

ORDINANCE NO. 3068

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
TITLE 17 OF THE CHULA VISTA MUNICIPAL CODE BY
AMENDING SECTIONS 17.24.040 AND 17.24.050, AND
ADDING SECTION 17.24.060 REGARDING NOISY AND
DISORDERLY CONDUCT

WHEREAS, the City of Chula Vista, pursuant to the police powers delegated to it by the California Constitution and as a charter city, has the authority to enact laws that promote the public health, safety, and general welfare of its residents; and

WHEREAS, the City of Chula Vista, acting through the City Council (the Council), finds and declares that disturbing, excessive, offensive, or unreasonable noises create a drain on law enforcement resources when police are called to respond to the noise, often multiple times; and

WHEREAS, when police are called to respond to noise complaints, it takes them away from other calls for service; and

WHEREAS, disturbing, excessive, offense, or unreasonable noises can negatively impact public health, safety, quiet enjoyment of property, and general welfare; and

WHEREAS, it is the intent of the Council to provide law enforcement personnel in the City with additional tools to respond to and abate noise violations that constitute a public nuisance within the City.

NOW, THEREFORE, the City Council of the City of Chula Vista does hereby ordain as follows:

SECTION I: That the Chula Vista Municipal Code be amended to read as follows:

17.24.040 Disturbing, excessive, offensive, or unreasonable noises – Prohibited – Exceptions.

A. It is unlawful for any person in any commercial or residential zone in the City to make, continue, or cause to be made or continued any disturbing, excessive, offensive, or unreasonable noise, which disturbs the health, safety, general welfare, or quiet enjoyment of property of others in any commercial or residential zone within the limits of the City. This section shall not in any way affect, restrict, or prohibit any activities incidental to scientific or industrial activities carried out in a reasonable manner according to the usual customs of scientific or industrial activities, conducted in areas zoned for such purposes, or upon lands which are under the jurisdiction of the board of commissioners of the San Diego Unified Port District.

B. The characteristics and conditions to consider in determining whether a noise is disturbing, excessive, offensive, or unreasonable in violation of this section shall include, but not be limited to, the following:

1. The degree of intensity of the noise;
2. Whether the nature of the noise is usual or unusual;
3. Whether the origin of the noise is natural or unnatural;
4. The level of the noise;
5. The proximity of the noise to sleeping facilities;
6. The nature and zoning of the area from which the noise emanates and the area where it is received;
7. The time of day or night the noise occurs;
8. The duration of the noise; and
9. Whether the noise is recurrent, intermittent, or constant.

C. The following activities, among others, are declared to cause disturbing, excessive, offensive, or unreasonable noises in violation of this section and to constitute a public nuisance:

1. Radios, Phonographs, Amplifiers, and Other Devices. The using, operating, or permitting to be played, used, or operated, any radio receiving set, musical instrument, drums, phonograph, television set, loud speakers and sound amplifier, or other machine or device for the producing or reproducing of sound in a manner that disturbs the peace, comfort, or quiet enjoyment of any reasonable person of normal sensitivity in the vicinity;

2. Animals and Birds. The keeping of any animal or bird which by frequent or long continued noise disturbs the peace, comfort, or quiet enjoyment of property of any person in the vicinity;

3. Drums and Musical Instruments. The use of any drum or other musical instrument or device for the purpose of attracting attention, by creation of noise, to any performance, show, or sale;

4. Loudspeakers, Amplifiers for Advertising. The using, operating or permitting to be played, used, or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the production or reproduction of sound, which is heard upon a public street, for the purpose of commercial advertising or attracting the attention of the public to any building or structure, so as to annoy or disturb the peace, comfort, or quiet enjoyment of property of persons in any office, dwelling, hotel, or other type of residence;

5. Yelling, Shouting. Loud or raucous yelling or shouting on public streets, particularly between the hours of 11:00 p.m. and 8:00 a.m., or at any time or place in a manner that creates a disturbance of the public order where the yelling or shouting is inherently likely to provoke an immediate violent reaction;

6. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, compressor, motor boat, or motor vehicle except through a muffler or other device, which will effectively prevent loud or explosive noises therefrom;

7. Blowers. The operation of any noise-creating blower, power fan, or any internal combustion engine, unless the noise from such blower or fan is muffled and the engine is equipped with a muffler device sufficient to deaden the noise;

8. Power Machinery, Tools, and Equipment. The use of any tools, power machinery, or equipment or the conduct of construction and building work in residential zones so as to cause noises disturbing to the peace, comfort, and quiet enjoyment of property of any person residing or working in the vicinity, between the hours of 10:00 p.m. and 7:00 a.m., Monday through Friday, and between the hours of 10:00 p.m. and 8:00 a.m., Saturday and Sunday, except when the work is necessary for emergency repairs required for the health and safety of any member of the community;

9. Motorcycle or Motor Vehicle Noises. No person operating a motorcycle or motor-driven cycle shall increase the engine's revolutions per minute while the transmission is in neutral or the clutch is engaged so as to cause more noise to be emitted than is necessary for the normal operation of the vehicle. Further, any disturbing, excessive, offensive, or unreasonable noise made by any motorcycle or other motor vehicle not reasonably necessary in the operation of the cycle or vehicle under the circumstances is prohibited and includes but is not limited to noise caused by screeching of tires, racing or accelerating the engine, backfiring the engine, or other noise from the engine tailpipe or muffler;

10. Horns, Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle, street car, or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any device for an unnecessary and unreasonable period of time; and the use of any signaling device when traffic is for any reason held up;

11. Swimming Pool Mechanical Equipment. Swimming pool mechanical equipment, including, but not limited to, mechanical filters, pumps, chlorinators, and pool heaters, shall be located or soundproofed so that such equipment will not create disturbing, excessive, offensive, or unreasonable noise that disturbs the peace and quiet enjoyment of property of persons residing in the neighborhood.

