

Nuisance Abatement Hearing

Crossfit Horsepower

725 Cypress Avenue

Timeline

September, 2014	• Crossfit Horsepower opened
November 23, 2014	• Complaints started
January 26, 2015	• Weight drop test • Community meeting
January 27, 2018	• City Letter to Crossfit Horsepower
February 11, 2015	• Email to Crossfit Horsepower asking them to take additional mitigating steps
June 20, 2016	• Community Meeting
March 13, 2017	• Community Meeting
May 16, 2017	• Citation to Crossfit Horsepower for running on the sidewalk
March 12, 2018	• Sound test
April 23, 2018	• Community Meeting

Complaints

2014-2015

- At least 98 e-mails

2016-2017

- At least 19 e-mails

2018

- At least 58 e-mails

United States of America Department of Transportation

Federal Transit Administration

Ground-borne vibration is almost never annoying to people who are outdoors. Although the motion of the ground may be perceived, without the effects associated with the shaking of a building, the motion does not provoke the same adverse human reaction. In addition, the rumble noise that usually accompanies the building vibration is perceptible only inside buildings.

May, 2000



City Council

Step 1: Find the activities at Crossfit Horsepower constitute a nuisance

Step 2: If Yes, order abatement

If No, close hearing

Step 3: Yes or no, decide whether to suspend or revoke business license

Step 1: Find a nuisance

- A. HBMC § 1.04.050 (C) – Violation of any provision of this code is a nuisance
- B. HBMC § 8.28.020 (b)(3) – Actions damaging the use or enjoyment of property is a declared nuisance
- C. HBMC § 8.28.030 – Conditions reasonably constitute a nuisance within the intent expressed in § 8.28.010

Step 1: Find a nuisance

- A. HBMC § 1.04.050 (C) – Violation of any provision of this code is a nuisance**
- B. HBMC § 8.28.020 (b)(3) – Actions damaging the use or enjoyment of property is a declared nuisance**
- C. HBMC § 8.28.030 – Conditions reasonably constitute a nuisance within the intent expressed in § 8.28.010**

A. HBMC § 1.04.050 (C)

- Violations Deemed To Be a Public Nuisance. In addition to the penalties hereinabove provided, **any condition caused or permitted to exist in violation of any of the provisions of this code shall be deemed a public nuisance...**

Gym has violated 4 ordinances

- HBMC § 8.24.040 (A) – Prohibited placement of Stereo Speakers
- HBMC § 8.24.040 (I) – Noise between 10:00 p.m. and 8:00 a.m.
- HBMC § 8.24.030 – Prohibited vibrations
- HBMC § 17.28.030 (B) – Prohibited use of public sidewalk and street

Gym has violated 4 ordinances

- HBMC § 8.24.040 (A) – Prohibited placement of Stereo Speakers

HBMC § 8.24.040 (A) – Prohibited placement of Stereo Speakers

Specific prohibited noises. Notwithstanding any other provisions of this chapter, the following acts and the causing or permitting thereof are declared and deemed to be in violation of this chapter:


A. Placement of Stereo Speakers. The amplification of music or any other sound on private property, through speakers located either (1) outdoors, or (2) in one (1) or more windows or doorways, when such speakers are directed towards, and such **music is plainly audible on, an immediately adjacent public right-of-way.**

HBMC § 8.24.040 (A) – Prohibited placement of Stereo Speakers

- Officer Stafford heard music from streets (85 feet away) on:
 - March 30, 2018
 - April 23, 2018
 - May 7, 2018
 - May 11, 2018

HBMC § 8.24.040 (A) – Prohibited placement of Stereo Speakers

- E-mail complaints of music from Loma Drive on:
 - March 11, 2018
 - March 30, 2018
 - May 1, 2018
- 5 e-mail complaints of loud music from Loma Drive in 2017



HBMC § 8.24.040 (A) – Prohibited placement of Stereo Speakers

12 violations of this ordinance

Gym has violated 4 ordinances

- HBMC § 8.24.040 (A) – Prohibited placement of Stereo Speakers
- **HBMC § 8.24.040 (I) – Noise between 10:00 p.m. and 8:00 a.m.**

HBMC § 8.24.040 (I) – Noise between 10:00 p.m. and 8:00 a.m.

Specific prohibited noises. Notwithstanding any other provisions of this chapter, the following acts and the causing or permitting thereof are declared and deemed to be in violation of this chapter:

I. Commercial establishments adjacent to residential property. Notwithstanding any provision of this code to the contrary, continuous, repeated or sustained **noise** from the premises of any commercial establishment which is adjacent to one or more residential dwelling units, including any outdoor area part of or under control of the establishment, **between the hours of 10:00 p.m. and 8:00 a.m. that is plainly audible from the residential dwelling unit's property line.**

HBMC § 8.24.040 (I) – Noise between 10:00 p.m. and 8:00 a.m.

