SUBJECT: CONSIDER ADOPTION OF A NOISE ORDINANCE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: When the City Council Adopted the Noise Element of the General Plan in 1987, it included a draft noise ordinance proposed for adoption. For reasons unknown to Staff, the draft ordinance was not adopted. Recently, a number of issues pertaining to noise have arisen and enforcement has been problematic due to the lack of enforceable standards. A member of the City Council requested that Staff bring this item to the Council for review to determine whether to pursue adoption of the draft ordinance. Staff indicated that upon development of the updated Noise Element to be completed with the comprehensive General Plan Update a new or revised ordinance may be necessary.

Staff has reviewed the draft ordinance and would recommend that the Council consider amending a few provisions prior to adoption. Following is a brief discussion of the issue areas that Staff believes should be addressed:

Section 0.00.030 Noise Measurement Criteria

Staff needs to research whether the National Bureau of Standards NBS is still the applicable criteria for ensuring that this is the preferred noise meter calibrating methodology.

Section 0.00.060 Noise Source Exemptions

The draft ordinance includes a list of exemptions from the noise level standards outlined in the draft ordinance. The Council may want to consider whether the full extent of the exemptions outlined in this section will provide the desired level of control over noise sources. It is Staff’s understanding that the primary reason for exploring the adoption of the draft ordinance is a result of noise generated from public parks and other public facilities that could include the fairgrounds as provided for in subparagraph A. In addition, subparagraph E provides an amortization period of 12 months for lawfully established commercial or industrial uses with noise sources stemming from equipment, and other mechanical systems installed prior to the effective date of this ordinance. The only concern with this is that the City does not have the staff to go around and establish what uses are in compliance or in violation. Therefore, it would be as simple to adopt the ordinance without an amortization period and continue to respond to these situations on a complaint basis for at least the first year.

Section 0.00.080 Waste and Garbage Collection Equipment

Staff would recommend coordinating the operational timeframes and noise ratings associated with this section to operations of the Field Services Division.
Section 0.00.110 Variances

Staff would recommend deleting this paragraph due to the fact operational characteristics are more closely associated with the use and not an actual development standard. Variances generally apply to deviations from development standards not aspects of use; granting a use variance is not considered legal practice. If someone has a legitimate case for a variation from a noise development standard, the Zoning Ordinance is already set up to account for the variance process. However, this would generally require these standards to be codified within the Zoning Ordinance.

In addition to the draft ordinance provisions for regulating noise sources, there are a number of provisions currently in the municipal code and zoning ordinance. These existing provisions are attached in Attachment B for reference. It does not appear that the existing provisions cover all the potential noise sources to be regulated. Therefore, it would appear that a noise ordinance would be beneficial to the City to protect the community’s health, safety and general welfare against the establishment and proliferation of excessive noise sources.

RECOMMENDATION: That the City Council:

1. Direct Staff on how to proceed with the outlined issues.

2. Set a public hearing for the adoption of the draft noise ordinance with amendments on August 16, 2005.
CHAPTER 18, Article IV

DRAFT COMMUNITY NOISE CONTROL ORDINANCE

Sections:
0.00.010 Purpose.
0.00.020 Definitions.
0.00.030 Noise measurements criteria.
0.00.040 Exterior noise standards.
0.00.050 Interior noise standards.
0.00.060 Noise source exemptions.
0.00.070 Air conditioning and refrigeration.
0.00.080 Waste and garbage collection equipment.
0.00.090 Electrical substations.
0.00.100 Warning signs in places of public entertainment.
0.00.110 Variances.
0.00.120 Violation-Enforcement.

0.00.010 Purpose.

The City Council declares and finds that excessive noise levels are detrimental to the public health, safety and welfare and contrary to the public interest as follows:

A. By interfering with sleep, communication, relaxation and the full use of one’s property; and

B. By contributing to hearing impairment and a wide range of adverse physiological and psychological stress conditions; and

C. By adversely affecting the value of real property.

It is the intent of this chapter to protect persons from excessive levels of noise within or near a residence, school, church, hospital or public library and to warn persons of the hazards of excessive noise in places of public entertainment.

0.00.020 Definitions.

The following words, phrases and terms as used in this chapter shall have the following meanings:

A. “Ambient noise level” means the composite of noise from all sources excluding the alleged offensive noise. In this context it represents the normal or existing
level of environmental noise at a given location for a specific time of the day or night.

B. “A weighted sound level” means the sound level in decibels as measured with a sound level meter using the “A” weighted network (scale) at slow meter response. The unit of measurement is referred to herein as dBA.

C. “Construction” means construction, erection, enlargement, alteration, conversion or movement of any building, structures or land together with any scientific surveys associated therewith.

