



Agenda Item # _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Fahey and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Thompson, Director of Community Development Department
Carol Jacobson, Building Official

DATE: September 20, 2005

SUBJECT: Consideration of City Council Work Plan Item regarding Residential Construction Issues

RECOMMENDATION:

Staff recommends that the City Council discuss these issues and provide direction.

FISCAL IMPLICATION:

The suggestions include a postcard notification system and hiring a part-time code enforcement officer dedicated to residential construction issues. The additional costs associated with the program could be funded by a 7% surcharge added to a building permit, plus the cost of purchasing a vehicle.

BACKGROUND:

On June 24, City Council met with City staff to discuss work plan items. City Council directed staff to review issues related to residential construction impacts regarding three areas of concern:

- Construction activity hours
- Neighbor notification
- Construction rule enforcement and resolution

In 1999 the City Council directed staff to research other cities' rules and regulations, and conducted hearings on this issue. As a result of those hearings the City Council made several changes:

1. Prohibited construction activities on Sundays and major public holidays (six days). Before that time the code permitted construction seven days per week and all holidays.
2. Added an enforcement provision in the code to specify that violation of the construction hour limitations is the responsibility of the contractor, sub-contractor and/or property owner.
3. Expanded the definition of construction activities and exceptions. The new definition of construction activity included any start up or staging activities such as coming and going of any food service vehicles and vehicles bringing construction equipment, materials, or supplies.

4. Clarified the issuance of emergency construction permits to require notification of neighbors as specified by the Building Official.
5. Added a provision to allow homeowners residing on their property to perform construction on Sundays and holidays between 9 a.m. and 6 p.m.

The City requires a construction sign posted on all major job sites. The signs include the job address, job description, contractor/owner name and a 24/7 telephone number. The content also notes information regarding the construction hours, noise restrictions, debris prohibitions, storm drain protection, and parking rules. Originally this was a 9” by 12” laminated sign that was placed at all major remodels, demolition, and new construction job sites. In August 2003, the size of the Construction Notice sign was increased in size to 32” by 24.” It is imprinted on a board similar to those used for real estate on site advertisements. This sign is required for all new and major remodel construction.

Since 1995, Community Development Department has conducted semi-annual construction community meetings. The purpose of these meetings is to discuss construction issues with contractors, builders, architects, and owners. Before each meeting, a newsletter is sent to these individuals providing up-to-date information on code changes and other construction issues.

DISCUSSION:

Construction Activity Hours

Construction activity hours from surrounding cities

August 2005

1. Arcadia	M-Sat 7a-7p	Sat 7a-7p	7 holidays
2. Beverly Hills	M-F 8a-6p	no Sat or Sun	6
3. Culver City	M-F 8a-8p	Sat 9-7, Sun 10-7	6
4. El Segundo	M-Sat 7a-6p	Sat 7a-6p	6
5. Gardena	M-F 7a-6p	Sat 9-6	6
6. Hawthorne	M-F 7a-7p	Sat & Sun 9-5	all holidays 9a-5p
7. Hermosa Beach	M-F 8a-7p	Sat 9-5, Sun 10-2	6
8. Laguna Niguel	M-Sat 7a-8p	Sat 7a-8p	6
9. Malibu	M-F 7a-7p	Sat 8-5	6
10. Manhattan Beach	M-F 7:30a-6p	Sat 9-6	
6			
11. Newport Beach	M-F 7a-6:30p	Sat 8-6	6
12. Palos Verdes Estates	M-Th 7a-7p; F 7-5:30;	Sat 9-5:30p	6
13. Rancho Palos Verdes	M-Sat 7a-7p	Sat 7a-7p	6
14. Redondo Beach	M-F 7a-6p	Sat 9-5	6
15. Rolling Hills	M-Sat 7a-6p	Sat 7a-6pm	6
16. Rolling Hills Estates	M-F 7a-5p	Sat 9a-5pm	6
17. Santa Monica	M-F 8a-6p	Sat 9-5	6

18. Torrance	7 days 7a-8p	Sat & Sun 7a-8p	all holidays 7a-8p
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Similar to most surrounding cities, there are six federal holidays when construction is prohibited. They are:

1. New Year's Day
2. Memorial Day
3. Independence Day
4. Labor Day
5. Thanksgiving Day
6. Christmas Day

Neighbor Notification

Neighbor notification is required for proposed projects in the Coastal zone. Adjacent neighbor notification is also required for all projects 10 days before shoring begins where the excavation is substantially deeper than the footings of adjacent structures, which could potentially impact the existing buildings nearby.