- E-mail complaints of music from Loma Drive on:
 - April 19, 2018 @ 6:30 am “gym radio loud, bass vibrating through house”
 - May 8, 2018 – “Music noise starting around 6:40 til about 9am”
 - June 19, 2018 – at 7:01 am “The volume of the radio from the gym can be heard in our residence this morning.
- 3 violations of this ordinance

Gym has violated 4 ordinances

- HBMC § 8.24.040 (A) – Prohibited placement of Stereo Speakers
- HBMC § 8.24.040 (I) – Noise between 10:00 p.m. and 8:00 a.m.
- **HBMC § 8.24.030 – Prohibited vibrations**

HBMC § 8.24.030 – Prohibited vibrations

Prohibited noises –General standard.

Unless otherwise permitted in this chapter, no person shall make, permit to be made or cause to suffer any noises, sounds, or **vibrations** that in view of the **totality of the circumstances** are so loud, prolonged and harsh as to be **physically annoying to reasonable persons of ordinary sensitivity** and to cause or contribute to the **unreasonable discomfort** of any persons within the vicinity.

HBMC § 8.24.030 – Prohibited vibrations

When considering whether a noise, sound or **vibration** is unreasonable within the meaning of this section, the following factors shall be taken into consideration:

- A. The volume and intensity of the noise, particularly as it is experienced within a residence or place of business;
- B. Whether the noise is prolonged and continuous;
- C. How the noise contrasts with the ambient noise level;
- D. The proximity of the noise source to residential and commercial uses;
- E. The time of day; and
- F. The anticipated duration of the noise.

Vibrations

- December 11, 2014, Building Official Rollins heard 6 faint thumping sounds in 3 minutes at the end of driveway of one of the resident's home on Loma Drive. Sounded like a heavy truck hitting a bump.
- January 20, 2015 – Building Official Rollins and Building Inspector Valles experienced two faint thumps at the foundation wall during a class, and personally observed a couple who had clearly just finished using weights
- Weight test with **rubber** weights caused vibrations in the residences (80-350 lbs)
- February 2, 2015, an ill resident unable to sleep due to constant dropping of weights took a video

Vibrations



Vibrations

- February 10, 2017, Code Enforcement Officer Edson and Officer Verduzco went into a residence on Loma Drive for 45 minutes and heard “thumping” or dropping of weights every few minutes
- April 27, 2018, Officer Meah Stafford entered a residence on Loma Drive and instantly heard faint noises and some high intense thumps along with vibrations more intense than vibrations outside
- April 29, 2017, Officer Stafford heard several faint thumping sounds along cinder block. Entered resident’s garage and heard thumps more clearly and heard dumbbells dropping
- May 7, 2018, Officer Stafford felt several thumps and vibrations every 20 seconds form the front porch on Loma Drive, about 15 feet away from gym. At the same time, she heard weights and dumbbells dropping from gym
- May 11, 2018, Officer Stafford felt faint thumps and moderate vibration against cinder blocks while runners going in and out of gym

Vibrations



Vibrations



Vibrations



crossfithermosa • [Follow](#)

CrossFit Horsepower: Hermosa Beach

crossfithermosa Deadlift Monday 📸👤
@ryanzachos #crossfithermosa
#hermosabeach

ryanzachos #welcometotheweightbuffet
#moreplatesmoredates #weightsbeforedates



166 likes

FEBRUARY 20, 2017

[Log in](#) to like or comment.



HBMC § 8.24.030 – Prohibited vibrations

When considering whether a noise, sound or **vibration** is unreasonable within the meaning of this section, the following factors shall be taken into consideration:

- A. The volume and intensity of the noise, particularly as it is experienced within a residence or place of business;
- B. Whether the noise is prolonged and continuous;
- C. How the noise contrasts with the ambient noise level;
- D. The proximity of the noise source to residential and commercial uses;
- E. The time of day; and
- F. The anticipated duration of the noise.

A. The volume and intensity of the noise

- “earthquake”
- “jarring shock waves”
- “pounding”
- “massive shocks”
- “banging noise”
- “violent shakes”
- Officer Stafford compared vibrations to those of a “bowling alley”
- “I thought the t-rex from Jurassic park was loose. Then I remembered dinosaurs are extinct.”

