



City Council

Mayor
Brian Dalton

Council President
Wes Scroggin

Councilor
Jim Fairchild

Councilor
Beth Jones

Councilor
Jackie Lawson

Councilor
Mark McDonald

Councilor
Kevin Marshall

Councilor
Murray Stewart

Councilor
LaVonne Wilson

Councilor
Ken Woods, Jr.

Staff

City Manager
Jerry Wyatt

City Attorney
Lane Shetterly

Admin Svc Mgr
Robert Spivey

Community Development
Director
Jason Locke

Finance Director
Cecilia Ward

Fire Chief
Bill Hahn

Police Chief
John Teague

Public Works Director
Fred Braun

City Recorder
Emily Gagner

Dallas City Council Agenda

TUESDAY, September 6, 2011, 7:00 p.m.

Mayor Brian Dalton, Presiding

Dallas City Hall
187 SE Court Street
Dallas, Oregon 97338

All persons addressing the Council will please use the table at the front of the Council. All testimony is electronically recorded. If you wish to speak on any agenda item, please sign in on the provided card.

<u>ITEM</u>	<u>RECOMMENDED ACTION</u>
1. ROLL CALL	
2. PLEDGE OF ALLEGIANCE	
3. QUESTIONS OR COMMENTS FROM THE AUDIENCE <i>This time is provided for citizens to address the Council or introduce items for Council consideration on any matters.</i>	
4. PUBLIC HEARINGS <i>Public comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.</i>	
5. CONSENT AGENDA <i>The following items are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered separately.</i>	
a. Approval of August 15, 2011 City Council Minutes p. 3	
b. Acknowledge report of the August 22 Public Safety Committee Meeting (action item later on agenda) p. 6	
c. Acknowledge report of the August 22 Public Works Committee Meeting p. 18	
6. ITEMS REMOVED FROM CONSENT AGENDA	
7. REPORTS OR COMMENTS FROM THE COUNCIL MEMBERS	
8. REPORTS FROM CITY MANAGER AND STAFF	
a. Refinancing Sewer Obligations p. 20	Discussion
b. Award contract for 2011 Kingsborough Park Improvement Project p. 21	Motion

Dallas City Council Agenda

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Our Vision

Our vision is to foster an environment in which Dallas residents can take advantage of a vital, growing, and diversified community that provides a high quality of life.

Our Mission

The mission of the City of Dallas is to maintain a safe, livable environment by providing open government with effective, efficient, and accountable service delivery.

Our Motto

*Commitment to the Community.
People Serving People.*

Dallas City Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the City Manager's Office, 503-831-3502 or TDD 503-623-7355.

c. Other

9. RESOLUTIONS

- a. Resolution No. 3234 – A Resolution of the City of Dallas, Polk County, Oregon, authorizing the issuance and sale of full faith and credit refunding obligations, series 2011; designating an authorized representative; authorizing the execution and delivery of a financing agreement and an escrow agreement; and related matters. [p. 22](#) Roll Call Vote

10. FIRST READING OF ORDINANCE

- a. Ordinance No. 1741 – An Ordinance amending Dallas City Code Section 5.020, relating to Unnecessary Noise; and repealing prior conflicting ordinances. [p. 27 \(staff rept p. 26\)](#) First Reading

11. SECOND READING OF ORDINANCE

- a. Ordinance No. 1740 – An Ordinance amending Dallas City Code Section 2.200 relating to Department Heads. [p. 31](#) Roll Call Vote

12. OTHER BUSINESS

13. ADJOURNMENT

Note: The Council meeting will be held on Tuesday, September 6 due to the Labor Day Holiday.

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2
3

4 The Dallas City Council met in regular session on Monday, August 15, 2011, at 7:00 p.m. in the
5 Council Chambers of City Hall with Mayor Brian Dalton presiding.

6 **ROLL CALL AND PLEDGE OF ALLEGIANCE**

7 Council members present: Council President Wes Scroggin, Councilor Jim Fairchild, Councilor
8 Beth Jones, Councilor Jackie Lawson, Councilor Mark McDonald, Councilor Kevin Marshall,
9 Councilor Murray Stewart, Councilor LaVonne Wilson, and Councilor Ken Woods, Jr.

10 Also present were: City Manager Jerry Wyatt, City Attorney Lane Shetterly, Administrative
11 Services Manager Robert Spivey, Community Development Director Jason Locke, Finance
12 Director Cecilia Ward, and Recording Secretary Emily Gagner.

13 Mayor Brian Dalton led the Pledge of Allegiance.

14 He stated that Oregon recently lost Mark Hatfield, who was born in Dallas and lived here for
15 twelve years. He indicated Senator Hatfield was a much-renowned fellow and a great politician
16 in the most honorable sense of the word. Mayor Dalton said he was proud that Senator Hatfield
17 was a resident of Dallas.

18 **QUESTIONS OR COMMENTS FROM THE AUDIENCE**

19 Mayor Dalton welcomed Kathy Irwin and members of Boy Scout Troop 288. Ms. Irwin stated
20 the boys were there working on their Citizenship in the Community merit badge. She indicated
21 they were learning how government in Dallas worked and were there to listen to the issues and
22 watch the Councilors debate.

23 **PUBLIC HEARINGS**

24 There were none.

25 **CONSENT AGENDA**

26 Councilor Lawson clarified her comments at the July 25 Administrative Meeting regarding the
27 library. She indicated she did extend her discussion on books for the library that it wasn't she
28 didn't support the library. She stated she loved the library but just wanted to be careful with the
29 direction the country was moving toward electronics and the internet that the City didn't
30 overwhelm the system with more books.

31 It was moved by Council President Scroggin and seconded by Councilor Marshall to approve the
32 Consent Agenda as presented. The motion carried unanimously.

33 Items approved by the Consent Agenda: a) July 18, 2011, City Council minutes; b) acknowledge
34 report of the July 25 Administrative Committee Meeting; and c) acknowledge report of the July
35 25 Building and Grounds Committee meeting.

36 **ITEMS REMOVED FROM CONSENT AGENDA**

37 There were none.

38 **REPORTS OR COMMENTS FROM COUNCIL**

39 Mayor Fairchild reported that he had recently participated in a City facilities tour presented by the
40 staff and he found it very enlightening. He congratulated staff and thanked them for their efforts.
41 Council President Scroggin agreed it was a very good tour. Councilor Wilson commented that
42 the staff was very welcoming of the Councilors during the tour. Councilor Jones stated she
43 learned a lot on the tour and was thankful she was able to see everything so new into her term as
44 Councilor. Councilor Stewart indicated it was a good tour and very informative. Councilor
45 McDonald agreed that it was good to see all the infrastructures the City maintained. He noted he
46 saw one item of concern with the new Rickreall Creek Trail. He stated his concern was regarding
47 the property line being encroached upon by the neighboring property owners who were using the
48 city property for private use. He suggested the City reach an agreement to deed a portion of that
49 property to the private owners or give them a privacy easement to erect fences or hedges. He
50 indicated it would be a neighborly gesture and would give those people a way to feel they weren't

1 left out of that decision. He indicated those citizens lost privacy, so the City should do something
2 to restore that privacy and build relations with the public. Mayor Dalton recommended bringing
3 the topic to the Building and Grounds Committee since it would involve a protracted discussion.

