

May 19, 2005

**Honorable Mayor and Members  
of the Hermosa Beach City Council**

**Regular Meeting of  
May 24, 2005**

SUBJECTS: REVIEW OF NOISE ORDINANCE REGULATIONS IN CONNECTION WITH PIER PLAZA

**Staff Recommendation:**

That the City Council:

1. Review the existing ordinance provisions and conditional use permit conditions; and
2. Direct staff as deemed appropriate.

**Background:**

On May 10, 2005, the City Council reviewed Outdoor Dining Standards and Procedures and directed staff to return with a discussion of noise regulations as they pertain to Pier Plaza for City Council consideration.

**Analysis:**

The City's noise regulations appear in Chapter 8.24 of the Municipal Code. The general prohibition on unreasonable noise appears at Section 8.24.030:

8.24.030 Prohibited Noises - General Standard.

No person shall make, or cause to suffer, or permit to be made upon any public property, public right-of-way or private property, any unnecessary and unreasonable noises, sounds or vibrations which are physically annoying to reasonable persons of ordinary sensitivity or which are so harsh or so prolonged or unnatural or unusual in their use, time or place as to cause or contribute to the unnecessary and unreasonable discomfort of any persons within the neighborhood from which said noises emanate or which interfere with the peace and comfort of residents or their guests, or the operators or customers in places of business in the vicinity, or which may detrimentally or adversely affect such residences or places of business.

General noise prohibitions of this kind have been held enforceable by the courts, but they require a showing that noise is "unreasonable" to persons of normal sensitivity. Successful enforcement of this general prohibition depends heavily on the factual circumstances, such as time of day and setting.

In order to address noise impacts of commercial activities on residential uses, in 2000 the City Council enacted Section 8.24.040.I., which prohibits:

**I. Commercial establishments adjacent to residential property.** Notwithstanding any provision of this code to the contrary, continuous, repeated or sustained noise from the premises of any commercial establishment which is adjacent to one or more residential dwelling units, including any outdoor area part of or under the control of the establishment, between the hours of 10:00 p.m. and 8:00 a.m. that is plainly audible from the residential dwelling unit's property line.

The advantage of this provision is that it is entirely objective, does not depend on decibel readings and is relatively easy to enforce. Successful enforcement, however, requires the code enforcement officer to be able to trace the source of the noise to one or more particular establishments; this is easier in circumstances where there is a single bar or restaurant in close proximity to residences than entire area devoted to commercial activity. Nonetheless, this provision works well in dealing with invasion of commercial noise on residential uses.

Chapter 8.24 does not, however, contain any specific provisions that address noise emanating from commercial establishments as it may affect the public right-of-way or other commercial establishments. However, a number of conditional use permits issued to Pier Plaza restaurants/bars include noise mitigation conditions (See Attachment).

Staff makes these observations:

1. Other than the general standard based on “reasonableness,” the Municipal Code does not specifically address impacts of noise from commercial establishments on other nearby commercial establishments or on public areas.
2. Conditions of approval in CUPs are not entirely consistent, having evolved over the years as CUPs are issued.
3. Some CUP conditions are clear and easily enforceable (i.e. closure of doors and windows). Others are vague and more difficult to enforce (i.e. noise “shall not adversely affect welfare” or music must be played at “reasonable” volumes, or management is “responsible” for volume levels).
4. Some CUP conditions make reference to volume limits contained in the noise ordinance. These conditions are obsolete as the noise ordinance no longer contains decibel level limits.
5. The CUP condition requiring closure of doors and windows only applies to “live” entertainment (bands or DJs) and dancing, but not to other amplified music.

City Council may want to consider directing staff to amend the noise ordinance to address some of these deficiencies. For example, the ordinance could be amended to require that establishments with amplified music:

- close all doors and windows while any amplified music is being played.
- Be prohibited from playing music in outside eating areas.
- Be required to install self-closing exterior doors.

Such provisions could be enforced immediately upon the effectiveness of the ordinance on all establishments, whether they currently possess CUPs or not.