Construction Rule Enforcement and Resolution

Typical complaints regarding residential construction include debris, damage, traffic, parking, noise, and illegal discharges.

Construction debris

Construction trash and food debris sometimes piles up without reasonable maintenance and clean up. When the City receives a complaint, the builder is contacted. The building inspector assigned to the project will follow up to ensure compliance.

Damage to private property

The California Civil Code provides remedies to neighbors where there is property damage caused by construction to an adjacent site. Unless it is a safety hazard, property damage to an adjacent site is not covered in the City construction codes. Staff encourages neighbors to communicate directly with the property owner or general contractor. Additionally, the City may suggest that the resident maintain a photographic record of the perimeter areas of their property before and during construction. Staff recommends that any agreements between neighbors regarding property repair be documented in writing.

One of the most effective methods to help resolve construction issues is to work directly with the builder. This information is posted at the work site or can be given to the resident when contacting Community Development Department. Also, contacting South Bay Center Dispute Resolution Service can be very helpful. This is a free service that is funded by the City of Manhattan Beach. They specialize in civil code matters. They provide information and resources about property owner rights within the California Civil Codes. They act as a neutral third party to negotiate agreements between neighbors.

Parking

Illegal or intrusive parking concerns are referred to Parking Control in the Police Department. The dispatch phone number (310) 802-5159 is posted on the Construction Notice at the job site. Also, neighbors can call the Parking Control Supervisor to request specific areas be patrolled by officers on a daily short-term basis to discourage illegal parking.

The general contractor or owner may obtain two parking permits for each job site. It allows up to two vehicles to park behind the construction site obeying traffic control rules. Typically, permits are issued on a monthly basis. Permits do not allow the permittee to block driveways, restrict residents from their property, or park a vehicle that would become a hazard to traffic flow. Permits do not override parking meters. In some cases, builders will contact the Parking Control Supervisor to set up meetings at the construction site to determine exactly where parking is permitted.

Right-of-way permits where streets may be blocked must first be approved through Parking Control. The applicant must provide the date, time, and location of the streets proposed to be blocked. Parking Control evaluates the application and may impose conditions. The permittee must follow Work Area Traffic Control Handbook (WATCH) requirements.

Noise

Residential complaints often include such issues as radio noise, generator noise, illegal construction hours, or vibration caused by shoring equipment. Radio noise is not permitted to be loud and intrusive across property lines. Often, a phone call to the contractor in charge will alleviate this problem. Occasionally, it requires a follow up visit from the inspector. Generators are usually temporarily placed on a job site until a temporary power is installed.

Construction hours are enforced by the Police Department. Typically, a Police Officer or Community Services Officer is dispatched after a complaint is received. There is a direct 24-hour dispatch telephone number for this service at: (310) 802-5159. Sometimes, the contractor needs only a warning or reminder. It is up to the judgment of the officer if a citation is issued.

Vibrations caused by shoring activities are a serious issue. A plan check engineer is assigned to review and approve the proposed method and equipment used for shoring. As a result of shoring concerns, the type of equipment now allowed is restricted.

Illegal discharges

Another activity that generates complaints is the discharge of sediment, concrete, paint, or other materials from the construction site to the public right of way. This is a violation of the Clean Water Act. All construction sites are required to take steps to prevent this type of discharge. These steps are known as best management practices, which must be enforced to meet our obligation under the National Pollution Discharge Elimination System (NPDES) permit. The primary department that enforces these regulations is Public Works. Community Services Officers from the Police Department and Building Inspectors assist with enforcement.

Enforcement and conflict resolution

Council requested staff to investigate the possibility of using the Board of Building Appeals for enforcing neighborhood construction issues. The California Building Code states that the board of appeals is required to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the building code. The board must not make decisions regarding interpretation of the administrative provisions of the code nor waive the requirements of the code. The California Building Code, as adopted by the City Council, does not discuss construction rules except construction activity hours, which are enforced by the Police Department. The Council may add responsibilities and duties to this board and require regular meetings and notices in order to act as an enforcement agency; however it is not recommended.