4 Council President Scroggin indicated that he participated in National Night Out and there was a
5 very good showing by the Police and Fire Departments. He added it was nice to see those things
6 going on in Dallas. Councilor Jones stated National Night Out was great, noting she met some
7 new neighbors.

8 **REPORTS FROM CITY MANAGER AND STAFF**

9 **NLC PRESCRIPTION DISCOUNT CARD PROGRAM**

10 Mr. Wyatt reviewed the staff report.

11 Councilor Lawson asked if the program covered the West Valley Hospital pharmacy. Mr. Wyatt
12 indicated it did not.

13 Councilor Woods reported there was another discount drug program out there that was better and
14 local: the Oregon Prescription Drugs Program. He indicated it offered up to 46% off prescription
15 drugs at no cost to anyone.

16 Councilor Fairchild noted the NLC program wouldn't interfere with the Oregon program.
17 Councilor Lawson recommended offering both programs. Councilor McDonald agreed that the
18 City could offer both plans.

19 Chelsea Pope, Executive Director of the Dallas Area Chamber of Commerce and Visitor Center,
20 indicated the Oregon Prescription Drugs Program was endorsed by the state Chamber of
21 Commerce and she would bring it to her board as well. She commented that if the City sponsored
22 the NLC program and the Chamber sponsored the state program, there would be no dual
23 management and both would be available to the residents.

24 It was moved by Councilor Fairchild and seconded by Councilor Marshall to direct staff to enroll
25 in the NLC Prescription Discount Card Program. The motion carried unanimously.

26 **UPDATE ON KINGSBOROUGH PARK PROJECT**

27 Mr. Wyatt reviewed the staff report, adding the new playground was used every day. He read
28 portions of an email conversation he had with a neighbor to the park who was initially upset about
29 the improvements but ended up being very happy with the plans.

30
31 Councilor McDonald asked if the neighboring property owners were mailed notification of the
32 proposed changes, or just provided door hangers. Mr. Wyatt stated they were given door hangers.
33 He added the door hangers were hand delivered by staff members familiar with the project and
34 they talked to the residents to answer questions. He noted the flyer was only left on the doors of
35 those residents who weren't home. Councilor McDonald recommended in the future sending a
36 letter in addition to the door hanger to provide a much higher level of transparency.

37 **OTHER**

38 Mr. Locke reported to the Council that he just received notice of a grant opportunity through
39 DLCD. He explained it was a technical assistance grant to help develop economic development
40 strategies or things like housing inventories. He advised this required a letter of support or a
41 resolution by September 1, so with the tight timeframe, he requested the Council authorize the
42 Mayor to sign a letter of support for the grant application. He indicated the City's application
43 would request assistance to hone in on economic development strategies and targeted
44 implementation measures. He added the City knew what land was available, but need to address
45 obstacles to specific economic development issues. Mr. Locke reported the Mid-Willamette
46 Valley Council of Governments would complete the application for the City. He noted the grant
47 request would be for \$20,000 plus a \$5,000 in-kind match for staff time.

48 It was moved by Councilor Lawson and seconded by Councilor Wilson to authorize the Mayor to
49 sign a letter of support for a Technical Assistance Grant from the Oregon Department of Land
50 Conservation and Development for economic development assistance in the amount of \$20,000.

1 The motion carried unanimously.

2 Ms. Pope reported that Summerfest was a huge success, noting she attributed it to committed
3 volunteers and City staff. She stated she received many comments about there being no color
4 guard, and explained the color guard she had lined up didn't show. She added she would have an
5 emergency color guard lined up for next year. Ms. Pope thanked the National Guard for their
6 tremendous help setting up and tearing down the booths on the courthouse lawn, as well as
7 helping set up for the park events on Sunday.

8 Ms. Pope commented that the first outdoor movie night was held the previous week and had about
9 125 people in attendance for Finding Nemo. She indicated the DHS girls' soccer team was doing
10 the concessions to raise money for new soccer balls, noting they hadn't had new soccer balls in 10
11 years. She reviewed the upcoming movies.

12 Ms. Pope reported that the Bounty Market continued to be successful despite the weather not
13 being favorable to grow produce. She noted it was National Farmers Appreciation Week and
14 invited people to their office to sign a banner that would be displayed on Thursday.

15 Ms. Pope explained Sounds of Summer was a city-run program offered with support from the
16 Visitor Center. She stated they had been using two local professional food vendors who indicated
17 their sales had been good. Ms. Pope gave huge kudos to John Swanson, noting the he did a good
18 job getting everything set up and the entertainers loved him.

19 Ms. Pope reviewed the many upcoming and ongoing events offered by the Chamber of
20 Commerce. She indicated there were four new businesses looking to open in or move to Dallas.
21 She encouraged the Councilors to attend the ribbon cutting events for new businesses, explaining
22 it meant a lot to the business owners to have them there showing support.

23 **RESOLUTIONS**

24 **FIRST READING OF ORDINANCE**

25 **Ordinance No. 1740:** An Ordinance amending Dallas City Code Section 2.200 relating to
26 Department Heads.

27 Mayor Dalton declared Ordinance No. 1740 to have passed its first reading.

28 **SECOND READING OF ORDINANCE**

29 **OTHER BUSINESS**

30 There being no further business, the meeting adjourned at 7:44 p.m.

31 Read and approved this _____ day of _____ 2011.

32
33
34 _____
35 Mayor

36 ATTEST:
37 _____
City Manager

Members Present: Chair Ken Woods, Jr., Jim Fairchild, Kevin Marshall, and Mark McDonald

Also Present: Mayor Brian Dalton, City Manager Jerry Wyatt, Police Chief John Teague, Fire Chief Bill Hahn, Engineering Director Fred Braun, Community Development/Operations Director Jason Locke, Administrative Services Manager Robert Spivey, and Recording Secretary Emily Gagner.

Chair Woods called the meeting to order at 4:00 p.m.

Unnecessary Noise Ordinance

Chief Teague explained that the current code was ambiguous, which made it difficult for his officers to handle noise complaints, particularly when a resident had been granted a variance. He indicated the proposed ordinance better defined how the City Manager could provide variances, adding that during the night hours of 10:00 p.m. to 7:00 a.m., any amplified noise that was audible inside a residence was a de facto violation.

