REPORT TO COUNCIL
City of Sacramento

13

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

CONSENT
October 18, 2005

Honorable Mayor and
Members of the City Council

Subject: Ordinance Amendments: Chapter 12.20 Of The City Code Relating To Work Affecting The Public Right Of Way, And Chapter 8.68 Relating To Noise Control

Location/Council District: Citywide

Recommendation:

This report recommends that the City Council adopt the attached ordinance amendments to Chapter 12.20 of the City Code relating to work affecting the public right of way, and Chapter 8.68 relating to noise control.

Contact: Jon Blank, Supervising Engineer, 808-7914; Nicholas Theocharides, Engineering Services Manager, 808-5065
Presenters: None
Department: Department of Transportation
Division: Engineering Services Division
Organization No: 3437

Summary:

Under the current City Code, the administrative penalty for violations related to work affecting the public right of way, and for work relating to allowable exterior noise control is $500 per infraction. The proposed ordinance amendments increase the penalty from $500 to $1000 per infraction. City Council directed staff to proceed with implementing recommendations indicated in the "Construction Traffic Management Report Back" presented to City Council on June 14, 2005.

Committee/Commission Action:

On September 20, 2005, the Law and Legislation Committee reviewed the ordinances amending Section 12.20.080 and Section 8.68.280 of the City Code. The committee approved the amended ordinance and resolutions, and forwarded this item to the City Council.

Background Information:

On May 17, 2005 the City Council requested a report back on ways to minimize public inconvenience and reduce construction related traffic impacts. On June 14, 2005, the Department of Transportation recommended a number of short and long term process improvements, including an increase of the administrative penalty. The City Council directed the Department of Transportation to move forward with implementing the recommendations.

Financial Considerations:

Administrative penalties issued to persons performing work under a City contract shall be deducted from the contract; otherwise, all revenues shall be deposited into the General Fund.

Environmental Considerations:

The Planning Division, Neighborhood, Planning & Development Services Department has reviewed the project and has determined that it is exempt from the California Environmental Quality Act (CEQA) under Sections 15061(b)(1), 15061(b)(3), and 15301(c) of the CEQA Guidelines. This project involves general policy and procedures with the operation of City streets and has no potential adverse impacts on the environment.

Policy Considerations:

The proposed ordinance is consistent with the City Council's priorities of Public Safety and Economic Development.

Emerging Small Business Development (ESBD):

No goods or services are being provided.

Respectfully Submitted by: _____
Nicholas Theocharides
Engineering Services Manager

Approved by: _____
Marty Hanneman
Director, Department of Transportation

Recommendation Approved:

_____
FOR ROBERT D. THOMAS
City Manager

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ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE TO AMEND SECTION 12.20.080 OF THE SACRAMENTO CITY CODE TO INCREASE ADMINISTRATIVE PENALTY

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

SECTION 1.

Section 12.20.080 of the Sacramento City Code is hereby amended to read as follows:

A. Administrative Penalties. The director may issue an order imposing an administrative penalty to any person violating any provision of this chapter.

1. Notwithstanding any contrary provision of this code, each day a violation of the following code provisions occurs shall constitute a separate violation, and shall be subject to a separate penalty:

a. Section 12.20.020(B).

b. Section 12.20.020(D).

c. Section 12.20.040.

d. Section 12.20.050.

e. Section 12.20.060.

f. Section 12.20.070.

2. Notwithstanding any contrary provision of this code, each fifteen (15) minute period that a violation of the following code provisions occurs shall constitute a separate violation, and a separate administrative penalty may be imposed for each violation:

a. Section 12.20.020(A).

b. Section 12.20.020(C).

3. The administrative penalty for each violation of any provision of this chapter shall be ~~five hundred~~ one thousand dollars ($~~500.00~~1,000.00). Violations of a specific section of this chapter by the same person occurring during the same work but located in different blocks or located in the same block but occurring on different days or at different times on the same day shall constitute separate violations for which separate administrative penalty orders may be issued.