South Bay Center for Dispute Resolution has successfully provided assistance to residents to resolve conflicts between neighbors and contractors. Not only does the center provide information to the residents regarding their rights, they help encourage communications between neighbors and builders. Often the Center representative will contact the builder after receiving a complaint from neighboring residents and attempt to resolve their concerns. They will act as a neutral third party in meetings to formalize agreements to resolve issues. This is a free service to residents that is currently funded by the City.

Public Comments

Staff has received several suggestions to mitigate construction impacts within neighborhoods:

1. Change the start up time from 7:30 a.m. to 8 a.m. to avoid traffic and pedestrian issues while neighbors start work and children leave for school,
2. Limit the number of construction permits in a neighborhood,
3. Prohibit Saturday construction,
4. Add 5 more holidays when construction is prohibited including:
 - o Martin Luther King, Jr. Day
 - o Washington's Birthday
 - o Columbus Day
 - o Veteran's Day
 - o Friday following Thanksgiving Day
5. Contractors should provide neighbors with a schedule and notification of all major or possible-impact events on the project, such as water-proofing tar placement, use of glue for flooring or other surfaces, concrete pours, cutting of lumber causing sawdust, and stucco placement,
6. Require a separate closed trash receptacle for food waste. This could prevent possible rodents and other animals from foraging in the construction site.
7. Require a mesh-material on fencing and on scaffolding to prevent some of the construction debris from falling onto adjacent properties,
8. Require either a baffle on generators or that the temporary power pole must be in place before construction begins.

STAFF RECOMMENDATIONS:

Staff believes that the current construction activity hours are commensurate with surrounding cities. Imposing additional restrictions may cause the period of construction time to be extended, which could increase the likelihood of further negative impacts on adjacent residents. No changes are recommended.

One option for neighbor notification would be for staff to implement a new procedure of postcard notification. Before issuance of each new residential development permit, postcards could be sent to neighbors within a 100 foot radius. The postcards would include builder contact information, a tentative schedule, and brief project description (see Attachment A). The costs would be borne by the permit applicant.

If greater enforcement is desired, staff would suggest hiring a part-time Code Enforcement Officer. In response to Council's direction and increased residential neighbor concerns, this would be a more proactive approach to coordinating enforcement efforts. Currently, several departments respond to construction complaints. To better coordinate communication, the officer would be the point person for residential construction problems. The officer would meet with the builder of proposed construction before it begins. The purpose of the site meeting would be to discuss neighborhood impacts such as parking, noise, and debris. They would also review methods to resolve issues. The officer would provide educational handouts and rules for the builder. See Attachment B for a sample handout called "Good Neighbor Construction Policy." The officer would act as a liaison between neighbors and contractors to work through problems and/or complaints. If the builder is not responsive, the officer may issue a citation, or coordinate with the Police Department and City Attorney for more aggressive enforcement.

The salary of the part-time Code Enforcement Officer could be paid for by a 7% surcharge on the building permit fee. The surcharge would add approximately \$20 for an average reroof permit or up to \$300 for a new single family dwelling. This fee would pay for contract services of an officer, who would work an average of 23 hours per week. As a part-time person, the workload could expand or decrease based on the amount of construction in the City. Additionally, a vehicle would need to be budgeted to provide the officer's transportation to job sites.

CONCLUSION:

This is a City Council work plan item regarding residential construction impacts. As a result of construction and development, there are on going adverse impacts associated with residential construction. If Council directs, staff can present the fee and additional budget proposals regarding part-time code enforcement to Council at a future meeting. If changes in construction activity hours are desired, this will need to be presented as an ordinance change at a future Council meeting. The postcard notification system and/or the "Good Neighbor Construction Policy" handouts, if desired, could be implemented quickly.

- Attachments: A. Sample postcard: Neighbor notification
B. Sample handout: Good Neighbor Construction Policy

cc: Lance Widman, Executive Director South Bay Center for Dispute Resolution

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Lynn Harris
Barbara and Walt Dougher

Notice of Construction

Construction of a new single family dwelling with basement

is scheduled to begin soon at 1100 7th Street.

Construction is expected to take 12 months to complete.