Chief Teague reviewed the proposed application process for a variance, which required applicants to notify neighboring property owners to allow them to provide input. He stated his prior experience had been that if the neighbors were notified, they most often were fine with it. Mr. Wyatt pointed out the notification requirement was not in the current code.

There was discussion about section (2)(a) of the proposed ordinance with the definition of a noise disturbance being a sound that “annoys or disturbs a reasonable person...” Chief Teague stated the courts would be able to deal with that term effectively.

Councilor McDonald asked about the section that prohibited repairing or testing a motor vehicle between 10 p.m. and 7 a.m. He indicated he did work during those hours, but nothing that made a great deal of noise. It was explained that if the work didn’t generate noise, it wouldn’t be considered a violation of the ordinance.

Councilor Fairchild indicated he liked that the proposed ordinance clarified enough for the Police Officers’ guidance, but was broad enough to allow the use of common sense.

It was moved by Councilor Fairchild and seconded by Councilor Marshall to recommend the Council approved the proposed Unnecessary Noise Ordinance. The motion carried unanimously.

Parking on Academy Street

Mr. Wyatt reported staff had received a complaint about parking on Academy Street. He explained a few years ago, the City had signage limiting parking to two hours, but there was no code language to support that time-limited parking, so the signs were removed. He stated the complaint was about cars parking along Academy Street by the Academy Building all day and making it difficult for customers of other businesses to find parking. Mr. Wyatt noted staff looked into the complaint and felt most of the parking issues were due to the construction at the Academy Building, which is taking up the parking area on Church Street. Mr. Wyatt recommended staff continue to monitor the situation until construction was completed. The consensus of the Committee was to have staff monitor the situation. Councilor Fairchild asked if staff had contacted the County. Mr. Wyatt stated he did talk to the administrator about the issue.

1 Councilor Woods asked Mr. Wyatt to bring the issue directly to the full Council if there continued to be
2 issues.

3 **Police Chief's Report**

4 Chief Teague reported they experienced no problems during Summerfest. He indicated they moved the
5 Police command from outside to inside the parade route, which gave them a higher profile and worked
6 well. He noted the Department had not planned for contingencies in the past, such as an accident along
7 the parade route, so that would be addressed before next year.

8 Chief Teague advised that there were five recognized National Night Out gatherings this year and he was
9 hoping to double that next year. He indicated Diane Lanxon, the new Community Service Officer,
10 worked hard on that event. He added she had also developed the Eddie Eagle Gun Safe program in the
11 local elementary schools and was looking to bring it to the high school. Chief Teague reported that Ms.
12 Lanxon organized a consumer protection presentation to help seniors avoid fraud and was ramping up the
13 Neighborhood Watch program.

14 Chief Teague explained that Kenn Carter had suggested the Police Department participate in a drug take-
15 back program. He stated they couldn't because it would require eight hours of overtime to have a cop
16 available to take the medication. He advised a drop box would allow the medication to remain under po-
17 lice control and eliminate the need for overtime. He indicated he found one available and it was huge and
18 ugly, so he went to EVCOR, LLC and asked them to design a drop box. Chief Teague reported it had
19 been painted and would be installed in City Hall outside the Police Department.

20 Chief Teague stated that the Polk Interagency Narcotics Team (POINT) received only two applications
21 when they advertised two years ago for a member of the Oregon State Police to join the team. He indi-
22 cated that person had moved on and POINT recently solicited applications again and received many ap-
23 plicants. He explained many officers had discovered that the POINT team was much more active than
24 even the team in Marion County. He added they were doing a really good job of knocking out dope in
25 Polk County.

26 Chief Teague advised that the Council would be seeing a drug paraphernalia ordinance in the near future.
27 He explained that came out of the Local Alcohol and Drug Planning Committee, which was required by
28 statute. He stated the ordinance would require drug paraphernalia to be kept behind the counter in stores.

29 **Fire Chief's Report**

30 Chief Hahn stated the Fire Station construction project was moving forward and on schedule. He added
31 all the asbestos had been abated.

32 Chief Hahn reported that staff had requested bids for new air packs and would start the process on Thurs-
33 day to evaluate the three vendors that were prequalified. He explained AFG grants would close on Sep-
34 tember 9, with staff working to submit requests for a new air compressor to support the new air packs and
35 a new engine, which would cost about \$450,000. He added the ambulance was applying for a grant to re-
36 chassis the 1998 unit, which had a Lifeline box that was fairly good shape.

37 Chief Hahn explained Todd Brumfield was working on obtaining grant money to purchase a computer
38 program for the charting system that would be required in 2013. He noted that just like clinics and hospit-

1 als, all care provided by the Dallas EMS would need to be charted electronically and all Medicare and
2 Medicaid billing would need to be handled through the computer system or they would reduce the amount
3 of reimbursement the City received.

4 **Other**

5 Councilor McDonald asked if the funds used for the Police and Fire Departments were reliant on property
6 tax receipts. Mr. Wyatt stated they were both in the general fund, along with administration, finance,
7 parks, building, planning, library, aquatic center, and others, with the general fund only receiving about \$3
8 million in property taxes annually. He noted the Police Department Budget was about \$3 million and Fire
9 and EMS was about \$1.9 million. In response to a question, Mr. Wyatt stated the rest was funded through
10 permit fees, franchise fees, court costs, and sin taxes. Councilor McDonald expressed his concern that in
11 the event of further declines in revenues, the police and fire departments needed to be funded.

12 There was no other business and the meeting was adjourned at 4:32 p.m.

MEETING AGENDA

PUBLIC SAFETY COMMITTEE

Monday, August 22, 2011

4:00 p.m.

Ken Woods, Jr., Chair
Jim Fairchild
Mark McDonald
Kevin Marshall

1. Unnecessary Noise Ordinance
2. Parking on Academy Street
3. Police Chief's report
4. Fire Chief's report
5. Other
6. Adjourn

DALLAS CITY COUNCIL SUBCOMMITTEE REPORT

TO: PUBLIC SAFETY SUBCOMMITTEE

<i>City of Dallas</i>	Agenda Item No. 1	Topic: Unnecessary Noise Ordinance
Prepared By: Emily Gagner	Meeting Date: August 22, 2011	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

Motion to recommend the full Council approve the proposed Unnecessary Noise Ordinance.

BACKGROUND:

Our current noise ordinance is quite vague and outdated and we regularly receive calls from people who have issues with the Code. Because of the way it is written, it is also difficult for our Police Department to enforce. The following draft ordinance reflects discussions and reviews completed by the City Attorney, Police Chief, and City Manager.

One of the most noticeable changes in this new version is that it lists specific requirements for applicants to obtain a variance from the City Manager (a process that is not well outlined currently). The proposed procedure would require applicants to notify the neighboring properties to allow them time to express their concerns to the City Manager prior to issuing the variance.