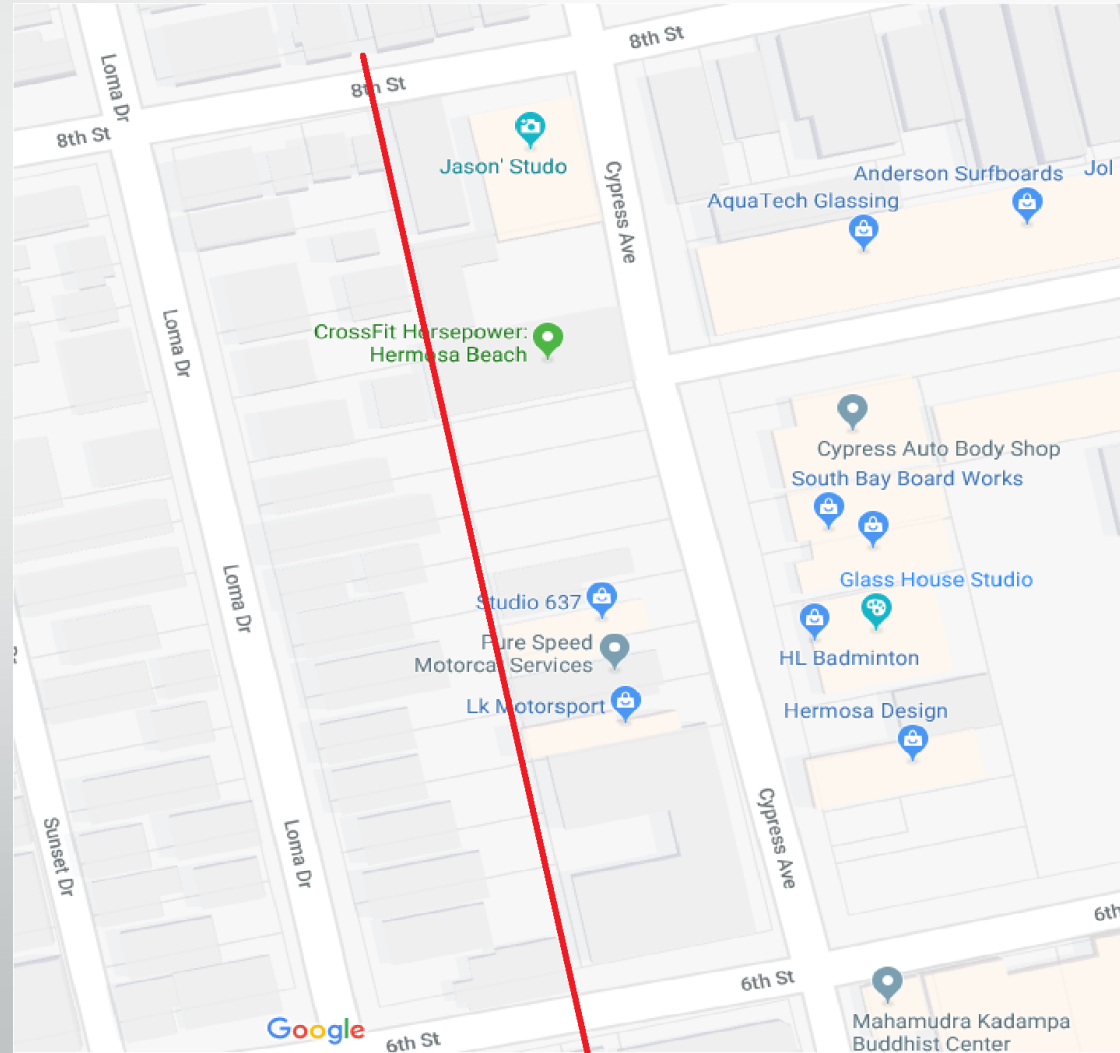
B. Whether the noise is prolonged and continuous;

3/2/18	Friday	4-6pm
3/23/18	Friday	6:30pm-9:11pm
3/24/18	Saturday	9-11am
4/4/18	Wednesday	6:15-7pm/7:30pm
4/5/18	Thursday	5:15pm-5:45pm
4/16/18	Monday	6:35am/4:40-8pm
4/27/18	Friday	9:30am 11:05am
4/30/18	Monday	6:20pm - 7:30pm
5/3/18	Thursday	6:45am - 8:15am
5/31/18	Thursday	6:00pm - 7:16pm

