction is made between lawn/landscaping/domestic power tools and snow removal equipment (with the further distinction between residential and commercial).
- The section that allowed the City Council to grant permits to generate noise under certain circumstances has been amended to reflect that authority in the Community Development Director. To go along with that administrative authority, the "standards" for granting relief from the ordinance have been clarified, and, given the general tenor of the comments at the introduction, the circumstances under which relief can be granted have been expanded somewhat. This "relief valve" is in fact common in ordinances that follow this general model.

The ordinance as revised remains generally consistent with the model on which it is based. As noted during the last meeting, communities tend to adapt the model to their individual circumstances. As revised the ordinance is consistent with other provisions of the City Code.

**RECOMMENDED ACTION:** Adoption of Ordinance No. 10-23.25 to amend Chapter 22, "Offenses", Article V of the Novi Code of Ordinances by amending Section 22-96, to modify the standards for the determination of a violation of the public peace due to loud noise.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Crawford				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

STATE OF MICHIGAN  
COUNTY OF OAKLAND  
CITY OF NOVI  
ORDINANCE NO. 10-23.25

AN ORDINANCE TO AMEND CHAPTER 22, ARTICLE V,  
SECTION 22-96 TO AMEND THE STANDARDS FOR THE  
DETERMINATION OF A VIOLATION OF THE PUBLIC  
PEACE DUE TO LOUD NOISE.

**The City of Novi Ordains:**

**PART I.**

Chapter 22, "Offenses," Article V, "Offenses Against the Public Peace," Section 22-96 is hereby amended to read as follows:

Sec. 22-96. ~~Sound and~~ Noise Disturbances Prohibited.

(a) Definitions.

(1) "Noise" shall mean any sound ~~which~~that disturbs humans or animals, or ~~which~~that causes or tends to cause an adverse psychological or physiological effect on humans or other animals.

(2) "Noise Disturbance" shall mean any sound ~~which~~that:

- (i) Disturbs a reasonable person of normal sensitivities; or
- (ii) Exceeds the sound level limits set forth in Section 2519.10 of the City of Novi Zoning Ordinance; or
- (iii) Is plainly audible as defined in this section.

(3) "Sound" shall be broadly interpreted to mean any sound, noise, music, voice, or any other forms of noise or sound, whether generated electronically, by any person, an acoustic instrument(s) or device(s), or any other method of sound creation or transmission.

(4) "Plainly audible" shall mean any sound or noise that can be detected by a person using his or her unaided hearing faculties at a distance of ~~50~~100 feet or more from the real property line of the source of the sound or noise.

(b) General Prohibition. It shall be unlawful and a violation of this Chapter to make, cause or allow the making of any sound that causes a noise disturbance, as defined herein.



(c) Specific prohibitions. In addition to the general prohibition, and unless otherwise exempted by this chapter, the following specific acts, or the causing or permitting thereof, are limited as follows:

(1) Operating, playing, or permitting the playing of any radio, televisions, electronic audio equipment, musical instrument or similar device in a residential area such that a noise disturbance is created across a real property boundary in a residential zoning district between the hours of ~~9~~10:00 pm and ~~8~~7:00 am.

(2) ~~Operate~~Operating, or permitting the operation of, any loudspeaker, public address system, or similar device for any commercial purpose, on any public road or in any public space between the hours of ~~9~~10:00 p.m. and ~~8~~7:00 a.m.

(3) Yelling, shouting, hooting, whistling or singing on the public streets shall be prohibited between the hours of ~~9~~10:00 p.m. and ~~8~~7:00 a.m., or at any time or place as to cause a noise disturbance.

(4) Emitting or creating any excessive noise ~~which~~that unreasonably interferes with the operation of any school, church or hospital.

(5) Owning, possessing, or harboring an animal or bird that howls, barks, meows, squawks, or makes any sound that:

- (i) creates a noise disturbance across a residential property boundary;
- (ii) is of a frequent or continued duration for ten or more consecutive minutes
- (iii) is intermittent for a period of 30 or more minutes

(6) Subject to the provisions of Section 22-98, ~~C~~constructing, excavating, demolishing, altering or repairing any building or premises in any part of the city, including the streets and highways, in such a manner as to create noise or disturbance unreasonably annoying to other persons, other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, and except in cases of emergency.

(7) Operating any machinery, equipment or mechanical device so as to create a noise disturbance; this prohibition does not include domestic power tools as provided below.

(d) Exceptions. The following uses and activities shall be exempt from the regulations contained in this section:

(1) Use of motorized ~~snow blowers,~~ lawn mowers, and other lawn, landscaping, and yard maintenance equipment or domestic power tools ~~shall not be subject to~~

~~regulation under this section~~, provided such equipment is utilized between the hours of ~~8~~7:00 a.m. and ~~9~~10:00 p.m.

~~(2)~~ Residential use of snow blowers, if in good working order and if used only as needed, and snow removal from commercial or industrial properties by any internal combustion device, if the snow removal equipment has a properly functioning muffler.

~~(23)~~ The unamplified human voice, except for yelling, shouting, whistling, hooting, or generally creation of a racket such that it creates a noise disturbance during the nighttime hours (~~9~~10:00 p.m. to ~~08~~7:00 a.m.) in a residential area in other than a time of emergency.

~~(34)~~ Sounds resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

~~(45)~~ Any non-amplified noise generated by noncommercial public speaking activities conducted on any public property or public right of way pursuant to a permit issued under this section.

~~(56)~~ Sounds produced at organized sports events, by lawful fireworks, and by permitted parades on public property or public rights of way, between the hours of ~~08~~7:00 a.m. and ~~9~~10:00 p.m.

(e) The ~~city council~~ Director of Community Development may grant a special permit for the generation, operation, or use of sound ~~on public property for any non-commercial purpose~~ that would otherwise violate this ordinance when the following conditions are met:

~~(1) The applicant has a non-commercial message that cannot be effectively communicated to the public except by such means. The application contains information that demonstrates that bringing the source of sound or activity for which the special permit is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons., and~~

~~(2) The applicant will not create plainly audible sound in residential areas between the hours of 9:00 p.m. and 8:00 a.m. Such relief would be within the spirit and intent of this ordinance, would not adversely affect the public health, safety, and welfare, and would not be materially injurious to surrounding properties and improvements.~~

Applicants for a permit may be required to submit any information the Director may reasonably require. In granting or denying an application, the Director shall place on public file a copy of the decision and the reasons for denying or granting the permit. The permit shall be granted by notice to the applicant containing all necessary conditions.



including the time limit on the permitted activity. The permit shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the permit shall terminate it and subject the applicant to the provisions of this chapter regulating the source of sound or activity for which the permit was granted.

(f) Nothing in this section shall be interpreted as preempting or otherwise eliminating those provisions of §2519 of the Novi Zoning Ordinance concerning noise.

**Part II.**

**Savings Clause.** The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

**PART III.**

**Severability.** Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**PART IV.**

**Effective Date: Publication.** The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE \_\_\_ DAY OF \_\_\_\_\_, 2010.

\_\_\_\_\_  
DAVID B. LANDRY – MAYOR

\_\_\_\_\_  
MARYANNE CORNELIUS – CITY CLERK

Ayes:  
Nays:  
Abstentions:  
Absent:

**CERTIFICATION OF ADOPTION**

I hereby certify that the foregoing is a true and complete copy of an Ordinance passed at a regular meeting of the Novi City Council, held on the \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
MARYANNE CORNELIUS – CITY CLERK

Adopted:  
Published:  
Effective:

1510259