FISCAL IMPACT:

None

ATTACHMENTS:

Current Unnecessary Noise Code language
Proposed Unnecessary Noise Ordinance

Dallas City Code

5.020 Unnecessary Noise.

(1) No person shall create, assist in creating, or permit the continuance of, unreasonable noise that annoys, disturbs, injures, or endangers the comfort, repose, health, safety, or peace of others. The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this section, but the enumeration of them shall not be construed to be exclusive:

(a) Keeping a bird or animal that, by causing frequent or continued noise, disturbs the comfort and repose of a person in the vicinity.

(b) Attaching a bell to an animal or allowing a bell to remain on an animal that is disturbing to a person in the vicinity.

(c) Using a vehicle or engine, either stationary or moving, that is operated to create loud or unnecessary grating, grinding, rattling, or other noise.

(d) Excessive sounding of a horn or signaling device on a vehicle on a street or public or private place.

(e) Blowing a steam whistle attached to a stationary boiler, except to give notice of the time to begin or stop work, or as a warning of danger, or upon request of city officials.

(f) Erecting, including excavating, demolishing, altering, or repairing a building in residential districts, other than between the hours of 6:00 a.m. and 9:00 p.m., except in case of urgent necessity in the interest of public welfare and safety, and then only with a permit granted by city officials.

(g) Using a gong or siren upon a vehicle, other than police, fire, or other emergency vehicle.

(h) Discharging in the open air the exhaust of a steam engine, internal combustion engine, motor boat, or motor vehicle, except through a muffler or other device that will effectively prevent loud or explosive noises and the emission of annoying smoke.

(i) Using or operating an automatic or electric piano, phonograph, radio, television, loudspeaker or an instrument for sound producing or a sound amplifying device so loudly as to disturb persons in the vicinity or in a manner that renders the use a nuisance. However, upon application to the City Manager, permits may be granted for the broadcast or amplification of entertainment programs of music, speeches, news, or general entertainment programs of a national, state, or city event, provided that the broadcast or amplification shall not be audible for a distance of more than 1,000 feet from the instrument or speaker. The decision of

Dallas City Code

the City Manager on a permit application may be appealed to the City Council by filing a written notice of appeal with the City Manager within ten days of the City Manager's decision.

(j) Conducting, operating, or maintaining a commercial garage within 100 feet of a private residence, apartment, rooming house, or hotel in a manner that causes loud or offensive noises to be emitted between the hours of 11:00 p.m. and 7:00 a.m.

(k) The use of unmuffled engine brakes, commonly known as "Jake Brakes."

(2) Violation of this section is a civil infraction, subject to a minimum bail amount of \$142, except as provided below:

(a) For a second or successive violation of this section within a six-month period the minimum bail amount shall be \$242.

(b) For a second or successive violation of this section within a three-month period the minimum bail amount shall be \$427.

[Subsection (1)(k) added by Ordinance No. 1500, passed May 16, 1994; subsection 5.020(1)(i) amended by Ordinance No. 1580, passed October 4, 1999; subsection 5.020(2) amended by Ordinance No. 1705, passed August 3, 2009.]

PROPOSED ORDINANCE

ORDINANCE NO. _____

An Ordinance amending Dallas City Code Section 5.020, relating to Unnecessary Noise; and repealing prior conflicting ordinances.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. Dallas City Code Section 5.020 is amended as follows:

5.020 Unnecessary Noise.

(1) No person shall create, assist in creating, permit, continue, or permit the continuance of any noise disturbance.

(2) As used in this section:

(a) "Noise disturbance" means any sound that: (i) Annoys or disturbs a reasonable person of normal sensitivities; or (ii) Injures or endangers the health or safety of a person.

(b) "Plainly audible" means the listener can clearly hear the sound produced by a sound source with unaided hearing faculties.

(3) The following acts are declared to be noise disturbances in violation of this section per se, if the sound produced thereby is plainly audible within or on the grounds or yard of any dwelling unit, church or other religious facility, business, day care center, hospital or school, other than the source of the sound. This subsection shall not be deemed to limit noise disturbances for the purposes of this section to those enumerated herein.

(a) Keeping a dog or other animal that that causes frequent or continued noise.

(b) Operating any idling engine for more than 15 consecutive minutes between 10:00 p.m. and 7:00 a.m.

(c) Operating any mechanical device which is built in or attached to a motor vehicle, including, but not limited to, refrigeration units, compressors, compactors, chippers, power lifts, mixers, pumps, and blowers, for more than 30 minutes between the hours of 10:00 p.m. and 7:00 a.m.

(d) Operating domestic power tools or equipment used for home or building repair or maintenance and landscaping, including, but not limited to

powered hand tools, lawn mowers, garden equipment, blowers and snow removal equipment, during the hours of 10:00 p.m. to 7:00 a.m.

(e) Erecting, excavating, demolishing, altering, or repairing a building in a residential district between the hours of 10:00 p.m. and 7:00 a.m.

(f) Using or operating a musical instrument, radio, television, loudspeaker, or other similar sound producing equipment during the hours of 10:00 p.m. to 7:00 a.m.

(j) Repairing or testing any motor vehicle between 10:00 p.m. and 7:00 a.m.

(k) Using unmuffled engine brakes, commonly known as "Jake Brakes."

(4) Exemptions. The following sounds are exempted from the provisions of this Ordinance:

(a) Sounds made by work necessary to restore property to a safe condition following a natural or other disaster, or work required to protect persons or property from imminent exposure to danger.

(b) Sounds made by warning devices to protect persons or property from imminent exposure to danger, provided however, that burglar or fire alarms shall not operate continuously for more than 15 minutes.

(c) Sounds made by the Dallas Fire Department siren during use and testing.

(d) Sounds made by an emergency vehicle, as defined in ORS 801.260, when responding to or from an emergency or when in pursuit of an actual or suspected violator of the law.

(e) Sounds made by activities by or on direction of the City of Dallas in maintenance, construction, or repair of public improvements in public rights-of-way or easements.

(f) Sounds produced pursuant to a specific variance granted by the Oregon Environmental Quality Commission.

(g) Sounds produced by the audience, participants, and sound amplifying equipment at athletic or other public events on public property and

sponsored, sanctioned, or otherwise approved by the City or the Dallas School District 2.

(5) Any person who owns, controls, or operates any sound source which does not comply with a provision of this Ordinance may apply for a variance.

(6) An applicant for a variance shall submit in writing to the City Manager or the City Manager's designee an application that includes:

(a) The reason or reasons why the variance is requested;

(b) The physical characteristics of the sound involved;

(c) The times when the sound will be emitted;

(d) a site plan sketch that shows the area of sound generation and designates whether the uses in the area within 500 feet of the source of the sound are residential, commercial, or industrial, where the sound will not be generated by a mobile source that moves beyond the boundaries of one block;

(e) Any other information the City Manager or the City Manager's designee may reasonably require to allow consideration of the conditions set forth in this section.