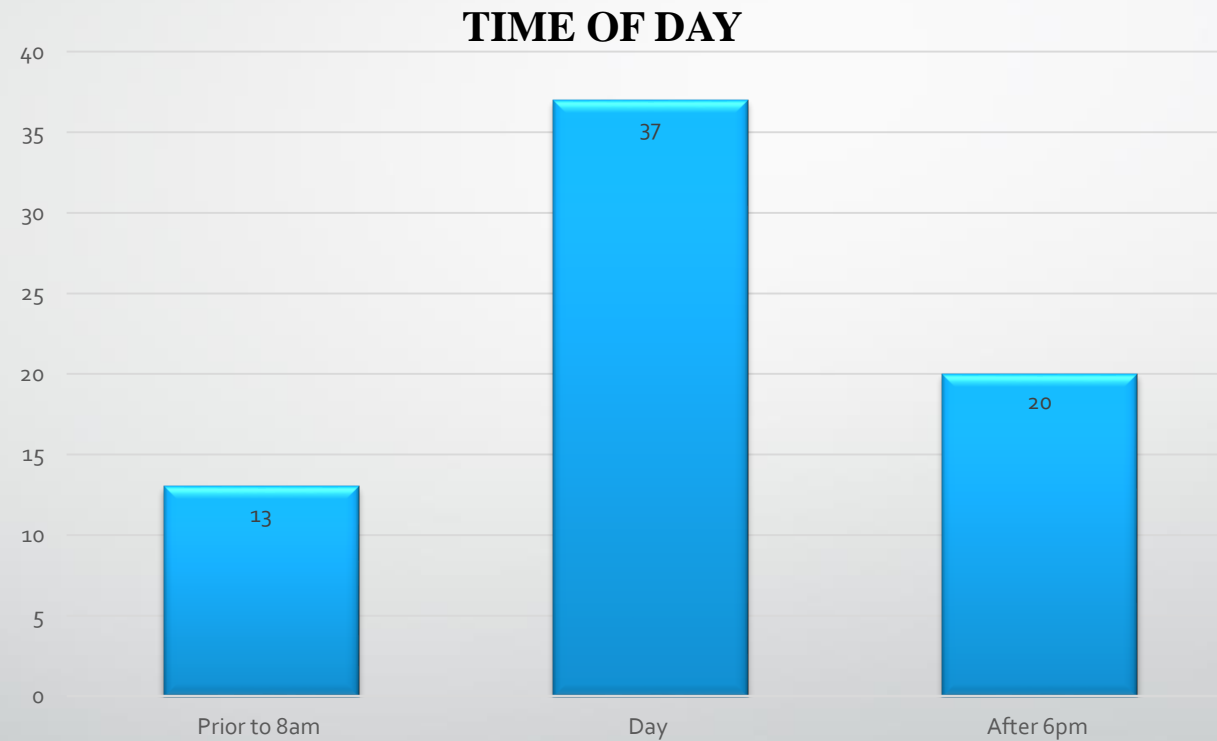
C. How the noise contrasts with the ambient noise level

- Louder than household appliances
 - The drops could be heard and felt clearly over the tv's news announcers as I try to sit here on my couch
 - Brushing teeth
 - Cooking
 - Rattling picture frames in my bathroom!
- Resident living on Loma Drive for over 20 years had no noise complaints until gym opened in 2014

D. The proximity of the noise source to residential and commercial uses;



E. The time of day





F. The anticipated duration of the noise

At this time, the vibrations are anticipated to continue unless the City Council takes action

HBMC § 8.24.030 – Prohibited vibrations

- Based on the **totality of circumstances**, the vibrations are so loud, prolonged and harsh as to be physically annoying to the reasonable residents of Loma Drive who are of ordinary sensitivity.
- The vibrations cause and contribute to the unreasonable discomfort of several residents.
- 2014-2015 – Over 98 violations
- 2016-2017 – Over 15 violations
- 2018 – Over 56 violations

Gym has violated 4 ordinances

- HBMC § 8.24.040 (A) – Prohibited placement of Stereo Speakers
- HBMC § 8.24.040 (I) – Noise between 10:00 p.m. and 8:00 a.m.
- HBMC § 8.24.030 – Prohibited vibrations
- **HBMC § 17.28.030 (B) – Prohibited use of public sidewalk and street**

HBMC § 17.28.030 (B) – Prohibited use of public sidewalk and street

Standards and limitations.

