

**ORDINANCE NO. 2004-15**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GILROY AMENDING CHAPTER 16 OF THE CITY CODE ENTITLED "OFFENSES-MISCELLANEOUS" BY ADDING A NEW SECTION 16.38 REGARDING THE HOURS OF CONSTRUCTION**

WHEREAS, the City Council hereby finds that unnecessary, excessive and disturbing noise from construction activities near residential dwelling units is detrimental to the health, safety and welfare of the public; and

WHEREAS, the City Council hereby declares that residents of the city are entitled to the reasonable use and enjoyment of their property without the exposure to noise disturbances; and

WHEREAS, the City Council further finds that an ordinance to prohibit noise from construction activities near residential dwelling units as specified herein, is necessary to protect the health, safety and welfare of its citizens from such noise.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GILROY DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION I**

Chapter 16 of the City Code entitled "Offenses-Miscellaneous" is hereby amended by adding a new section 16.38, entitled "Hours of construction" which shall read as follows:

**Sec. 16.38 Hours of construction**

(a) Unless otherwise provided for in a validly issued permit or approval, Construction Activities shall be limited to the hours of seven (7) a.m. and seven (7) p.m., Monday through Friday and nine (9) a.m. to seven (7) p.m. on Saturday. Construction Activities shall not occur on Sundays or city holidays, which include: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas. "Construction Activities" are defined as including but not limited to, excavation, grading, paving, demolitions, construction, alteration or repair of any building, site, street or highway, delivery or removal of construction material to a site, or movement of construction materials on a site.

(b) In the event the chief building official or his or her designee determines that the public health and safety will not be impaired by the Construction Activities between the hours of seven (7) p.m. and seven (7) a.m., and that loss or inconvenience would result to any party in interest, the chief building official may grant permission for such work to be done between the

hours of seven (7) p.m. and seven (7) a.m. upon an application being made at the time the permit for the work is issued or during the progress of the work.

(c) The City Council finds that Construction Activities by the resident of a single residence does not have the same magnitude or frequency of noise impacts as a larger construction project. Therefore, the resident of a single residence may perform Construction Activities on that home during the hours in this subsection, as well as on Sundays and city holidays from nine (9) a.m. to six (6) p.m., provided that such activities are limited to the improvement or maintenance undertaken by the resident on a personal basis.

(d) No third person, including but not limited to, landowners, construction company owners, contractors, subcontractors, or employers, shall permit or allow any person working on construction activities, which are under their ownership, control or direction to violate this provision. The provisions prescribed herein may be enforced by the chief building official or his or her designee or the Police Department. Violation of this section shall be a misdemeanor and each day such violation is committed or permitted to continue constitutes a separate offense and shall be punishable as such.

## **SECTION II**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Gilroy hereby declares that it would have passed and adopted this ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

## **SECTION III**

This Ordinance shall be in full force and effect thirty (30) days after the date of its passage and adoption.

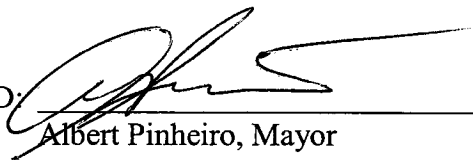
**PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GILROY** this  
7th day of September, 2004, by the following vote:

AYES: COUNCILMEMBERS: CORREA, DILLON, GARTMAN, MORALES,  
VALIQUETTE, VELASCO and PINHEIRO

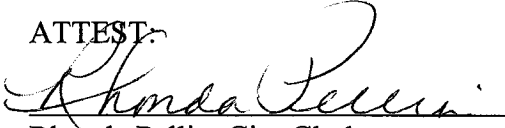
NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE

APPROVED: \_\_\_\_\_


  
Albert Pinheiro, Mayor

ATTEST:

  
Rhonda Pellin, City Clerk

I, RHONDA PELLIN, City Clerk of the City of Gilroy, do hereby certify that the attached Ordinance No. 2004-15 is an original ordinance, or a true and correct copy of a city ordinance, duly adopted by the Council of the City of Gilroy at a regular meeting of said Council held on the 7th day of September, 2004, at which meeting a quorum was present, and has been published or posted pursuant to law.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this 22nd day of September, 2004.

  
City Clerk of the City of Gilroy

(Seal)