(7) Where the sound will not be generated by a mobile source that moves beyond the boundaries of one block, the applicant for a variance shall provide written notification by mail or personal delivery to the occupants of all properties within 500 feet of the area of sound generation. Notice shall be provided at least ten (10) days before the event. Notice shall include a description of the proposed event and the phone number for the City Manager's office so that recipients may comment on the proposed variance. The notice shall state that any comments are due within three business days after the date of the notice. The applicant for a variance shall file with the City Manager or the City Manager's designee a list of the names and addresses of persons to whom notice under this subsection was given.

(8) The City Manager or City Manager's designee may grant a variance, after considering the written application for variance and any comments submitted by persons under subsection (7), when it appears that the following conditions exist:

(a) There are unnecessary or unreasonable hardships or practical difficulties that can be most effectively relieved by granting the variance; and

(b) That granting the application will not be unreasonably detrimental to the public welfare.

(9) The City Manager or City Manager's designee shall grant or deny a variance within five (5) days of receipt of a complete variance application, including proof of notice required under subsection (7).

(a) The City Manager or City Manager's designee may impose such limitations and conditions as deemed necessary or appropriate to protect the public safety and welfare. A violation of any such condition or limitation shall constitute a violation of this Ordinance.

(b) A decision to grant or deny a variance shall be in writing and shall state the reasons for such decision. The City Manager or City Manager's designee shall notify the applicant of the decision and shall make it available to any person who has submitted comments on the application.

(10) Violation of this section is a civil infraction, subject to a minimum bail amount of \$142, except as provided below:

(a) For a second or successive violation of this section within a six-month period the minimum bail amount shall be \$242.

(b) For a second or successive violation of this section within a three-month period the minimum bail amount shall be \$427.

Section 2. All prior and conflicting ordinances are hereby repealed as of the effective date of this ordinance.

Read for the first time: _____, 2011
Read for the second time: _____, 2011
Passed by the City Council: _____, 2011
Approved by the Mayor: _____, 2011

BRIAN W. DALTON, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER

DALLAS CITY COUNCIL SUBCOMMITTEE

REPORT

TO: PUBLIC SAFETY SUBCOMMITTEE

<i>City of Dallas</i>	Agenda Item No. 2	Topic: Parking on Academy Street
Prepared By: Emily Gagner	Meeting Date: August 22, 2011	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

BACKGROUND:

We recently received an email about issues with on-street parking on Academy Street adjacent to the Academy Building. There are no time limits for parking here, and apparently employees who work at the Academy Building are taking up a majority of the on-street parking all day, which is impacting the neighboring businesses. The request was to implement a 2-hour parking limit on the 100-block of SW Academy Street.

After looking at this issue, staff has determined the issue may resolve itself once the construction on the Academy Building is complete. Currently, the construction equipment is using all the parking spaces on Church Street, the spaces that are typically used by the employees. Staff recommendation is to wait to take any action until construction is completed on the Academy Building and then monitor the situation to see if it is resolved. Staff will contact the complainant to notify her of the Committee's decision.

FISCAL IMPACT:

None

ATTACHMENTS:

None

Members Present: Chair Jim Fairchild, Kevin Marshall, Mark McDonald, and Ken Woods, Jr.

Also Present: Mayor Brian Dalton, City Manager Jerry Wyatt, Engineering Director Fred Braun, Community Development/Operations Director Jason Locke, Administrative Services Manager Robert Spivey, and Recording Secretary Emily Gagner.

Chair Fairchild called the meeting to order at 4:32 p.m.

CMOM

Mr. Braun stated CMOM involved looking at capacity, management, operation, and maintenance of the sanitary sewer system and the main objective was to prevent sanitary sewer overflows. He indicated Dallas typically experienced about three overflows per year caused either by inflow and infiltration (I & I) during heavy rains in the winter or by fat, oil, and grease (FOG) buildup in the system. Mr. Braun reported that a FOG program would require the City contact businesses and work with them to have grease interceptors installed or maintained properly. He indicated staff had done a lot of projects over the past ten years to address I & I in the public right of way, but national data shows 60% of I & I came from private laterals. He advised it would be much more cost effective to deal with I & I issues than to increase capacity at the Wastewater Treatment Facility, noting a \$20 million project to increase capacity at the plant wasn't sensible if it was only needed during high rainfall events.

Mr. Braun summarized that a CMOM program would protect the environment and public health and ensure the City got the most bang for its buck while insulating the City from regulatory sanctions by eliminating overflow events.

In response to a question, Mr. Braun explained aspects of the program were in place, but this would dovetail everything into one program to meet regulatory requirements. In response to another question, Mr. Braun stated it would cost one way or another to deal with the issues, but dealing with private property owners would likely be less than 1/10 the cost of increasing capacity at the Wastewater Treatment Facility.

Councilor McDonald recommended staff present the concept to the public at large. Mr. Wyatt indicated that would be done once staff had more information. In response to a comment, Mr. Wyatt stated staff needed more answers before bringing it to the public.

Sidewalk Inspection Program

Mr. Wyatt reported staff was gearing up to start the sidewalk inspection program, which would be complimented by a program that provided low interest sidewalk loans to residents. He advised the onus was on property owners to maintain or improve the sidewalks adjacent to their property, which was fairly typical of most jurisdictions. He explained staff would spray paint the hazard and notify the property owner of any identified hazards.

1 Councilor Woods advised staff needed to make sure the City sidewalks were in good condition be-
2 fore asking others to fix theirs. Mr. Wyatt stated the City had been aggressive on maintaining City
3 sidewalks.

4 **Engineering Director's Report**

5 Mr. Braun reported that the water at Mercer Reservoir was one foot below the spillway. He stated
6 we needed to lose two more feet of water in the reservoir before the final advance warning alarm
7 could be installed, which would probably occur in mid-September. He indicated that the City would
8 then have an early warning system in place to warn of a dam failure.

9 Mr. Braun reviewed the results of a 2008 study done by Oregon State University that looked at the
10 presence of illegal drugs in the City's waste stream. He stated they found traces of methampheta-
11 mine, but at levels lower than the state average. He added they found no ecstasy and only .03 parts
12 per billion of the by-products of cocaine use, which was much lower than the state average.

13 Mr. Braun reported staff was working on the bid package to replace the sanitary sewer siphon at the
14 Dallas Aquatic Center. He indicated they would be placing a structure across the creek and hang the
15 line off the bridge, which would also provide pedestrian access to the dog park from the north side
16 of Rickreall Creek.