Every use permitted or maintained in the M-1 zone shall be subject to the following:

B. Enclosures. Enclosures. All **uses shall be conducted wholly within a building** enclosed on all sides...

HBMC § 17.28.030 (B) – Prohibited use of public sidewalk and street

- Officer Stafford observed runners enter and exit the gym on:
 - April 23, 2018
 - May 7, 2018
 - May 11, 2018
- E-mail complaints of runners on:
 - April 30, 2018
 - May 1, 2018
 - May 5, 2018
 - May 22, 2018





HBMC § 17.28.030 (B) – Prohibited use of public sidewalk and street

- In 2017, citation issued to Crossfit Horpower for allowing patrons to run on the sidewalk
 - After two warnings were given
- In 2016, citation almost issued, but Code Enforcement voided the citation, noting that it would be the first and final warning after speaking to the owner
- 11 violations of this ordinance

Gym has violated 4 ordinances

- HBMC § 8.24.040 (A) – Prohibited placement of Stereo Speakers
- HBMC § 8.24.040 (I) – Noise between 10:00 p.m. and 8:00 a.m.
- HBMC § 8.24.030 – Prohibited vibrations
- HBMC § 17.28.030 (B) – Prohibited use of public sidewalk and street

Based on these violations, City Council should find the activities at Crossfit Horsepower constitute a **public nuisance**

A. HBMC § 1.04.050 (C)

Violations Deemed To Be a Public Nuisance. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in **violation** of any of the provisions of this code shall be deemed a **public nuisance**...

Step 1: Find a nuisance

- A. HBMC § 1.04.050 (C) – Violation of any provision of this code is a nuisance
- B. HBMC § 8.28.020 (b)(3) – Actions damaging the use or enjoyment of property is a declared nuisance**
- C. HBMC § 8.28.030 – Conditions reasonably constitute a nuisance within the intent expressed in § 8.28.010

B. HBMC § 8.28.020 (b)(3)

Enumeration of nuisances.

The following are **expressly declared to be nuisances...**

B. Nuisances affecting health:

3. Actions Damaging the Use or Enjoyment of Property. Harboring or permitting any premises or permitting individuals or groups using or visiting such premises in a manner which **adversely affects the use or enjoyment of surrounding properties or uses thereof.**

...adversely affects the use or enjoyment of surrounding properties or uses thereof.

- I'm home sick and it's extremely aggregating, or I would have gotten out of the house. No peace at all
- Making my anxiety peak
- The disturbance is so significant that it breaks my concentration when I am reading or drafting documents, and I have to avoid calling clients while it's happening. The gym is not only interfering with my family's right to the peaceful enjoyment of our home, but it's interfering with my right to conduct my law practice from home.

...adversely affects the use or enjoyment of surrounding properties or uses thereof.

- On occasion, my daughter has to leave to get homework done because it disrupts her concentration.
- I'm trying to get some work done at home right now and I'm so distracted by the noise and shaking that I can't focus
- Rattling my house
- I'm documenting that I'm trying to work from home today but will soon be giving up that idea and going to the office because the gym has been dropping weights consistently since around 8am. It's now 10am

...adversely affects the use or enjoyment of surrounding properties or uses thereof.

- I am trying to work from home today and this distraction is having a material effect on my ability to enjoy the use of my home.
- The vibrations and sound from the gym are making it difficult to have peaceful enjoyment of my home and affecting my ability to perform my work.
- Unfortunately I worked from home today and from the volume of emails you know the pounding was happening all day. Now that I am done with work I can finally leave my house to avoid the massive shocks as they are still going (post 5pm).

B. HBMC § 8.28.020 (b)(3)

Based on these e-mails, activities at Crossfit Horsepower **adversely affects the use or enjoyment of surrounding properties or uses thereof.**

Therefore, the activities constitute an expressed declared nuisance.

Step 1: Find a nuisance

- A. HBMC § 1.04.050 (C) – Violation of any provision of this code is a nuisance
- B. HBMC § 8.28.020 (b)(3) – Actions damaging the use or enjoyment of property is a declared nuisance
- C. HBMC § 8.28.030 – Conditions reasonably constitute a nuisance within the intent expressed in § 8.28.010**

C. HBMC § 8.28.030

Nuisances generally.

In addition to all nuisances specifically enumerated in Section 8.28.020, this chapter shall apply to any and all conditions which reasonably constitute a nuisance within the **intent** expressed in Section 8.28.010.

Intent of 8.28.010

Purposes of chapter.

The intent of the city council in adopting this chapter and the purpose thereof is to protect the inhabitants of the city against all forms of nuisances, public or private, not specifically prohibited by state law, growing out of any action, activity, condition, circumstances or situation permitted to exist within the city and caused or produced by any person...or by any mechanical or other contrivance, and which is injurious to health, or detrimental to the public safety morals or general welfare, or is indecent, or offensive to the senses or an **obstruction to the free use of property to such an extent as to interfere with the comfortable enjoyment or life or property by the entire community or neighborhood, or by any considerable number of persons.**

...obstruction to the free use of property to such an extent as to interfere with the comfortable enjoyment or life or property...