D. “Cumulative period” means an additive period of time composed of individual time segments, which may be continuous or interrupted.

E. “Decibel” means a unit for measuring the amplitude of a sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals.

F. “Emergency work” means the use of any machinery, equipment, vehicle, manpower or other activity in a short-term effort to protect, or restore safe conditions in the community, or work by private or public utilities when restoring utility service.

G. “Fixed noise source” means a device, machine or combination thereof which creates sounds while fixed or stationary, including but not limited to residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

H. “Hospital” means any building or portion thereof used for the accommodation and medical care of sick, injured or infirm persons including rest homes and nursing homes.

I. “Impulsive noise” means a noise of short duration, usually less than one second, with an abrupt onset and rapid decay.

J. “Intruding noise level” means the sound level created, caused, maintained or originating from an alleged offensive source, measured in decibels, at a specified location while the alleged offensive source is in operation.

K. “Mobile noise source” means any source other than a fixed noise source.

L. “Noise disturbance” means any sound which violates the quantitative standards set forth in this chapter.

M. “Residential property” means a parcel of real property which is developed and used either in whole or in part for residential purposes.
N. “School” means public or private institutions conducting regular academic instruction at preschool, kindergarten, elementary, secondary or collegiate levels.

O. “Pure tone noise” means any noise which is distinctly audible as a single pitch (frequency) or set of pitches. For the purposes of this ordinance, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

P. “Sound level meter” means an instrument meeting American National Standard Institute (ANSI) Standard S1.4-1971 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

0.00.030 Noise Measurement Criteria.

Any noise measurement made pursuant to the provisions of this chapter shall be made with a sound level meter using the “A” weighted network (scale) at slow meter response. Fast meter response shall be used for impulsive type sounds. Calibration of the measurement equipment utilizing an acoustical calibrator certified by its manufacturer to be in compliance with National Bureau of Standards (NBS) (Staff would need to confirm these standards are still applicable in the industry) reference calibration levels shall be performed immediately prior to recording noise level data.

Exterior noise levels shall be measured from the nearest residential, school, hospital, church or public library property line to the noise source, within fifty feet of the affected residence, school, hospital, church or public library. Where practical, the microphone shall be positioned three to five feet above the ground and away from reflective surfaces.

Interior noise levels shall be measured within the affected dwelling unit, at points at least four feet from the wall, ceiling or floor nearest the noise source, with windows in the normal seasonal configuration. Reported interior noise levels shall be determined by taking the arithmetic average of the readings taken at the various microphone locations.

0.00.040 Exterior Noise Standards

A. It is unlawful for any person at any location within the incorporated areas of the City to create any noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person which causes the exterior noise level when measured at any affected residence, school, hospital, church or public library to exceed the noise level standards as set forth in the following table:
### Noise Level Standards, dBA

<table>
<thead>
<tr>
<th>Category</th>
<th>Cumulative Number of minutes in any one-hour time period</th>
<th>Daytime 7 a.m. to 10 p.m.</th>
<th>Nighttime 10 p.m. to 7 a.m.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>30</td>
<td>50</td>
<td>45</td>
</tr>
<tr>
<td>2</td>
<td>15</td>
<td>55</td>
<td>50</td>
</tr>
<tr>
<td>3</td>
<td>5</td>
<td>60</td>
<td>55</td>
</tr>
<tr>
<td>4</td>
<td>1</td>
<td>65</td>
<td>60</td>
</tr>
<tr>
<td>5</td>
<td>0</td>
<td>70</td>
<td>65</td>
</tr>
</tbody>
</table>

B. In the event the measured ambient noise level without the alleged offensive source in operation exceeds an applicable noise level standard in any category above, the applicable standard or standards shall be adjusted so as to equal the ambient noise level.

C. Each of the noise level standards specified above shall be reduced by five dB for pure tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

D. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level without the source can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards.

### Residential Interior Noise Standards

A. It is unlawful for any person at any location within the incorporated areas of the City, to operate or cause to be operated within a dwelling unit, any source of sound or to allow the creation of any noise which causes the noise level when measured inside another dwelling unit to exceed the noise level standards as set forth in the following table:

<table>
<thead>
<tr>
<th>Category</th>
<th>Cumulative Number of minutes in any one-hour time period</th>
<th>Daytime 7 a.m. to 10 p.m.</th>
<th>Nighttime 10 p.m. to 7 a.m.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5</td>
<td>45</td>
<td>35</td>
</tr>
<tr>
<td>2</td>
<td>1</td>
<td>50</td>
<td>40</td>
</tr>
<tr>
<td>3</td>
<td>0</td>
<td>55</td>
<td>45</td>
</tr>
</tbody>
</table>
B. In the event the measured ambient noise level without the alleged offensive source in operation exceeds an applicable noise level standard in any category above, the applicable standard or standards shall be adjusted so as to equal the ambient noise level.