17 Mr. Braun indicated he was working with CARTS on lighting for the bus stops in town, noting
18 CARTS received a grant to install solar powered lights.

19 Mr. Braun explained he was working on a sourcewater protection grant application in the amount of
20 \$30,000 to fund the watershed assessment project, noting the state felt the City would be a good
21 candidate for funding. He reported he was also looking at applying through the State Revolving
22 Loan Fund for an AMR replacement loan, a capital project to improve pressure at the upper end of
23 Douglas Street, and replacement of an old transmission main between the Water Treatment Plant and
24 Clay Street. He noted the applications didn't lock the City into doing any projects.

25 **Operations Director's Report**

26 Mr. Locke reported the Street crews were working on Court Street replacing a sanitary sewer main
27 and upsizing the storm line in anticipation of improvements on Main Street. He stated the Court
28 Street Sidewalk Enhancement Project should be right after Labor Day.

29 **Other**

30 There was some discussion about graffiti under the bridge near the Aquatic Center. Mr. Wyatt ad-
31 vised staff would work to get that removed.

32 Mayor Dalton reported that at the recent Oregon Mayors' Conference, there was discussion about
33 how small cities were being burdened by a change of water quality standards in Oregon. Mr. Braun
34 explained that issue related to groundwater systems and added Dallas was in good shape as far as
35 meeting the current and anticipated standards.

36 There was no other business and the meeting was adjourned at 5:00 p.m.

DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 8 a	Topic: Refinance Sewer Obligations
Prepared By: Cecilia Ward	Meeting Date: September 6, 2011	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

Discussion only. The Council will have an opportunity to vote on this issue when Resolution No. 3234 comes up for a roll call vote later on the agenda.

BACKGROUND:

In 1996 and 1998 the City financed more than \$15,000,000 for a new wastewater treatment facility and upgrades.

At this time, the City would see a significant savings refinancing the following sewer debt obligations:

1. 1996 DEQ State Revolving Fund Loan; original amount \$14,500,000; interest rate 3.93%; final payment 2020; outstanding principal \$8,071,097. Refinancing the DEQ loan would also eliminate the requirement to maintain a reserve equivalent to one year's debt service payment.
2. 1998 State of Oregon Economic Development Department Loan; original amount \$523,000; interest rate 4.74%; final payment 2017; outstanding principal \$240,655.

FISCAL IMPACT:

It is projected the City would save over \$300,000 by refinancing. The date to pay off the loans would not be extended.

ATTACHMENTS:

None

DALLAS CITY COUNCIL

REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 8 b	Topic: Award Contract for 2011 Kingsborough Park Improvement Project
Prepared By: Emily Gagner	Meeting Date: September 6, 2011	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

Motion to award contract for the 2011 Kingsborough Park Improvement Project to J.P. Contractors, Inc., of Portland, in the amount of \$129,500.

BACKGROUND:

On March 7, 2011, the Council passed Resolution No. 3218, authorizing a grant application under the Oregon Parks and Recreation Department Local Government Grant Program for park improvements at Kingsborough Park. That grant application was submitted and we were notified on August 4, 2011, that our application was successful. The amount of the grant is \$73,000.

The project was advertised for bid, with the bid opening on August 18. A total of seven bids were received. A summary of the bids received is as follows:

- | | |
|------------------------------|------------|
| 1) J.P. Contractors, Inc. | \$129,500 |
| 2) TCB Construction | \$ 139,446 |
| 3) Gelco | \$ 140,130 |
| 4) Pacific Excavation | \$ 159,675 |
| 5) R & R General Contractors | \$ 165,115 |
| 6) Brock Construction | \$165,320 |
| 7) Brown Contracting | \$198,340 |

The low bid of \$129,500 is more than initially projected for the project, but includes the detention basin which was originally slated for Phase 2 of the project. The additional costs will be paid for out of the sewer budget, since the detention basin is part of our stormwater management. I have given notice of our intent to award this contract to the low bidder, J.P. Contractors, Inc. and there were no protests.

Work is scheduled to be completed by October 31, 2011.

FISCAL IMPACT:

The project is grant-funded through an Oregon Parks and Recreation Department Local Government Grant.

ATTACHMENTS:

None

RESOLUTION NO. 3234

A RESOLUTION OF THE CITY OF DALLAS, POLK COUNTY, OREGON AUTHORIZING THE ISSUANCE AND SALE OF FULL FAITH AND CREDIT REFUNDING OBLIGATIONS, SERIES 2011; DESIGNATING AN AUTHORIZED REPRESENTATIVE; AUTHORIZING THE EXECUTION AND DELIVERY OF A FINANCING AGREEMENT AND AN ESCROW AGREEMENT; AND RELATED MATTERS.

WHEREAS, the City of Dallas, Polk County, Oregon (the "City") previously issued its State Revolving Fund Loan Agreement No. R26111, dated June 17, 1996 (the "SRF Loan") and its State of Oregon Economic Development Department Loan, dated July 21, 1998 (the "OECD Loan"); and

WHEREAS, the City Council of the City is authorized pursuant to the Oregon Constitution and Oregon Revised Statutes Section 287A.360 (the "Act") to issue current refunding obligations for the refunding of all or any portion of its SRF Loan and/or its OECD Loan (collectively, the "Refundable Obligations"); and

WHEREAS, the City has determined it is in their best interest to refund all or any portion of the Refundable Obligations. The Authorized Representative shall select all or any portion of the Refundable Obligations to be refunded in accordance with Section 4 hereof. Such refunding of the Refundable Obligations will provide significant debt service savings to the City as required by law.

NOW, THEREFORE, the City Council of the City of Dallas, Polk County, Oregon, resolves as follows:

SECTION 1. AUTHORIZATION OF OBLIGATIONS.

The City authorizes the:

a. Issuance and Sale of Obligations. The City authorizes the issuance and sale of the Full Faith and Credit Refunding Obligations, Series 2011 (the "Obligations") of the City which shall be issued in an aggregate principal amount sufficient to refund all or a portion of the Refundable Obligations and to pay the costs related to the authorization, sale, issuance and delivery of the Obligations.

b. Financing Agreement. The City authorizes the execution and delivery of a financing agreement (the "Financing Agreement") in a form satisfactory to the Authorized Representative, as defined herein.

The estimated weighted average life of the Financing Agreement does not exceed the dollar weighted average life of the project being refinanced with the Financing Agreement, as required by ORS 271.390.

c. Escrow Agreement. The City authorizes the execution and delivery of an escrow agreement between the City and the escrow agent (the "Escrow Agreement"), in a form satisfactory to the Authorized Representative, pursuant to which the escrow agent shall execute the Obligations representing the principal amount payable under the Financing Agreement, and evidencing the right of the escrow agent to receive the City's finance payments under the Financing Agreement.

SECTION 2. FINANCE PAYMENTS.

