



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2671
www.CityofSacramento.org

CONSENT
August 25, 2009

Honorable Mayor and
Members of the City Council

Title: Changes to the Noise Variance Procedures (M09-027)

Location/Council District: Citywide

Recommendation: 1) Review a) a **Resolution** determining the project is exempt from environmental review; b) an **Ordinance** amending Section 8.68.260 of the City Code relating to noise variances; and 2) pass for publication the Ordinance title as required by Sacramento City Charter 32(c) to be adopted September 8, 2009.

Contact: Sandra Yope, Senior Planner, (916) 808-7158; Joy Patterson, Principal Planner, (916) 808-5607

Presenter: Sandra Yope, Senior Planner, (916) 808-7158

Departments: Community Development

Divisions: Current Planning

Organization No: 21001221

Description/Analysis:

Issue: Noise level requirements are found in Chapter 8.68 of Title 8, Health and Safety, of the City Code. Chapter 8.68 addresses noise control and allows for variances to the noise level requirements by application for a variance from the Zoning Administrator. However, the section does not reference the Title 17, Zoning Code for variance procedures. Therefore, the Zoning Administrator does not have the authority to elevate a noise variance for a controversial project to the Planning Commission. Additionally, a project that has other entitlements being heard at a higher level requires all entitlements be heard by the highest level hearing body required. This provision is also not in Chapter 8.68 for noise variances. The proposed changes to Chapter 8.68 will make the sound level variance procedures consistent with all other Zoning Code variance procedures.

Policy Considerations: The proposed ordinance is consistent with the City's Strategic Plan goals, to improve and expand public safety and achieve sustainability and enhance livability in the City of Sacramento.

Committee/Commission Action: The proposed code amendments were presented to the Law and Legislation Committee on August 18, 2009. The Committee had not yet met at the submission date of this report.

Environmental Considerations: The proposed ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15061(b) (3).

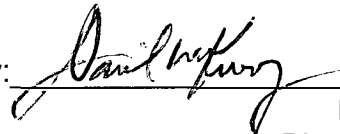
Sustainability Considerations: There are no sustainability considerations applicable to the changes made in the section of the noise variance hearing process.

Rationale for Recommendation: The proposed code amendments will align the process for noise variances by the Zoning Administrator with all other Zoning Administrator Variances to include "bump up" provisions.

Financial Considerations: None.

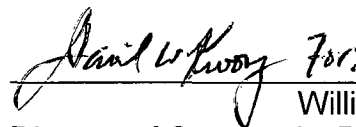
Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

Respectfully Submitted by:



David Kwong
Planning Director

Approved by:



William Thomas
Director of Community Development

Recommendation Approved:


RAY KERRIDGE
City Manager

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Changes to Noise Ordinance Variances
(M09-027)

August 25, 2009

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RESOLUTION NO. 2009-

Adopted by the Sacramento City Council

**DETERMINING PROJECT EXEMPT FROM REVIEW UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT (M09-027)**

BACKGROUND

A. On August 25, 2009, the City Council considered an ORDINANCE AMENDING SECTION 8.68.260 OF THE CITY CODE RELATING TO NOISE VARIANCES (the Project) and received and considered evidence concerning the Project.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

Section 1. Based on the determination and recommendation of the City's Environmental Planning Services Manager and the oral and documentary evidence received on the Project, the City Council finds that the Project is exempt from review under Section 15061(B)(3) of the California Environmental Quality Act Guidelines as follows:

Under section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, an activity is exempt from CEQA when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The proposed ordinance relates to changing the noise ordinance variance process to be consistent with other zoning code variance processes, which applications will be subject to independent environmental review. It can be seen with certainty that the proposed ordinance will not itself have a significant effect on the environment and, therefore, is not subject to CEQA review.

**Redlined
ORDINANCE NO.**

Adopted by the Sacramento City Council

**AN ORDINANCE AMENDING SECTION 8.68.260 OF THE
SACRAMENTO CITY CODE RELATING TO VARIANCES
FROM NOISE STANDARDS AND REGULATIONS**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 8.68.260 of the Sacramento City Code is amended to read as follows;

8.68.260 Variance procedure.

A. The owner or operator of a noise source ~~which that~~ violates any of the provisions of this chapter may file an application ~~with the zoning administrator~~ for a variance from the provisions of this chapter ~~thereof~~. The application shall set forth all actions taken to comply with this chapter, the reasons why immediate compliance cannot be achieved, a proposed method for achieving compliance, and a proposed time schedule for its accomplishment. If the applicant determines that compliance cannot be feasibly achieved at all, the application shall also set forth the reasons for such determination, the actions ~~which that~~ have been taken to comply with this chapter, a proposed method for complying as nearly as is feasible, and a proposed time schedule for its accomplishment. ~~Said~~ The application shall be accompanied by a fee in the amount established by resolution of the city council. A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership or several fixed sources on a single property may be combined into one application.

B. ~~The~~ Except as provided in subsections (C) and (D), below, relating to required findings, terms and conditions of granting a variance, and factors to take into consideration, the application for a variance under this section shall be accepted and processed and a decision on the application shall be made in the same manner and subject to the same procedures and requirements as a zoning administrator variance under section 17.216.040 of this code. ~~zoning administrator shall hold a public hearing on the application for a variance. Notice of the application for a variance and the hearing~~

~~shall be given in the same manner as notice is given of a hearing on a zoning administrator's special permit pursuant to the zoning ordinance.~~

C. After the public hearing, the ~~zoning administrator~~decision-maker may grant a variance if ~~the zoning administrator~~it finds, after full consideration of all of the facts, that strict compliance with the requirements of this chapter will cause practical difficulties, unnecessary hardship, or unreasonable expense. A variance may be for a limited period and may be subject to any ~~other~~ terms, conditions, and requirements as the ~~zoning administrator~~decision-maker may ~~may~~ deems reasonable to achieve maximum compliance with the provisions of this chapter. ~~Such~~The terms, conditions and requirements may include, but shall not be limited to, limitations on noise levels and operating hours.

D. Each variance shall set forth the approved method of achieving maximum compliance and a time schedule for its accomplishment. The ~~zoning administrator~~decision-maker shall consider the magnitude of nuisance caused by the offensive noise, the uses of property within the area of impingement by the noise, the time factors related to study, design, financing and construction of remedial work, the economic factors related to age and useful life of equipment and the general public interest and welfare.

~~E. The zoning administrator shall consider all facts relating to whether strict compliance with the requirement of this chapter will cause practical difficulties, unnecessary hardship or unreasonable expense.~~

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any terms, conditions, and requirements as the decision-maker deems reasonable to achieve maximum compliance with the provisions of this chapter. The terms, conditions and requirements may include, but shall not be limited to, limitations on noise levels and operating hours.

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