

AGENDA
McCall City Council
SPECIAL MEETING
March 25, 2011 at 11:00 a.m.
McCall City Hall (Lower Level)
Legion Hall
216 East Park Street

The times listed are estimated times only. The Council reserves the right to alter the times as necessary.

Work Session

11:00 a.m. Discussion of noise ordinance options

Code Enforcement Priorities

1:00 p.m. **ADJOURNMENT**

American with Disabilities Act Notice: The City Council Meeting room is accessible to persons with disabilities. If you need assistance, contact City Hall at 634-7142.

MEMORANDUM

Subject: Disturbing the Peace and Noise Complaint Summary
From: Pete Rittenger, Sergeant
Date: 03/25/2011

The intention of this Memorandum is to review the type and volume of disturbing the peace and noise complaints the police department responds to, enforcement practices, a review of current city code, possible alternative codes, and a summary of noise complaints per businesses.

How many, and of what type, noise complaints do we receive?

In 2010, we had 80 disturbing the peace calls. Thirty-two of these calls were noise related. This includes loud parties, music, vehicles etc. Forty-three of these were related to disorderly persons such as intoxicated or uncooperative people. Five calls were animal-related such as barking.

How are noise complaints typically handled?

Police response to noise complaints is usually generated from a citizen complaint. Most complainants just want the noise to stop and are satisfied if we give the suspect a verbal warning and the noise ceases. This works the majority of the time.

Our typical strategy is to identify the responsible person for the residence or source of the noise and tell them they are receiving a verbal warning about the noise. We further tell them if we have to come back they may receive a misdemeanor citation for disturbing the peace.

A person can be cited a couple of different ways. The complainant can charge the suspect with disturbing the peace. In this instance, the complainant is actually charging the suspect with the crime and the officer is merely serving the citation to the suspect. Should the suspect contest the citation in court, the complainant would have to be able to testify in court and articulate how his peace had been disturbed. This is the method most used when a person is cited.

If a police officer has reasonable grounds to believe a suspect is disturbing the peace of another, the officer can cite the suspect without having a "victim" or complainant sign the citation. For instance, the officer responds to a noise complaint and when he arrives at the scene he can hear the noise being generated. The officer may be able to articulate he has reasonable grounds to believe the suspect is disturbing the peace because he was responding to a complaint and he could hear the noise in progress when he arrived.

Are people cited/fined, and how often?

Disturbing the peace is a misdemeanor offense. The suspect can be either cited for the offense and released (given a citation) or arrested. The majority of people are cited and released. People are rarely arrested for disturbing the peace. Usually, when this occurs it is because the officer believes the noise will continue after the person is cited and released.

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Of the 80 calls, here is the breakdown of their dispositions:

Unable to locate	11
Verbal Warning	56
Cited	9
Arrested	2
Unfounded	2

These numbers are a bit misleading because many of these calls are initially dispatched as a disturbing the peace but end up being something else. For example: The two physical arrests were for warrants. The majority of the citations were due to underage drinking.

Only two people were actually cited for Disturbing the Peace in 2010. No people were arrested for it.

What does our current City Code say about noise?

5-5-030: PROHIBITIONS:

It is unlawful to:

(G) Disturb The Peace: To disturb the peace means:

1. Intentionally or negligently to disturb the peace and quiet of another or of any neighborhood or family or religious congregation or other assembly by loud noises or indecent behavior or by offensive and unbecoming conduct, to a degree annoying to a reasonable person, including, but not limited to:

*(a) Cursing or swearing or uttering obscene or vulgar or indecent language in the presence of another; or
(b) Loud playing of a radio, tape or disc player, or other functionally similar electronic device; or
(c) Permitting a dog to be outdoors and barking.*

(d) With the approval of the city manager, this subsection (G)1 does not apply to events that may provide a benefit to the community.

2. Operating heavy equipment or construction equipment, or power tools outdoors, except in case of emergency, after ten o'clock (10:00) P.M. and:

(a) Before six o'clock (6:00) A.M.; or

(b) Before seven thirty o'clock (7:30) A.M. in a neighborhood with inhabited dwellings within two hundred feet (200') of the construction site.

(c) This section does not apply to operating heavy equipment or construction equipment, or power tools outdoors with the approval of the city manager.

3. Appeal Procedure: An affected person(s) aggrieved by a decision by the city manager may appeal such decision in writing to the council within sixty (60) days of notification of denial by the city manager. (Ord. 747, 6-28-2001)

What parts of the current Code work well?

Current code works well for general noise complaints like parties at residences and construction noise. It also is useful for situations where people are belligerent, intoxicated or causing a scene. Their behavior usually fits into the definition of disturbing the peace and we can then take enforcement action.

MEMORANDUM

What doesn't work well?