The financing payments for the Obligations are payable from the general non-restricted revenues of the City and other funds which may be available for that purpose, including any taxes levied within the restrictions of Sections 11 and 11b, Article XI of the Constitution of the State of Oregon. The obligation of the City to make payments is a full faith and credit obligation of the City, and is not subject to appropriation. The registered Owners (as defined herein) of the Obligations do not have a lien or security interest on the property refinanced with the proceeds of the Obligations.

SECTION 3. DESIGNATION OF AUTHORIZED REPRESENTATIVE.

The City hereby authorizes the Mayor, Council President, City Manager, Finance Director, (each an “Authorized Representative”) or a designee of an Authorized Representative to act on behalf of the City and determine the remaining terms of the Obligations as delegated in Section 4 below.

SECTION 4. DELEGATION OF FINAL TERMS AND SALE OF OBLIGATIONS AND ADDITIONAL DOCUMENTS.

The Authorized Representative is authorized, on behalf of the City, to:

- a. approve of and authorize the distribution of the preliminary and final Official Statements to prospective purchasers of the Obligations;
- b. select an underwriter and negotiate terms of a bond purchase agreement or conduct a competitive sale, as determined by the Authorized Representative;
- c. establish the maturity and interest payment dates, dated date, principal amounts, optional and/or mandatory redemption provisions, interest rates, denominations, and all other terms under which the Obligations shall be issued, sold, executed, and delivered;
- d. select the maturities of the Refundable Obligations to be refunded and cause notice of call and redemption to be given as required by law;
- e. appoint an escrow deposit agent and enter into an escrow deposit agreement, if applicable;
- f. appoint an escrow agent, registrar and paying agent for the Obligations;
- g. appoint a verification agent for the Obligations, if applicable;
- h. negotiate the terms and approve of the Financing Agreement and the Escrow Agreement as the Authorized Representative determines to be in the best interest of the City, and to execute and deliver the Financing Agreement and the Escrow Agreement;
- i. determine whether the Obligations shall be Book-Entry certificates and take such actions as are necessary to qualify the Obligations for the Book-Entry System of DTC, including the execution of a Blanket Issuer Letter of Representations as necessary;
- j. seek to obtain a rating on the Obligations, if determined by the Authorized Representative to be in the best interest of the City;

k. apply for municipal bond insurance for the Obligations, if determined to be in the best interests of the City, and expend proceeds to pay any insurance premiums and to execute and deliver any required insurance agreement;

l. approve, execute and deliver a Continuing Disclosure Certificate pursuant to SEC Rule 15c2-12, as amended (17 CFR Part 240, § 240.15c2-12); Tax Certificate;

m. designate the Financing Agreement as a “qualified tax-exempt obligation” pursuant to Section 265(b)(3) of the Code, if applicable;

n. make any clarifying changes or additional covenants not inconsistent with this Resolution; and

o. execute and deliver a certificate specifying the action taken pursuant to this Resolution, and any other documents, agreements or certificates that the Authorized Representative determines are necessary and desirable to issue, sell and deliver the Obligations in accordance with this Resolution.

SECTION 5. MAINTENANCE OF TAX-EXEMPT STATUS.

The City hereby covenants for the benefit of the Owners of the Obligations to use the Obligation proceeds and the project refinanced with Obligation proceeds in the manner required, and to otherwise comply with all provisions of the Internal Revenue Code of 1986, as amended (the “Code”), which are required for the interest component of finance payments payable under the Financing Agreement to be excluded from gross income for federal income tax purposes, as provided in the Financing Agreement. The City makes the following specific covenants with respect to the Code:

a. The City will not take any action or omit any action if it would cause the Financing Agreement or Obligations to become arbitrage bonds under Section 148 of the Code.

b. The City shall operate the project refinanced with the Obligations so that the Obligations do not become “private activity bonds” within the meaning of Section 141 of the Code.

c. The City shall comply with appropriate Code reporting requirements.

d. The City shall pay, when due, all rebates and penalties with respect to the Obligations which are required by Section 148(f) of the Code.

The covenants contained in this Section 5 and any covenants in the closing documents for the Obligations shall constitute contracts with the Owners of the Obligations, and shall be enforceable by them. The Authorized Representative may enter into covenants on behalf of the City to protect the tax-exempt status of the Financing Agreement and the Obligations.

SECTION 6. APPOINTMENT OF FINANCIAL ADVISOR AND SPECIAL COUNSEL.

The City appoints Western Financial Group, LLC as the Financial Advisor of the Obligations, and K&L Gates LLP, as Special Counsel to the City for the issuance of the Obligations.

SECTION 7. RESOLUTION TO CONSTITUTE CONTRACT.

In consideration of the purchase and acceptance of any or all of the Obligations by those who shall own the same from time to time (the "Owners"), the provisions of this Resolution shall be part of the contract of the City with the Owners and shall be deemed to be and shall constitute a contract between the City and the Owners. The covenants, pledges, representations and warranties contained in this Resolution or in the closing documents executed in connection with the Obligations, including without limitation the City's covenants and pledges contained in Section 2 hereof, and the other covenants and agreements herein set forth to be performed by or on behalf of the City shall be contracts for the equal benefit, protection and security of the Owners, all of which shall be of equal rank without preference, priority or distinction of any of such Obligations over any other thereof, except as expressly provided in or pursuant to this Resolution.

ADOPTED by the City Council of the City of Dallas, Polk County, Oregon this 6th day of September, 2011.

**CITY OF DALLAS
POLK COUNTY, OREGON**

By: _____
Mayor

ATTEST:

By: _____
City Manager

DALLAS CITY COUNCIL SUBCOMMITTEE REPORT

TO: PUBLIC SAFETY SUBCOMMITTEE

<i>City of Dallas</i>	Agenda Item No. 9 a	Topic: Ordinance No. 1741 regarding Unnecessary Noise
Prepared By: Emily Gagner	Meeting Date: September 6, 2011	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

None. Allow Ordinance No. 1741 to pass the first reading.

BACKGROUND:

As we discussed at the August 22 Public Safety Committee meeting, our current noise ordinance is quite vague and outdated and we regularly receive calls from people who have issues with the Code. Because of the way it is written, it is also difficult for our Police Department to enforce.

Ordinance No. 1741 eliminates many of the ambiguities of our current Code while still allowing for common sense interpretation of the provisions.

One of the most noticeable changes in this Ordinance is that it provides specific requirements for applicants to obtain a variance from the City Manager (a process that is not well outlined currently). The proposed procedure would require applicants to notify the neighboring properties to allow them time to express their concerns to the City Manager prior to issuing the variance.

The Public Safety Committee voted unanimously to recommend the Council adopt this ordinance.

