

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: City Development Department

AGENDA DATE: Introduction: April 23, 2013 and Public Hearing: April 30, 2013

CONTACT PERSON NAME AND PHONE NUMBER: Mathew McElroy, City Development Director (X4193)

DISTRICT(S) AFFECTED: All

SUBJECT:

An ordinance amending Title 9 (Health And Safety), Chapter 9.40 (Noise), Section 9.40.120 (Exemptions), Paragraph D (Exemptions Associated With Construction) of the El Paso City Code, To amend the exemption for construction during established construction work hours and to provide a permit process for exemption for construction after hours, legal holidays and weekends, the penalty being as provided by section 9.40.140 (Violation - Penalty) of the El Paso City Code.

BACKGROUND / DISCUSSION:

The proposed amendment to the Noise Ordinance (9.40.120) is a precision change that references the exemption of established construction work hours as proposed in the Building and Construction Administrative Code (18.02) amendment that defines construction hours, allowing for clarity and consistency in the municipal code. The proposed amendment also references the exemption of construction after hours where authorized by the permitting process provided for in 18.02.105.20.2.

PRIOR COUNCIL ACTION:

AMOUNT AND SOURCE OF FUNDING:

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.40 (NOISE), SECTION 9.40.120 (EXEMPTIONS), PARAGRAPH D (EXEMPTIONS ASSOCIATED WITH CONSTRUCTION) OF THE EL PASO CITY CODE, TO AMEND THE EXEMPTION FOR CONSTRUCTION DURING ESTABLISHED CONSTRUCTION HOURS AND TO PROVIDE A PERMIT PROCESS FOR EXEMPTION FOR CONSTRUCTION AFTER HOURS, LEGAL HOLIDAYS AND WEEKENDS, THE PENALTY BEING AS PROVIDED BY SECTION 9.40.140 (VIOLATION - PENALTY) OF THE EL PASO CITY CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.120 (Exemptions), Paragraph D (Exemptions associated with construction), of the El Paso City Code is hereby amended to read as follows:

9.40.120 – Exemptions

D. Noise sources associated with or vibration created by construction, repair, remodeling or grading of any real property or during authorized seismic surveys conducted during Established Construction Hours as set forth in 18.02.105.20 of this Code. For exemptions to this chapter for construction, repair, remodeling or grading outside of Established Construction Hours, on legal holidays or weekends, the property owner or his authorized agent shall pay the established fee and obtain an After Hours Noise Exemption Permit pursuant to the requirements set forth for After Hours Construction Permits in 18.02.105.20 of this Code.

Section 2. Except as herein provided, Title 9 (Health and Safety) shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2013.

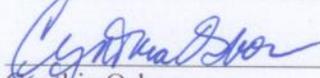
THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

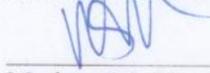
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:



Mathew McElroy, Director
City Development Department

9.40.120 - Exemptions.

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

A.

Activities conducted on public parks, public playgrounds, and public or private school grounds, including, but not limited to, school athletic and school entertainment events conducted during the hours of seven a.m. and ten p.m.;

B.

Occasional outdoor gatherings, public dances, shows and sporting and entertainment events conducted during the hours of seven a.m. to ten p.m., provided the events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of such events;

C.

Any mechanical device, apparatus, or equipment which emits a sound, including but not limited to an alarm, siren, bell, or whistle, related to, used for, or connected with any emergency machinery, vehicle, work or alarm, provided the sounding of the mechanical device, apparatus, or equipment on or near any building or motor vehicle shall terminate its operation within ten minutes of its being activated at or near a location;

D.

Noise sources associated with or vibration created by construction, repair, remodeling or grading of any real property or during authorized seismic surveys; ~~provided the activities do not take place between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and Saturdays or at any time on Sunday or a legal holiday except in compliance with Chapter 18.44 of this Code, and provided the noise level created by such activities does not exceed the noise standard of sixty-five dB(A) plus the limits specified in Section 9.40.040 as measured on residential property and any vibration created does not endanger the public health, welfare and safety;~~ conducted during Established Construction Hours as set forth in 18.05.105.20 of this Code. For exemptions to this chapter for construction, repair, remodeling or grading outside of Established Construction Hours, on legal holidays or weekends, the property owner or his authorized agent shall pay the established fee and obtain an After Hours Noise Exemption Permit pursuant to the requirements set forth for After Hours Construction Permits in 18.02.105.20 of this Code.

E.

Noise sources associated with the maintenance of property provided the activities take place between the hours of seven a.m. and ten p.m. on any day;

F.

Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way;

G.

Any activity to the extent regulation thereof has been preempted by state or federal law;

H.

The El Paso International Airport;

I.

Noise associated with aircraft activities outside a regularly established airport field or landing place as permitted by the city council pursuant to [Section 14.12.080](#) or [Section 14.12.105](#)