- The banging began at 6:45 am. They are conducting business which is creating a disturbance to its neighbors in the early morning hours, while many people are still trying to sleep.
- ...the Crossfit Gym is banging away. I would just like some peace and quiet.
- The gym is banging away again on Saturday morning. This is crazy!
- It is Sunday at 10:40am and the noise and vibration from the Gym is once again very annoying. We should be able to relax at home with our families on a Sunday without being subjected to this nuisance.

...obstruction to the free use of property to such an extent as to interfere with the comfortable enjoyment or life or property...

- 6:30 am just like clockwork, the pounding has started from the gym. Already the pounding is sounding like fireworks going off. When will this stop? Forced to leave my home as soon as possible today.
- Distracting, intrusive, a nuisance.
- I sat down to do some computer work and that is when I was distracted and disturbed by the banging coming from the gym.
- The music is blaring and the bass is pounding from the gym. It is 6:47 a.m.! I feel I am forced to leave my home today just to escape the noise! Will this ever end?

C. HBMC § 8.28.030

The activities at the gym reasonably constitute an **obstruction to the free use of property to such an extent as to interfere with the comfortable enjoyment or life or property...**

Therefore, the activities constitute a nuisance under the intent expressed in Section 8.28.010.

Step 1: Find a nuisance

- A. HBMC § 1.04.050 (C) – Violation of any provision of this code is a nuisance
- B. HBMC § 8.28.020 (b)(3) – Actions damaging the use or enjoyment of property is a declared nuisance
- C. HBMC § 8.28.030 – Conditions reasonably constitute a nuisance within the intent expressed in § 8.28.010

City Council

Step 1: Find the activities at Crossfit Horsepower constitute a nuisance

**Step 2: If Yes, order
abatement**

If No, close hearing

Step 3: Yes or no, decide whether to suspend or revoke business license

Step 2: Order Abatement

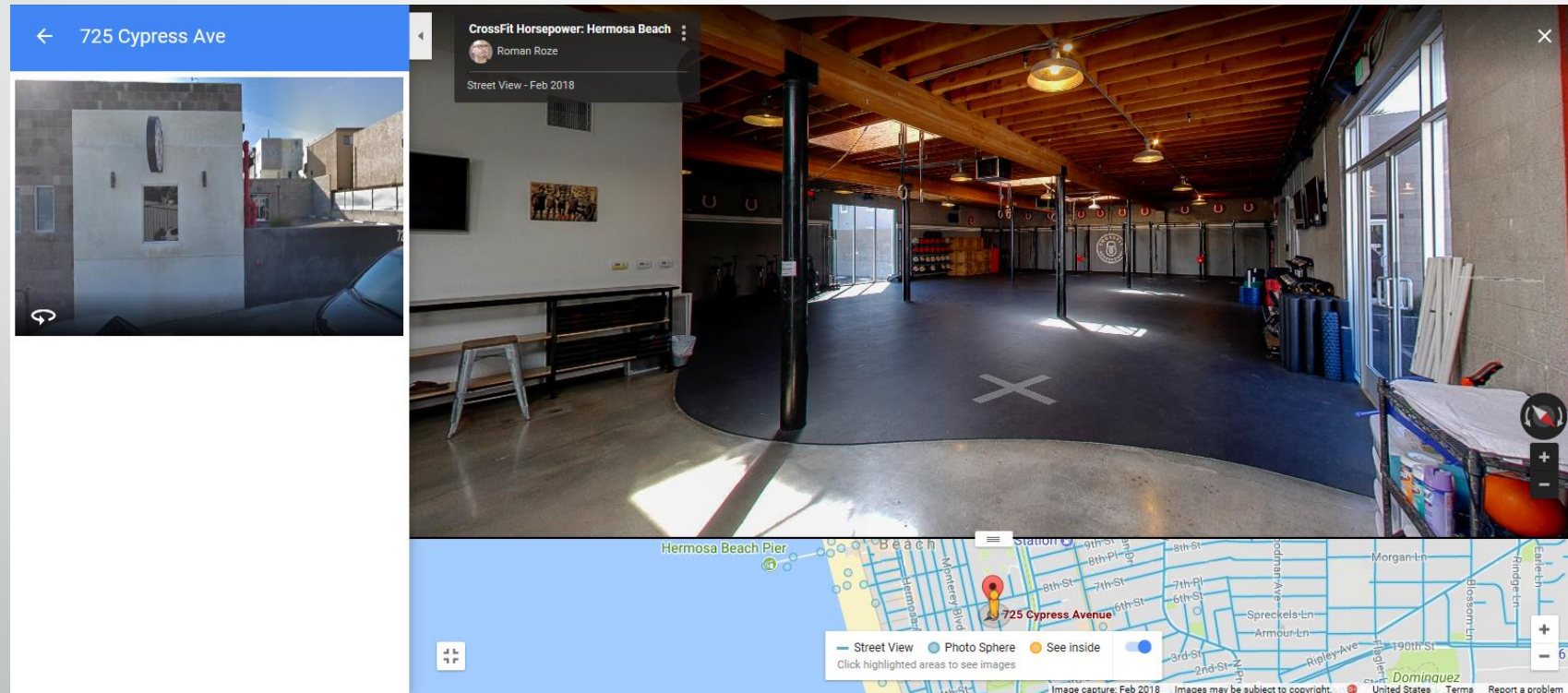
- Recovery of costs
- Cease all use of weights.
- Prohibit metal weights, including dumbbells and kettle bells
- Reduce hours
 - Close on Sundays
 - Open at 8am on weekdays
- Build an anechoic chamber
 - Separate floor with a passive isolation system (rubber isolators) not connected to exterior walls
 - Exterior walls isolated with a separate wall with an air gap and sound insulation