FISCAL IMPACT:

None

ATTACHMENTS:

Ordinance No. 1741

ORDINANCE NO. 1741

An Ordinance amending Dallas City Code Section 5.020, relating to Unnecessary Noise; and repealing prior conflicting ordinances.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. Dallas City Code Section 5.020 is amended as follows:

5.020 Unnecessary Noise.

(1) No person shall create, assist in creating, permit, continue, or permit the continuance of any noise disturbance.

(2) As used in this section:

(a) "Noise disturbance" means any sound that: (i) Annoys or disturbs a reasonable person of normal sensitivities; or (ii) Injures or endangers the health or safety of a person.

(b) "Plainly audible" means the listener can clearly hear the sound produced by a sound source with unaided hearing faculties.

(3) The following acts are declared to be noise disturbances in violation of this section per se, if the sound produced thereby is plainly audible within or on the grounds or yard of any dwelling unit, church or other religious facility, business, day care center, hospital or school, other than the source of the sound. This subsection shall not be deemed to limit noise disturbances for the purposes of this section to those enumerated herein.

(a) Keeping a dog or other animal that causes frequent or continued noise.

(b) Operating any idling engine for more than 15 consecutive minutes between 10:00 p.m. and 7:00 a.m.

(c) Operating any mechanical device which is built in or attached to a motor vehicle, including, but not limited to, refrigeration units, compressors, compactors, chippers, power lifts, mixers, pumps, and blowers, for more than 30 minutes between the hours of 10:00 p.m. and 7:00 a.m.

(d) Operating domestic power tools or equipment used for home or building repair or maintenance and landscaping, including, but not limited to

powered hand tools, lawn mowers, garden equipment, blowers and snow removal equipment, during the hours of 10:00 p.m. to 7:00 a.m.

(e) Erecting, excavating, demolishing, altering, or repairing a building in a residential district between the hours of 10:00 p.m. and 7:00 a.m.

(f) Using or operating a musical instrument, radio, television, loudspeaker, or other similar sound producing equipment during the hours of 10:00 p.m. to 7:00 a.m.

(j) Repairing or testing any motor vehicle between 10:00 p.m. and 7:00 a.m.

(k) Using unmuffled engine brakes, commonly known as "Jake Brakes."

(4) Exemptions. The following sounds are exempted from the provisions of this Ordinance:

(a) Sounds made by work necessary to restore property to a safe condition following a natural or other disaster, or work required to protect persons or property from imminent exposure to danger.

(b) Sounds made by warning devices to protect persons or property from imminent exposure to danger, provided however, that burglar or fire alarms shall not operate continuously for more than 15 minutes.

(c) Sounds made by the Dallas Fire Department siren during use and testing.

(d) Sounds made by an emergency vehicle, as defined in ORS 801.260, when responding to or from an emergency or when in pursuit of an actual or suspected violator of the law.

(e) Sounds made by activities by or on direction of the City of Dallas in maintenance, construction, or repair of public improvements in public rights-of-way or easements.

(f) Sounds produced pursuant to a specific variance granted by the Oregon Environmental Quality Commission.

(g) Sounds produced by the audience, participants, and sound amplifying equipment at athletic or other public events on public property and

sponsored, sanctioned, or otherwise approved by the City or the Dallas School District 2.

(5) Any person who owns, controls, or operates any sound source which does not comply with a provision of this Ordinance may apply for a variance.

(6) An applicant for a variance shall submit in writing to the City Manager or the City Manager's designee an application that includes:

(a) The reason or reasons why the variance is requested;

(b) The physical characteristics of the sound involved;

(c) The times when the sound will be emitted;

(d) a site plan sketch that shows the area of sound generation and designates whether the uses in the area within 500 feet of the source of the sound are residential, commercial, or industrial, where the sound will not be generated by a mobile source that moves beyond the boundaries of one block;

(e) Any other information the City Manager or the City Manager's designee may reasonably require to allow consideration of the conditions set forth in this section.

(7) Where the sound will not be generated by a mobile source that moves beyond the boundaries of one block, the applicant for a variance shall provide written notification by mail or personal delivery to the occupants of all properties within 500 feet of the area of sound generation. Notice shall be provided at least ten (10) days before the event. Notice shall include a description of the proposed event and the phone number for the City Manager's office so that recipients may comment on the proposed variance. The notice shall state that any comments are due within three business days after the date of the notice. The applicant for a variance shall file with the City Manager or the City Manager's designee a list of the names and addresses of persons to whom notice under this subsection was given.

(8) The City Manager or City Manager's designee may grant a variance, after considering the written application for variance and any comments submitted by persons under subsection (7), when it appears that the following conditions exist:

(a) There are unnecessary or unreasonable hardships or practical difficulties that can be most effectively relieved by granting the variance; and

(b) That granting the application will not be unreasonably detrimental to the public welfare.

(9) The City Manager or City Manager's designee shall grant or deny a variance within five (5) days of receipt of a complete variance application, including proof of notice required under subsection (7).

(a) The City Manager or City Manager's designee may impose such limitations and conditions as deemed necessary or appropriate to protect the public safety and welfare. A violation of any such condition or limitation shall constitute a violation of this Ordinance.

(b) A decision to grant or deny a variance shall be in writing and shall state the reasons for such decision. The City Manager or City Manager's designee shall notify the applicant of the decision and shall make it available to any person who has submitted comments on the application.

(10) Violation of this section is a civil infraction, subject to a minimum bail amount of \$142, except as provided below:

(a) For a second or successive violation of this section within a six-month period the minimum bail amount shall be \$242.

(b) For a second or successive violation of this section within a three-month period the minimum bail amount shall be \$427.

Section 2. All prior and conflicting ordinances are hereby repealed as of the effective date of this ordinance.

Read for the first time: September 6, 2011
Read for the second time: September 19, 2011
Passed by the City Council: September 19, 2011
Approved by the Mayor: September 19, 2011

BRIAN W. DALTON, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER

ORDINANCE NO. 1740

An Ordinance amending Dallas City Code Section 2.200 relating to Department Heads.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. Dallas City Code Section 2.200 is hereby amended to read as follows:

2.200 Department Heads.

Titles of city department heads are as follows:

- (1) The head of the police department shall be known as the "Police Chief."
- (2) The head of the fire department shall be known as the "Fire Chief."
- (3) The head of the engineering department shall be known as the "Director of Engineering."
- (4) The head of the community development and operations department shall be known as the "Director of Community Development and Operations."
- (5) The head of the finance department shall be known as the "Director of Finance."
- (6) The head of the administrative services department shall be known as the "Director of Administrative Services."

Read for the first time: August 15, 2011
Read for the second time: September 6, 2011
Passed by the City Council: September 6, 2011
Approved by the Mayor: September 6, 2011

BRIAN W. DALTON, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER

Ordinance -- Page 1