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ORDINANCE No.

Revise Noise Regulations for pile driving (Ordinance; amend Code Title 18)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland is becoming a more densely inhabited city and larger developments in the City are being built in close proximity to many residential neighbors. Pile drivers operated in the City are one of the loudest pieces of construction equipment and single projects have the ability to impact large numbers of neighbors.
2. The Noise Review Board and City Council have heard from concerned citizens that pile driving regulations should be reviewed to better meet the changing needs of a growing, denser city. The Noise Review Board responded by taking testimony from stakeholders in the community including residential neighbors and parties in the development industry at multiple public hearings. The Board also reviewed the best practices of other cities to see what lessons might be incorporated into Title 18.
3. City Code should be amended to limit the start time for pile driving to establish a later start time at 8 AM, and by placing a limit on pile driving on Saturdays in excess of existing land use zone based decibel levels found in Title 18.10.010. This will limit all but the quietest forms of driving piles on Saturdays.
4. The time it takes for a citizen or other stakeholder to move an appeal through City Council on a decision of given noise variance is not as timely as relocating the venue for the appeals process for noise variances before the Code Hearing Office. The Noise Review Board of the City recommends unanimously that appeals of noise variances should be brought before the Code Hearings Officer.
5. EX zoning in the City of Portland has evolved over the years into a more commercially and residentially focused set of land uses than was originally conceived. Currently, EX zoning operates under the noise code as an Industrial land use zone for the purposes of establishing the permitted decibel levels. This higher industrial decibel level is becoming incompatible with the health needs of citizens to get a restful nights' sleep and enjoy the use of their residence, dwelling, hotel room, or other place citizens might legally inhabit.
6. The Noise Review Board recommends that EX zoning in the City be amended from an industrial land use zone classification to a commercial land use zone for purposes of determining permitted decibel levels under Title 18.10.010.

7-14-17 B2143
NOW, THEREFORE, the Council directs:

- a. City Code Section 18.10.060 Construction Activities and Equipment is amended by adding Subsection F. as follows:

F. Pile Drivers:

1. Notwithstanding Subsection B above, the permissible sound levels of Section 18.10.010 shall apply to pile drivers from 6 p.m. to 8 a.m. the following morning, and 6 p.m. Friday to 8 a.m. the following Monday, and on legal holidays.
2. The owner of a site on which pile driving will occur shall cause a notice to be mailed to all residences within 500 feet of the site. Mailing will occur no fewer than 30 days prior to the commencement of pile driving. The notice shall list the expected starting and ending dates for pile driving and give a telephone number for further information.

- b. City Code Subsection 18.14.020 I. is amended as follows:

I. Appeals to ~~City Council~~ Code Hearings Office. A variance decision of the Noise Control Officer or the Noise Review Board may be appealed to the ~~City Council~~ Code Hearings Office as follows:

1. Eligibility to appeal. A variance decision may be appealed by the applicant, his legal representative, any affected neighborhood association, or any person who has submitted oral or written testimony on the application.
2. Appeal acceptance criteria. Notice of intent to appeal shall be in writing to the ~~City Auditor's Office~~ Code Hearings Office within 10 days of the effective date of the decision. The notice shall identify the decision that is being appealed, and include the appellant's name, address, and signature, phone number, relationship to the variance decision action, and a clear statement of the specific reason(s) for the appeal including any alleged misapplication of City Codes.
3. ~~Upon receipt of such appeal, the Auditor shall then place the matter upon the Calendar of the City Council.~~ The Code Hearings Office shall have jurisdiction to hear the appeal as provided for in Chapter 22.10 of this Code.
4. ~~At the time of the hearing, the City Council may consider such new matter as it deems appropriate, as well as the record developed before the Noise Control Officer or the Noise Review Board, and thereafter may affirm, reverse, modify or remand the decision.~~

DRAFT

c. City Code Subsection 18.04.040 FF. is amended as follows:

FF. Zone: A classification of area of the City of Portland as described in Title 33 of the City Code, relating to the use to which property may be put. For the purposes of this title, the zones are based upon the Land Use Zones, as defined in Title 33 as follows:

| <u>Category</u> | <u>Zones</u> |
|-----------------|---|
| Open Space | Open Space |
| Residential | Residential Farm/Forest Residential 20,000 Residential 10,000 Residential 7,000 Residential 5,000 Residential 2,500 Residential 3,000 Residential 2,000 Residential 1,000 High Density Residential Central Residential Institutional Residential |
| Commercial | Neighborhood Commercial 1 Neighborhood Commercial 2 Office Commercial 1 Office Commercial 2 Mixed Commercial Residential Storefront Commercial General Commercial Central Commercial <u>Central Employment</u> |

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Industrial

General Employment 1
General Employment 2
~~Central Employment~~
General Industrial 1
General Industrial 2
Heavy Industrial

Passed by the Council:

Mayor Charlie Hales
Prepared by: Paul van Orden
Date Prepared: June 25, 2015

Mary Hull Caballero
Auditor of the City of Portland
By

Deputy