

A.: Yes, of course you do. The basic concept underlying the law of “nuisance” is articulated in the ancient maxim *sic utere tuo ut alienum non laedas*, that is, “so use your own property as not to injure another’s property.”

Planned Unit Developments or “PUDs” are both a type of development and a zoning classification. As a development, it consists of individually owned lots and common areas which are owned in common by the owners of the lots. The common areas consist of open space areas or recreational facilities. As a zoning classification, it simply permits the construction of a planned unit development. Although there are various types of PUDs, the most common type is the residential planned unit development (such zoning is also referred to as “cluster development,” “cluster housing,” “PURD,” or “PRD”).

The term “nuisance” is applied to a multiplicity of wrongful acts that may arise out of numerous types of tortious conduct, whether negligent, intentional, or involving ultrahazardous activities. The general rule is that the unreasonable, unwarrantable, or unlawful use by a person of his or her own property that interferes with the rights of others is a nuisance, and that any unwarranted activity that causes substantial injury to the property of another or obstructs its reasonable use and enjoyment is a nuisance that may be abated. Noise which unreasonably interferes with neighbors’ comfortable enjoyment of life and property constitutes a nuisance. In determining what is reasonable, courts look to the totality of the circumstances and attempt to balance the interests of both parties.

A city has police power authority to declare what activities or uses constitute a nuisance and to enact regulations designed to eliminate or reduce the occurrence of a nuisance in an effort to protect general welfare. (Cal. Const. art. XI, § 7). In addition, a city legislative body may, by ordinance, declare what constitutes a nuisance. Cal. Gov’t Code §§ 38771, 38773.5. On May 3, 2004, the City of Grover Beach adopted Ordinance No. 04-07, deleting section 3101, and amending Article III, Chapter 1.01 of its Municipal Code. As a result, the City of Grover Beach has much more specific noise standards, which include restrictions of vibrations. Section 3129 of these more specific code sections state, in part, as follows: “It is unlawful for any person willfully to make or continue to make, or cause to be made or continued, any loud, unnecessary, or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area.”

I am a firm believer in attempting to informally resolve such issues. That is why I created Five Cities Mediation. If you or your husband feel comfortable with approaching your neighbor, I would suggest politely approaching your neighbor, either personally or in writing. Either way, calmly explain how the noise is disturbing to you, and suggest a reasonable solution, if possible. If you do not feel comfortable with this and/or feel that approaching your neighbor may not be “warmly received,” I would recommend contacting code enforcement for the City of Grover Beach and clearly explaining your situation. A City’s police power is also the legal basis for its ability to enforce municipal ordinances that regulate conditions which may be a nuisance. Cal. Const. art. XI, § 7. It is my understanding that the City’s Fire Department is now in charge of code enforcement. If these efforts fail, consult with a qualified, local attorney to explore civil remedies, including injunctive relief.