Step 2: Order Abatement



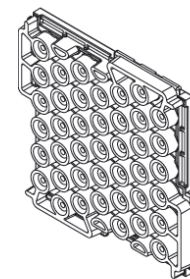
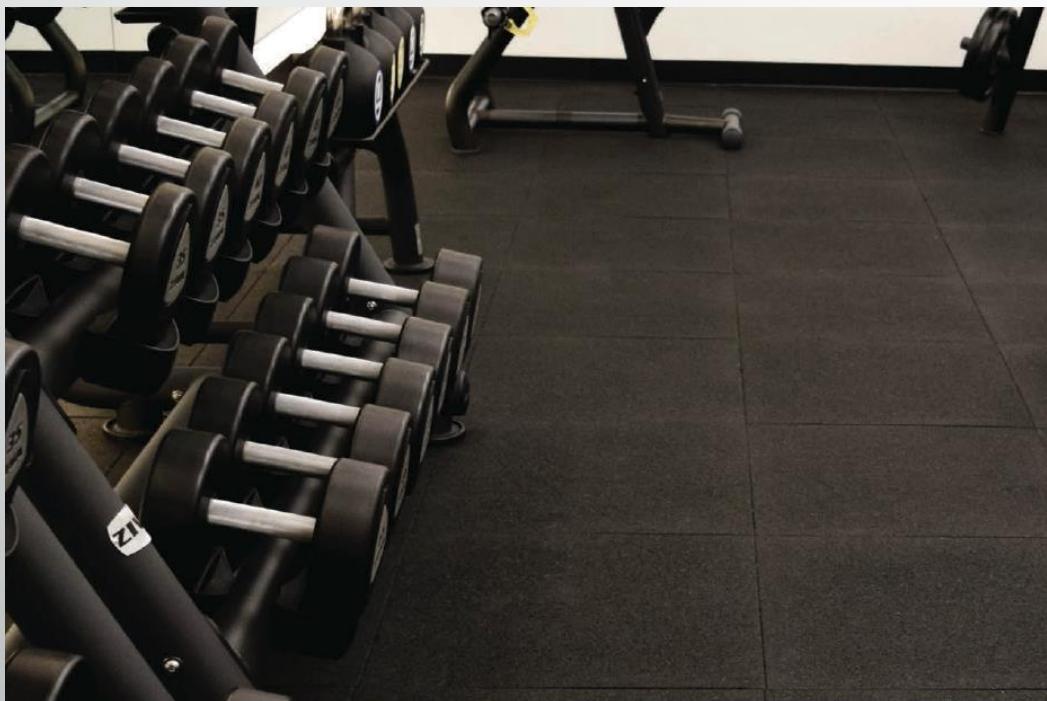
- Isolate gym floor
 - Spring Lift Slab Concrete Floating Floor System
- Automatic shutting doors
- Ceiling insulation
- Determine a penalty or consequence for future offenses