We will try to be good neighbors and follow the Construction Notice rules that are posted at the job site.

During construction, if you have any questions or problems, please contact us.

Community Construction Inc.
1234 Side Street
Beach Town, CA 90000

Phone 1: 310-211-3111
Phone 2: 310-311-2111
Fax: 310-113-1112



**NOTICE OF
CONSTRUCTION**

Community Construction Inc.
1234 Side Street
Beach Town, CA 90000

PLEASE
PLACE
STAMP
HERE

Mailing Address Line 1
Mailing Address Line 2
Mailing Address Line 3
Mailing Address Line 4
Mailing Address Line 5



Guidelines for Neighbors

The primary challenge for residents is to reduce the construction project's impact on their home life and routine.

1. Recognize that design is not regulated.
2. Solicit information regarding the extent of the project.
3. Expect construction to be noisy and messy at certain times.
4. Be familiar with City ordinances regulating construction operations.
5. Don't use the job site dumpster.
6. Know the project time frame – generally, the time frame is three to four months for interior work, six months for exterior remodeling, and up to two years for a new home or a condominium project.

Community Development Department
Planning & Building Divisions
1400 Highland Avenue
Manhattan Beach, CA 90266
Phone: 310-802-5505
Fax: 310-802-5501
Internet: www.citymb.info

City of Manhattan Beach



City of Manhattan Beach

GOOD NEIGHBOR CONSTRUCTION POLICIES



Construction in the Neighborhood

Construction in the neighborhood brings sounds and sights quite out of the ordinary – hammers, saws, trucks, dumpsters, and portable toilets. Workers' trucks and private cars may complicate the parking situation on the block.

Noise and inconvenience are inevitable, but temporary. By minimizing the noise and inconvenience during construction, the builder reduces the possibility of conflict with the neighboring residents.

Neighborhood residents and builders who use the following suggestions can help resolve many issues before they become problems.

1. Communication

Builders who alert neighbors of the project and attempt to limit the impact that construction invariably causes will win the tolerance and patience of others.



A flyer or letter to residents in the immediate area explaining the project and the anticipated schedule can reduce concerns about the short-term problems commonly generated by construction.

2. Common Sense

While it is the nature of construction to be messy, noisy and paced to meet the pressure of deadlines and budgets, neighborhood sites require special consideration.

Residents who have reservations about the eventual outcome or design of a project must understand that the builder has satisfied all zoning and building permit requirements before the permit has been issued.

3. Courtesy

Builders can work during hours from 7:30 a.m. to 6 p.m. Monday-Friday & 9 a.m. to 6 p.m. on Saturday. Thoughtful builders who make the effort to schedule the more disruptive aspects of the project to take place during weekdays between 9 a.m. and 5 p.m. should expect fewer complaints from the surrounding residents.

Builders who respect neighbors' concerns and take action to remedy or modify a problem will find that kind of consideration gains friendly support during the project. By responding with common courtesy, the builder may attract a future project from another homeowner in the area.

4. Compromise

Compromise begins when builders and neighbors consider each other's point of view.

Compromise takes place through friendly communication between neighbors, the owner of the project and the builders.

Guidelines for Builders

Informing Neighbors

At least two days in advance of construction, the builder should:

- Call or meet with as many neighbors as possible
- Mail a letter or circulate flyers describing the project
- Maintain a construction sign as required by the City, at the site, with a phone number for questions.

During Construction

Considerate site policies and procedures should be specifically outlined for all workers on the job.

- a. Limit working hours of high noise operations to the middle of the day at least until the structure is fully enclosed
- b. Limit and control radio noise
- c. Consider neighbor's exposure in locating and screening the project's mechanical equipment
- d. Place the dumpster on the lot.
- e. Avoid blowing debris and accumulation of clutter
- f. Cover the dumpster with a tarp bound by cord to contain dust and debris and to control unauthorized use of the dumpster
- g. Park construction vehicles off-street if possible. Turn off engines unless operating other equipment
- h. Place portable toilets away from property lines in less visible locations; arrange for regular service
- i. Control dust with water and chutes
- j. Avoid damage to trees and landscaping
- k. Post the building permit
- l. Prevent discharge of sediment and building materials to the public right of way in keeping with Clean Water regulations.