In addition, Council may want to direct staff to prepare a standard set of CUP conditions for future CUPs that reflect current Municipal Code provisions, remove obsolete and vague provisions and are more specific and enforceable.

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Sol Blumenfeld, Director  
Community Development

Concur:

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Stephen R. Burrell,  
City Manager

Attachments:

1. Pier Plaza CUPs

P:/PierPlazaNoiseOrd

## ATTACHMENT

### Aloha Sharkeez

None

### Cantina Real

None

### Dragon

1. All exterior glass windows to be double paned. (Cond. #4)
2. Operator must prepare and implement City approved acoustical study prior to occupancy. (Cond. #5)
3. Management “responsible for music/entertainment volume levels.” (Cond. #5.B.)
4. Exterior windows and doors must remain closed during “live entertainment.” (Cond. #5.C.)
5. Exterior doors shall have self-closing hardware. (Cond. #5.E.)
6. No “amplified music, audio, television or speakers of any kind shall be permitted in the outside seating area. (Cond. #6)
7. The establishment shall not adversely affect the welfare of the residents and/or commercial establishments nearby. (Cond. #7)
8. Noise emanating from the property shall be within limitations of City’s noise ordinance and shall not create a nuisance to surrounding residential neighborhoods and/or commercial establishments. Noise shall be monitored to verify compliance with noise ordinance. (Cond. #13)

### Fat Face Fenners

1. The establishment shall not adversely effect the welfare of the residents, and/or commercial establishments nearby. (Condition #6)
2. Noise emanating from the property shall be within the limitations prescribed by the City’s noise ordinance and shall not create a nuisance to surrounding residential neighborhoods, and /or commercial establishments. (Condition#8)
3. If entertainment is to include amplified live entertainment, an acoustical study shall be reviewed and approved by the Community Development Director and shall be implemented in the building. (Condition #13)
4. Management shall be responsible for maintaining music/entertainment volumes at reasonable levels. (Condition #14)
5. During any live entertainment and /or dancing, the exterior doors and windows shall remain closed. The building shall be equipped with air conditioning to ensure comfort of patrons during live entertainment, and compliance with this condition. (Condition #15)
6. All exterior glass windows and doors shall be equipped with double-pane glass or a comparable substitute with equivalent sound dampening properties to the satisfaction of the Community Development Director. (Condition #16)

7. Noise emanating from the property shall be within the limitations prescribed by the city's noise ordinance and shall not create a nuisance to surrounding residential neighborhoods, and commercial establishments. Noise emanating from the property shall be monitored to verify compliance with the noise ordinance in response to any complaints.

### **Hennesseys**

1. The building shall be equipped with acoustic features to maximize sound proofing which shall include the use of double-pane windows and or an equivalent, and the installation of air conditioning so that windows and doors can remain closed during performances. Any additional acoustic treatment shall be provided in the interior if necessary to comply with City's noise ordinance. (Condition #8)
2. A minimum 5 foot high solid protective barrier shall be provided and maintained on all sides of the roof-top deck seating area, and live entertainment shall be prohibited on the roof –top deck seating area. (Condition #9)
3. Noise emanating from the property shall be within the limitations prescribed by the City's noise ordinance and shall not create a nuisance to surrounding residential neighborhoods, and/or commercial establishments. Noise emanating from the property shall be monitored to verify compliance with the noise ordinance in response to any complaints. (Condition #11)
4. Management shall be responsible for the music/entertainment volume levels.(Condition #12)
5. During the performance of amplified live entertainment, the exterior doors and windows shall remain closed.(Condition #13)

### **IL Boccaccio**

1. The establishment shall not adversely effect the welfare of the residents, and or commercial establishments nearby. (Condition #1)
2. Noise emanating from the property shall be with the limitations prescribed by the City's noise ordinance, Article 19.5 of the Hermosa Beach Municipal Code, and shall not create a nuisance to the surrounding residences and commercial establishments. Creating loud obnoxious noise shall be prohibited. (Condition #2)

### **Lighthouse**

1. The establishment shall not adversely affect the welfare of the residents and/or commercial establishments nearby. (Cond. #2)
2. Noise emanating from the property shall be within limitations of City's noise ordinance and shall not create a nuisance to surrounding residential neighborhoods and/or commercial establishments. (Cond. #4)
3. Exterior windows and doors must remain closed during "live entertainment." (Cond. #4.A.)
4. Management "responsible for music/entertainment volume levels." (Cond. #4.B.)
5. Sound level and containment survey dated January 31, 1991 must be implemented. (Cond. #4.C.)
6. Sound levels must comply with noise ordinance. (Cond. #4.D.)
7. Double doors shall be installed in front and rear doorways. (Cond. #4.E.)

