



CITY MANAGER M E M O R A N D U M

To: The Honorable Mayor and City Commissioners

From: The City Manager

Date: December 14, 2015

Subject: First Reading of Ordinance 15-1436 - Amending City Code Section 58-56, Unnecessary or Disturbing Noise

Introduction: Ordinance 15-1436 provides for amending Chapter 58 of the City Code of Ordinances pertaining to Article III, Offenses Against Public Peace, to provide for expanded authorization of acceptable times to perform construction and to clarify the process for the application to permit construction outside of regular hours.

Background: City Code Section 58-56 now permits construction (erection, demolition, alteration or repairs) of any building between the hours of 7:00 a.m. and 6:00 p.m. on Mondays through Fridays. The “City Inspector” may issue an exemption permit in case of an emergency or if the public health and safety will not be impaired for construction that deviates from these hours. Administrative decisions shall be appealable to the City Commission within five days.

Staff researched permitted construction times in other Seminole County jurisdictions and found that the City of Casselberry is the only city that restricts construction activities to five business days. All others are six or seven days. Casselberry City Code is more restrictive than other jurisdictions and may be a deterrent to economic development.

Discussion: Ordinance 15-1436 amends the City Code to permit construction between the hours of 7:00 a.m. until 8:00 p.m. on Mondays through Saturdays. Further, instead of referring to the “City Inspector” as the source for an exemption permit for construction outside of normal hours, the proposed ordinance now refers to the “City Manager or his/her designee.”

The City Attorney reviewed the ordinance and provided an opportunity for staff to address the decibel limitations relative to construction activity provided in Unified Land Development Regulations (ULDR) Section 3-17.4(G)(6) in the near future.

Budget Impact: There is no impact to the City budget.

Recommendation: The City Manager and the Community Development Director recommend approval of Ordinance 15-1436 on first reading.

Prepared by: Sandra J. Smith, AICP, Community Development Director

Reviewed by: Randy Newlon, City Manager

Attachments: Ordinance 15-1436
Jurisdictional Survey

ORDINANCE 15-1436

AN ORDINANCE OF THE CITY OF CASSELBERRY, FLORIDA, AMENDING ARTICLE III, SECTION 58-56, UNNECESSARY OR DISTURBING NOISE, OF THE CITY CODE OF ORDINANCES OF THE CITY OF CASSELBERRY, FLORIDA TO PROVIDE FOR CONSISTENCY OF REQUIREMENTS BETWEEN THE CODE OF ORDINANCES AND THE UNIFIED LAND DEVELOPMENT REGULATIONS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, Chapter 58, Article III, Offenses Against Public Peace, of the City of Casselberry Code of Ordinances (Code) contains requirements for the acceptable times to perform construction, including the erection, demolition, alteration or repair of any building within the City; and

WHEREAS, these activities are regulated to occur only between the hours of 7:00 a.m. and 6:00 p.m. Mondays through Fridays and are prohibited from occurring on weekends; and

WHEREAS, the City Inspector has the ability to grant a permit to work outside these timeframes due to an emergency or if a determination is made that the public health and safety will not be impaired; and

WHEREAS, a survey of other jurisdictions demonstrates that the City of Casselberry construction activity regulations are very restrictive; and

WHEREAS, dependent upon the location and type of work being performed, a blanket prohibition on construction during the current timeframes can be detrimental to construction schedules and may result in a loss or inconvenience to a project; and

WHEREAS, the City of Casselberry wishes to eliminate these encumbrances, and the City Commission hereby directs staff to address the decibel limitations in Section 3-17.4(G)(6) of the Unified Land Development Regulations by separate ordinance to accommodate construction activity; and

WHEREAS, words with double underlined type shall constitute additions to the original text and ~~strike-through~~ shall constitute deletions to the original text, and asterisks (* * *) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF CASSELBERRY, FLORIDA:

SECTION 1. That Article III, Offenses Against Public Peace, subsection (b)(9) of Section 58-56, Unnecessary or disturbing noise, of the City Code of the City of Casselberry, Florida, is hereby amended as follows:

Sec. 58-56. - Unnecessary or disturbing noise.

(a) *Generally.* It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or disturbing noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the City.

(b) *Enumeration.* Except as otherwise provided in this Section, the following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of Subsection (a) of this Section, but this enumeration shall not be deemed to be exclusive:

* * *

~~(9) *Construction or repair of buildings.* The erection, demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the City inspector. This permit may be granted for a period not to exceed three days while the emergency continues, and may be renewed for periods of three days or less while the emergency continues. If the City inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for this work to be done within the hours of 6:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work. The decision by the City inspector shall be appealable to the City Commission within five days.~~

(9) *Construction and demolition of buildings.* The erection, demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 8:00 p.m. on Mondays through Saturdays.

(a) If the City Manager or his/her designee finds there is a reason to allow erection, demolition, alteration or repair outside those hours, then the City Manager or his/her designee may grant a permit for such work. The valid reasons for granting such a permit are:

1) an emergency exists; or

2) the public health and safety will not be impaired, and loss or inconvenience would result to a party in interest if the permit was not granted.

(b) An application for the permit for work outside the hours in Section 9(a) shall be submitted and approved prior to initiating work within the revised timeframe.

(c) The decision by the City Manager or his/her designee shall be appealable to the City Commission within five days of the rendition of the decision.

* * *

SECTION 2: CODIFICATION. It is the intention of the City Commission of the City of Casselberry, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Casselberry, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word.

SECTION 3: CONFLICTS. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 4: SEVERABILITY. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 5: EFFECTIVE DATE. This Ordinance shall become effective ten (10) days after the second reading and adoption.

FIRST READING this _____ day of _____, A.D. 2015.

SECOND READING AND ADOPTION this _____ day of _____, A.D. 2016.

ATTEST:

Donna Gardner, City Clerk

Charlene Glancy, Mayor/Commissioner

**REGULATION OF
CONSTRUCTION NOISE**

	Casselberry	Altamonte	Lake Mary	Longwood	Oviedo	Sanford	Winter Springs	Seminole County
Regulates construction noise	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Hours allowed	7AM - 6PM	7AM - 8PM	7AM - 10PM	8AM - 5PM	7AM-7PM	7AM - 10PM	7AM-1/2 hr pre sunset	
Days allowed	Mon - Fri	Mon - Sat	Mon - Sun	Mon - Sun	Mon - Sat	Mon - Sun	Mon - Sun	
Reasons construction exempted from noise restrictions	Emergency, Loss will result	Public Interest, No feasible alternative	Bona fide emergency work or special exemption	Impacts mitigated, beneficial to community		Emergency, Gov entities, Public Service	Emergency or necessity	
Permit to Exempt	Yes	Yes	Yes	Yes	No	Yes	Yes	
Issued by	City Inspector	City Manager or designee	?	City Commission		City Manager or designee	Building Official	
Code Section	58-56	12-9/10	91.16	58-194	22-123	38-79	11-6	
Fee required	No	No	No	Yes	No	Yes	No	
Appealed to	City Commission					City Commission		