The code does not address:

1. live music in places other than city parks
2. amplified music
3. quiet hours or hours you can have music in areas other than parks
4. noise inside a building which can be heard from outside the building

What are some alternative noise requirements that the Council might want to consider?

1. Establishment of quiet hours
2. Establishment of outside live music hours
3. Define particular zones that have different noise regulations
4. Define maximum noise decibel limits based on area and time of day
5. City permitting for live music

Summary of Noise Complaints by Business

Babblefish/Mile High Marina

2007 1

2008 1

Bistro 45

2008 1

Common Ground (out of business)

2005 2

2010 1

Crusty's Pizza

2008 1

Great Escape (out of business)

2008 5

McCall Golf Course

2009 1

Salmon River Brewery

2009 2

2010 3

MEMORANDUM

Subject: Code Enforcement Priorities
From: Pete Rittenger, Sergeant
Date: March 25th, 2011

The intention of this Memorandum is to review code enforcement priorities

Code Enforcement prioritizes its activities based on two criteria. The first is Public Safety & Health and the second is Economic & Quality of Life. The criteria of Public Safety & Health is defined as any code enforcement action which positively affects the safety and/or health of the public. For instance, enforcing the code prohibiting fierce and dangerous dogs may directly contribute to public safety and sponsoring a Prescription Drug Take Back event may directly contribute to public health.

The Economic & Quality of Life criteria is defined as enforcing those City Codes which help improve the economic climate of the community and add to the general common benefit of the community. Enforcement functions concerning such things as parking, development standards and signs contribute to City's efforts of ensuring McCall is a desirable place to live, visit and conduct business.

The Police Department's primary mission is to "*...consistently contribute to the community as a safe place to live and visit.*" As an integral part of the Department, Code Enforcement's primary focus of Public Safety & Health reflects the overall mission of the Department. Priorities under this criteria include hazardous materials, bicycles on sidewalks, refuse and abandoned vehicles, snow, ice and rubbish removal, community and education services and dog control.

Economic & Quality of Life criteria include camping in public places, general development standards, scenic route development standards, licenses, vehicle parking, marina parking, signs and outdoor lighting.

There are instances where a particular code issue or violation meets both criteria depending on one's perspective. An example: enforcing the city code requiring commercial trash enclosures may be seen as a public health issue to one person while it is seen as an economic benefit by another.

When determining priorities one needs to consider the issue of low frequency, high impact priorities versus high frequency, low impact priorities. For example: code enforcement deals with very few (low frequency) hazardous materials incidents (high impact) while they deal with many (high frequency) sign violations (low impact). With these in mind, code enforcement would generally address a high impact issue before low impact issues. When looking at a list of priorities, one would see hazardous materials as a higher priority, even though there are few of these, than, say, business licenses.

Priorities can be seasonal. For instance: marina parking is a low priority in the winter while snow removal is a low priority in the summer. Code enforcement priorities can shift based on the season of year.

MEMORANDUM

The following are the priorities for Code Enforcement. This list is not intended to be all-inclusive. The list is representative of the types of issues Code Enforcement addresses and their relative relationship to one another in terms of priorities.

- Hazardous Material
- Refuse & Abandoned Vehicles
- Snow, Ice & Rubbish Removal
- Dog Control
- City Parks & Park Facilities (Dogs, Littering, Vandalism)
- Bicycles on Sidewalks
- Community & Education Service
- Signs
- General Development Standards (Camping, Fences, Dry Cabin, Trash Enclosure)
- Scenic Route Development Standards
- Marina Parking (vehicle & boat trailer)
- Licenses (Business & Hawkers)
- Vehicle Parking (Downtown Core)
- Camping in Public Places
- Outdoor Lighting

**Code Enforcement Related Calls
3/17/10 to 3/17/11**

		Code Enforcement Officers	Patrol Officers	Total
ABANDONED VEHICLE		16	20	36
AGENCY ASSIST		1	50	51
ANIMAL		88	151	239
CITY ORDINANCE VIOLATION				
Sign Violation	53			
Dry Cabin	3			
Nuisance Property	14			
Hawker Permit	1			
Illegal Camping	5			
Scenic Byway	4			
Building Permit	4			
Littering	2			
Trash Enclosure	5			
Snow Removal	5			
Total		96	17	113
CIVIL MATTER		1	48	49
DISABLED VEHICLE		1	10	11
DISTURB THE PEACE		3	70	73
HUMANITARIAN AID		1	17	18
LITTERING		2	9	11
NEIGHBOR DISPUTE		1	2	3
PARKING COMPLAINT		29	26	55
PROPERTY-LOST/FOUND		13	46	59
PUBLIC ASSIST		1	103	104
RECKLESS		1	14	15
TRAFFIC COMPLAINT		1	41	42
TRESPASS		1	9	10
VIN INSPECTION		9	11	20
Total		265	644	909