D. Prima Facie Violations. Any of the following shall constitute evidence of a prima facie violation of this section:

1. The operation of sound production or reproduction device, radio receiving set, musical instrument, drum, phonograph, television set, machine, loud speaker and sound amplifier or similar machine or device in a residential zone between the hours of 11:00 p.m. and 8:00 a.m. in a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, vehicle, or premises in which it is located;

2. The operation of any sound amplifier, which is part of or connected to, any radio receiving set, stereo, compact disc player, cassette tape player, or other similar device when operated at any time in a manner as to be plainly audible at a distance of fifty (50) feet and when operated in a manner as to cause a person to be aware of vibration accompanying the sound at a distance of fifty (50) feet from the source.

17.24.050 Enforcement of Prima Facie Violations.

A. Any person, who is authorized to enforce the provisions of this chapter and who encounters evidence of a prima facie violation of Section 17.24.040, is empowered to confiscate and impound as evidence any or all of the components amplifying or transmitting the sound

B. Any peace officer, as defined in the California Penal Code, who encounters evidence of a prima facie violation of Section 17.24.040 whereby the components amplifying or transmitting the sound are attached to a vehicle may, in accordance with the provisions of California Vehicle Code Section 22655.5, impound the vehicle, as containing evidence of a criminal offense, when the amplifying and/or transmitting component(s) cannot be readily removed from the vehicle without damaging the component(s) or the vehicle.

17.24.060 Repeated Violations – Public Nuisance—Responsible Person – Cost Recovery.

A. Any person, who is responsible for a second violation of Section 17.24.040 within one year (365 days) of the first violation at a place or premises including residential or commercial property, under his or her control shall be liable for maintaining a public nuisance, as defined by state and/or local law. To be deemed a person responsible for repeated violations of Section 17.24.040, it is not necessary for the person to be found criminally liable for a violation of the section. In addition to other penalties allowed by state law or this Municipal Code, a person responsible for repeated violations of Section 17.24.040 may be subject to an administrative fine of \$1,000 per incident. The administrative fine shall constitute a debt of the responsible person to the City, and shall be payable to the City in the manner provided in CVMC Chapters 1.40 and 1.41 and other applicable law. If the responsible person is a minor, the parent or guardian of the minor shall be jointly and severally liable under this section.

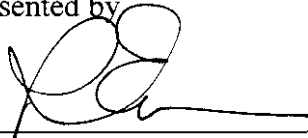
B. Under the provisions of this section, a responsible person shall include a property owner of a residential or commercial property, who has actual knowledge or who receives actual notice of a first violation of Section 17.24.040 committed by a tenant. A property owner, who has actual knowledge or who receives actual notice of a first violation of Section 17.24.040 by a tenant, shall take any and all reasonable steps to ensure that the property is not being maintained in a manner to constitute a public nuisance as defined by state and/or local law.

C. Where there occurs a repeated violation of Section 17.24.040 within one year (365 days) of a previous violation and the responsible party has been provided written notice of the previous violation, the responsible person shall be held liable for the cost of providing police services needed as a result of the second violation to control the threat to the public peace, health, safety, general welfare, or quiet enjoyment of the property. The imposition of this liability for cost recovery shall be governed by the provisions of Government Code Section 38773, CVMC 1.41.140, and other applicable law. A repeated violation of Section 17.24.040 may also result in the arrest and/or citation of violators of the California Penal Code, this Municipal Code, or other applicable state or local law.

D. Nothing in this section shall be construed as affecting the ability to initiate or continue concurrent or subsequent criminal prosecution for any violation of the provisions of this Municipal Code or any state law arising out of the same circumstances necessitating the application of this section.


SECTION II: Effective Date. This Ordinance shall take effect and be in force thirty days after its final passage.

Presented by



Richard P. Emerson
Chief of Police

Approved as to form by



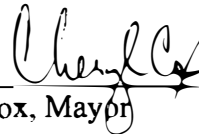
Ann Moore
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 1st day of May 2007, by the following vote:

AYES: Councilmembers: McCann, Ramirez, Rindone, and Cox

NAYS: Councilmembers: None

ABSENT: Councilmembers: Castaneda



Cheryl Cox, Mayor

ATTEST:


Susan Bigelow, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Susan Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3068 had its first reading at a regular meeting held on the 24th day of April, 2007 and its second reading and adoption at a regular meeting of said City Council held on the 1st day of May 2007.

Executed this 1st day of May 2007.


Susan Bigelow, MMC, City Clerk