Step 2: Order Abatement



Step 2: Order Abatement

- Additional padding

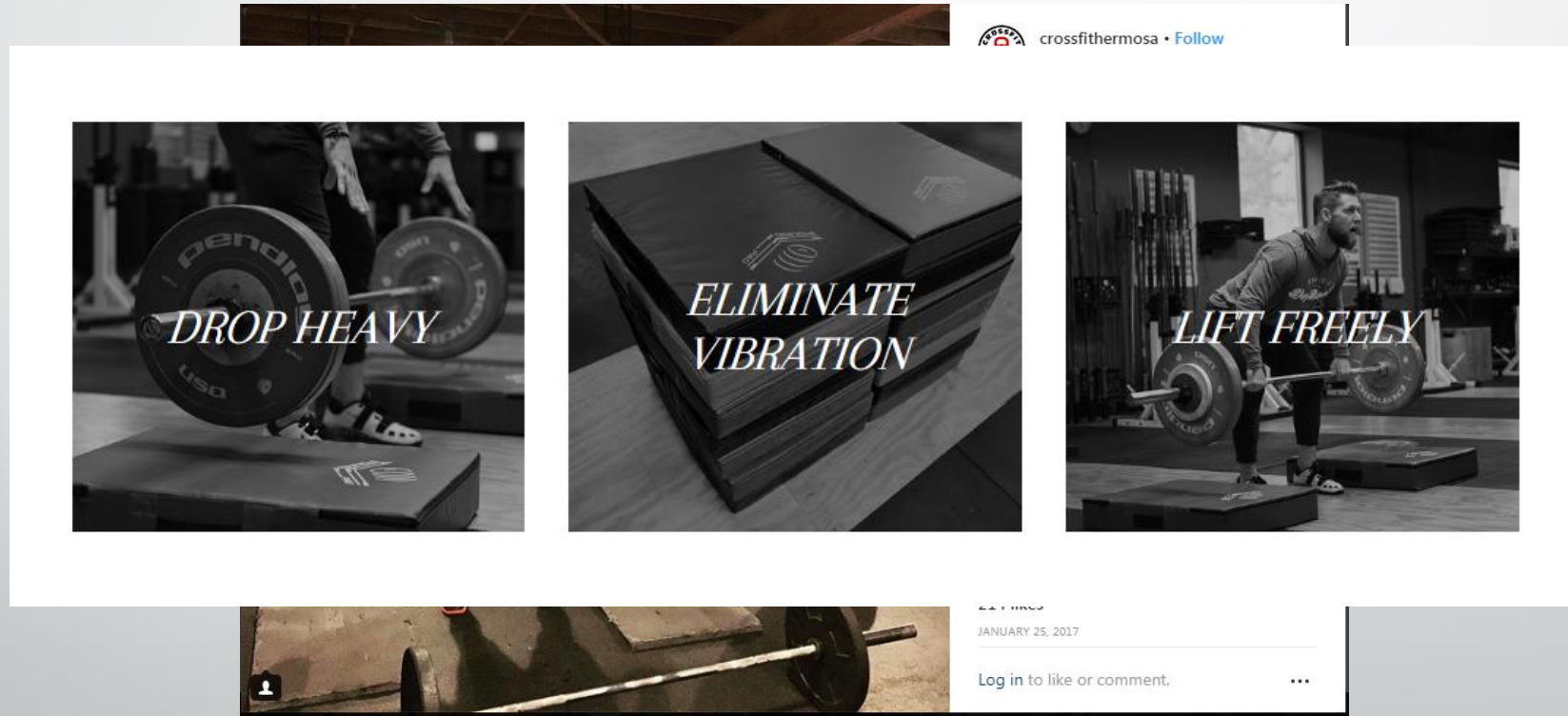


GenieMat FIT70

APPLICATIONS

- High impact studios
- Free weight/dumbbell areas
- **GenieMat xFIT70** and **GenieMat xFIT100** recommended for CrossFit® and Olympic style weightlifting activities

Step 2: Order Abatement



City Council

Step 1: Find the activities at Crossfit Horsepower constitute a nuisance

Step 2: If Yes, order abatement

If No, close hearing

Step 3: Yes or no, decide whether to suspend or revoke business license

Step 3: Suspend or Revoke Business License

5.04.260 Revocation and suspension of licenses

Any license issued under the provisions of this title issued and used by all parties receiving or using the same subject to the express condition that the city council may revoke or suspend the license or impose new conditions in any of the following instances:

Step 3: Suspend or Revoke Business License

- A. Where the city council finds and determines that **the preservation of the public health, safety and peace demand revocation** of such license or permit;
- B. Where the **licensee or permittee has violated any provisions of this code, any ordinance of the city** or any other provision of law;
- C. Where a permit or license has been granted on false or fraudulent evidence, testimony or application;

Step 3: Suspend or Revoke Business License

- D. Where the licensee or permittee has violated the terms and provisions of such license or permit;
- E. Where the licensee has conducted the business in an immoral or disorderly manner, or has **failed to exercise reasonable efforts to maintain order among the customers and patrons and to prevent violation of law or ordinance by them**; or
- F. The business has been conducted as to be a public nuisance



Questions?