C. Each of the noise level standards specified above shall be reduced by five dB for pure tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

D. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level without the source can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards.

0.00.060 Noise Source Exemptions.

The following activities shall be exempted from the provisions of this chapter.

A. Activities conducted in public parks, public playgrounds and public or private school grounds, including but not limited to school athletic and school entertainment events.

B. Any mechanical device, apparatus or equipment used, related to, or connected with emergency activities or emergency work.

C. Noise sources associated with construction, whether private or public, within 500 feet of the uses mentioned in Section 0.00.040, paragraph A, provided such activities do not take place before 6:00 a.m. or after 9:00 p.m. on any day except Saturday or Sunday, or before 7:00 a.m. or after 5:00 p.m. on Saturday or Sunday.

D. Noise sources associated with the maintenance of residential property provided such activities take place between the hours of 6:00 a.m. and 9:00 p.m. on any day except Saturday or Sunday, or between the hours of 7:00 a.m. and 9:00 p.m. on Saturday or Sunday.

E. Noise sources associated with a lawful commercial or industrial property caused by mechanical devices or equipment, including air conditioning or refrigeration systems, installed prior to the effective date of this chapter; that this exemption shall expire 12 months after the effective date of this chapter.

F. Noise sources associated with the collection of waste or garbage from property devoted to commercial or industrial uses.

G. Noise sources associated with seasonal agricultural packing operations provided that noise levels produced by such operations do not exceed the exterior noise
level standards set forth in Section 0.00.040 when measured as provided in Section 0.00.030 for a cumulative period of more than 90 days out of the year.

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

0.00.070 Residential Air Conditioning and Refrigeration Systems.

Notwithstanding the provisions of Section 0.00.040 where the intruding noise source when measured as provided in Section 0.00.030 is an existing residential air conditioning or refrigeration system or associated equipment, the exterior noise level shall not exceed fifty-five (55) dBA. For residential air conditioning or refrigeration systems or associated equipment installed after the effective date of this chapter, the exterior noise level when measured as provided in Section 0.00.030 shall not exceed fifty (50) dBA.

0.00.080 Waste and Garbage Collection Equipment.

Notwithstanding the provisions of Section 0.00.040, the collection of waste or garbage from residential property by persons authorized to engage in such activity, and who are operating truck-mounted loading or compacting equipment, shall not take place before 6:00 a.m. or after 7:00 p.m. The noise level created by such activities when measured at a distance of fifty (50) feet in an open area shall not exceed the following standards:

A. Eighty-five (85) dBA for equipment in use, purchased or leased prior to the effective date of this chapter;

B. Eighty (80) dBA for new equipment purchased or leased after the effective date of this chapter.

*Staff needs to check noise levels and hours of operation with Field Services.*

0.00.090 Electrical Substations.

Notwithstanding the provisions of Section 0.00.040, noise sources associated with the operation of electrical substations shall not exceed fifty (50) dBA when measured as provided in Section 0.00.030.

0.00.100 Warning signs in places of public entertainment.

It is unlawful for any person to operate or permit the operation or playing of any loudspeaker, musical instrument, motorized racing vehicle, or other source of sound for public entertainment within a building or structure wherein the noise level exceeds ninety-five (95) dBA as determined by using the slow response of a sound level meter at any point normally occupied by a customer, without a conspicuous and legible sign stating: “WARNING! SOUND LEVELS WITHIN MAY CAUSE HEARING IMPAIRMENT.”
0.00.110 Variances

Staff recommends omitting this section as it appears to be more specifically a function of the use rather than the development. A variance from an aspect of use is not legal.

A. The owner or operator of a noise source for which it has been determined violates any of the provisions of this chapter may file an application for variance from strict compliance with any particular hazardous condition or a nuisance and strict compliance would be unreasonable in view of all the circumstances. The owner or operator shall set forth all actions taken to comply with such provisions, and the reasons why immediate compliance cannot be achieved. A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership or fixed sources under common ownership on a single property may be combined into one application.

B. Upon receipt of the application and within thirty (30) days, the City Clerk shall refer the request to the City Council for action thereon in accordance with the provisions of this chapter. In the event the variance is approved, reasonable conditions may be imposed which may include restrictions on noise level, noise duration and operating hours, an approved method of achieving compliance and a time schedule for its implementation.

C. Factors which the City Council must consider shall include but not be limited to the following:

1. Uses of property within the area affected by the noise;
2. Factors related to initiating and completing all remedial work;
3. Age and useful life of the existing noise source;
4. The general public interest, welfare, and safety.