### **Mediterraneo**

1. Double pane windows or solid doors shall be provided on all opening to the outside. (Condition #4)
2. Live entertainment shall be limited to background non-amplified acoustic music such as a piano, guitar, violin, etc. (condition #5)
3. If live entertainment is to include amplified musical instruments an acoustical study shall be prepared by an acoustical engineer, including proposed sound dampening features to baffle and direct sound away from the entrance/exit and window areas to ensure compliance with the noise ordinance. Said study and sound dampening features shall be reviewed and approved by the Community Development Director prior to the issuance of building permits and shall be implemented in the building prior to occupancy.
  - A. The acoustical study shall be based on the worst-case scenario, or on a sound level that will not be exceeded at any given time.
  - B. Management shall be responsible for the music/entertainment volume levels.
  - C. During the performance of any live entertainment, the exterior doors and windows shall remain closed.
  - D. The air conditioning system shall be of an adequate capacity to air condition the restaurant.
  - E. All exterior doors shall have self-closing hardware. (Condition #6)
4. No live entertainment or amplified music, audio, television or speakers of any kind shall be permitted in the outside seating areas. (Condition #7)
5. The establishment shall not adversely affect the welfare of the residents, and/or commercial establishments nearby. (condition #8)

### **Mermaid**

1. The establishment shall not adversely affect the welfare of the residents, and/or commercial establishment. (Condition #1)
2. Noise emanating from the property shall be within the limitations prescribed by the city's noise ordinance and shall not create a nuisance to the surrounding residential neighborhoods, and /or commercial establishments.

### **Patrick Malloy's**

1. Noise emanating from the property shall be within the limitations prescribed by the City's noise ordinance and shall not create a nuisance to surrounding residential neighborhoods, and /or commercial establishments. (Condition #7)
2. If entertainment is to include amplified live entertainment, an acoustical study shall be reviewed and approved by the Community Development Director and all identified sound-proofing measures including alterations to common walls shall be implemented in the building. (condition #13)
3. Management shall be responsible for maintaining music/entertainment volumes at reasonable levels. (Condition #14)

4. During any live entertainment and/or dancing, the exterior doors and windows shall remain closed. The building shall be equipped with air conditioning to ensure comfort of patrons during live entertainment, and compliance with this condition. (Condition #15)
5. No live entertainment shall be permitted in the outside seating area, and the volume level of any amplified music in the outside seating area shall be controlled by management to ensure compliance with the noise ordinance. (Condition #16)
6. All exterior glass windows or doors shall be equipped with double-pane glass or a comparable substitute with equivalent sound dampening properties to the satisfaction of the Community Development Director. (Condition #17)
7. Noise emanating from the property shall be within the limitations prescribed by the city's noise ordinance and shall not create a nuisance to surrounding residential neighborhoods, and /or commercial establishments. Noise emanating from the property shall be monitored to verify compliance with the noise ordinance in response to any complaints.

### **Sangria**

1. Operator must prepare and implement City approved acoustical study if it is to present live entertainment. (Cond. # 7).
2. Management must maintain music volumes at "reasonable" levels. (Cond. #8)
3. Exterior windows and doors must remain closed during "live entertainment and/or dancing." (Cond. #9)
4. No amplified music or entertainment in outside seating area. (Cond. #10)
5. All exterior glass windows to be double paned. (Cond. #11)
6. Noise emanating from the property shall be within limitations of City's noise ordinance and shall not create a nuisance to surrounding residential neighborhoods and/or commercial establishments. Noise shall be monitored to verify compliance with noise ordinance. (Cond. #16)