4. If a person performing work under a contract between the person and the city violates any provision of this chapter, the city may deduct the amount of any administrative penalties imposed hereunder from any funds otherwise payable to the person under the contract.

5. In addition to the aforementioned penalties, the city may withhold issuance of permits for encroachment or excavation in a city street (issued pursuant to Chapter 3.76 or Chapter 12.12 of this code) to any person receiving a final administrative penalty order for a violation of any specific provision of this chapter three times within a two year period; the city may withhold issuance of permits for a period of not longer than two years after said administrative penalty orders are final. Multiple administrative penalty orders issued for continuing violations occurring on the same calendar day shall be considered one administrative penalty order for purposes of this section.

B. Imposition of the Administrative Penalties. The administrative penalty order shall be imposed in accordance with the provisions of Section 1.28.010 of this code, and shall contain the following:

1. The name and address of the violating party, if known;

2. The location, date and time of the violation;

3. A description of the act(s) or condition(s) violating this chapter;

4. The amount of the administrative penalty, with instructions for submitting payment to the city;

5. A statement indicating that the administrative penalty may be appealed, in accordance with the provisions of Section 1.28.010(D)(4) of this code, by filing a written notice of appeal with the city clerk no later than twenty (20) days after the order is issued to the violator;

6. A statement indicating that the order imposing the administrative penalty shall be final if it is not appealed within the time required;

7. A statement indicating that a party upon whom a final administrative penalty has been imposed may seek review of the order imposing the penalty pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6.

DATE PASSED FOR PUBLICATION:
DATE ENACTED:
DATE EFFECTIVE:

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MAYOR

ATTEST:

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CITY CLERK

ORDINANCE NO.

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AN ORDINANCE TO AMEND SECTION 8.68.280 OF THE SACRAMENTO CITY CODE TO INCREASE ADMINISTRATIVE PENALTY

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

SECTION 1.

Section 8.68.280 of the Sacramento City Code is hereby amended to read as follows:

A. Upon the receipt of a compliant from any person, the chief of police, the health officer or their duly authorized representatives may investigate and assess whether the alleged noise levels exceed the noise standards set forth in this chapter. If such officers have reason to believe that any provision(s) of this chapter has been violated, they may cause written notice to be served upon the alleged violator. Such notice shall specify the provision(s) of this chapter alleged to have been violated and the facts alleged to constitute a violation, including dBA readings noted and the time and place of their detection and may include an order that corrective action be taken within a specified time. If corrective action is not taken within such specified time or any extension thereof approved by the health officer, upon conviction the violation shall constitute a misdemeanor. Each such violation committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

B. Notwithstanding any contrary provision of this code, each fifteen (15) minute period that a violation of section 8.68.060 occurs shall constitute a separate violation. The administrative penalty for each violation of section 8.68.060 shall be one thousand ~~five hundred~~ dollars ($~~500.00~~1,000.00).

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4. If a person performing work under a contract between the person and the city violates any provision of this chapter, the city may deduct the amount of any administrative penalties imposed hereunder from any funds otherwise payable to the person under the contract.

5. In addition to the aforementioned penalties, the city may withhold issuance of permits for encroachment or excavation in a city street (issued pursuant to Chapter 3.76 or Chapter 12.12 of this code) to any person receiving a final administrative penalty order for a violation of any specific provision of this chapter three times within a two year period; the city may withhold issuance of permits for a period of not longer than two years after said administrative penalty orders are final. Multiple administrative penalty orders issued for continuing violations occurring on the same calendar day shall be considered one administrative penalty order for purposes of this section.

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B. Notwithstanding any contrary provision of this code, each fifteen (15) minute period that a violation of section 8.68.060 occurs shall constitute a separate violation. The administrative penalty for each violation of section 8.68.060 shall be one thousand dollars ($1,000.00).

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