D. The City Council may grant variances from provisions of this chapter subject to such terms, conditions and requirements as may be deemed reasonable to achieve compliance with the provisions and intent of this chapter.

0.00.120 Violation-Enforcement.

The violation of any of the provisions of this chapter shall be an infraction punishable as provided in Section——— of this code. The provisions of this chapter may also be enforced by an injection issued out of the Court of jurisdiction. Any violation of the provisions of this chapter shall be deemed to be a public nuisance.

The Police Department shall enforce the provisions of this chapter. Right of entry for inspection shall be as provided in Section——— of this code.
Zoning Ordinance

Article 26, Section 2618. Performance Standards

[Noise]

No use may generate noise that is in violation of the City's Noise Standards contained in the Noise Element of the General Plan or other standards as may be adopted by the City Council. (Ord. No. 1589, § 2, 1-16-01)

Municipal Code

Chapter 3, Article III, Section 3-12. Sound Trucks and Sound Amplifying Equipment

Noncommercial use –

(a) No person shall use, or cause to be used, any vendor vehicle with its sound amplifying equipment in operation for any purpose in the city before filing a registration statement with the city police department in writing. Political sound trucks and special events approved by the city council as community events shall be exempt from this requirement but shall otherwise comply with the California Vehicle Code.

(b) This registration statement shall be filed in duplicate and shall state the following:

(1) Name and home address of the applicant.
(2) Address of place of business of applicant.
(3) License number and motor number of the sound truck to be used by applicant.
(4) Name and address of person who owns the vehicle or sound truck.
(5) Name and address of person having direct charge of vehicle or sound truck.
(6) Names and addresses of all persons who will use or operate the vehicle or sound truck.
(7) The purpose for which the vehicle or sound truck will be used.
(8) A general statement as to the section or sections of the city in which the vehicle or sound truck will be used.
(9) The proposed hours of operation of the sound amplifying equipment or sound truck.
(10) The number of days of proposed operation of the sound amplifying equipment or
sound truck.

(11) A general description of the sound amplifying equipment which is to be used.

(12) The maximum sound producing power of the sound amplifying equipment to be
used in or on the sound truck. State the following:

a. The wattage to be used.

b. The volume in decibels of the sound which will be produced.

c. The approximate maximum distance for which sound will be thrown from the
sound truck. (Ord. Code, § 7431.2; Ord. No. 1531, § B1, 6-18-96)

Chapter 4, Section 4-13. Noise

No person shall operate any aircraft in flight or on the ground in such a manner as to
cause unnecessary noise as determined by applicable federal, state or local laws and
regulations. (Ord. No. 1194)

Chapter 5, Section 5-4.4. Noisy dogs

It shall be unlawful for any person to keep upon any property within the City of
Porterville under his ownership, occupation or control, other than in a lawful animal
hospital, kennel or pet store any dog or other animal, which by continuous barking,
whining, or other noise, unreasonably disturbs the peace, comfort or quiet of any other
person within the City of Porterville. (Ord. No. 1015, § A, 3-7-72)

Chapter 18, Article I, Section 18-9. Radios, record players, etc. – used in such manner
so as to disturb peace in neighborhood

It shall be unlawful for any person within the city to use or operate or cause to be
operated or to play any radio, phonograph, juke box, record player, loudspeaker musical
instrument, mechanical device, machine, apparatus, or instrument for intensification or
amplification of the human voice or any sound or noise in a manner so loud as to be
calculated to disturb the peace and good order of the neighborhood or sleep of ordinary
persons in nearby residences or so loud as to unreasonably disturb and interfere with the
peace and comfort of the occupants of nearby residences.

The operation of any such instrument, phonograph, juke box, machine or device in such
manner as to be plainly audible at a distance of one hundred (100) feet from the building,
structure, vehicle, or place in which, or on which it is situated or located shall be prima
facie evidence of a violation of this section. (Ord. Code, § 6311)
Chapter 18, Article I, Section 18-14. Outside amplifiers; permit required

It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or connected any loud-speaker or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loud-speaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code, § 6312)

Chapter 20, Article I, Section 20-6. Unnecessary Noise

It shall be unlawful for any person to sound or cause or permit to be used or sounded, in or upon any public street any bell, siren, chime, gong, horn, whistle or other alarm, except when necessary to give warning, or when authorized by permit from the chief of police to do so. (Ord. Code, § 9181)

Chapter 20, Article II, Section 20-35. Control of Noise, Dust and Debris

Each permittee shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and during the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the administrative authority, or in case of an emergency as otherwise provided in this article, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property. (Ord. No. 684, § 27)