

Seattle Municipal Code

Chapter 25.08

Noise Control

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Statutory Reference: For statutory provisions on noise control, see RCW Ch. 70.107.

Severability: Should any section, subsection, paragraph, sentence, clause or phrase of this chapter or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter or its application to any other person or situation.

(Ord. 106360 § 1002, 1977.)

Subchapter 1 General Provisions

25.08.010 - Declaration of policy.

It is the policy of the City to minimize the exposure of citizens to the physiological and psychological dangers of excessive noise and to protect, promote and preserve the public health, safety and welfare. It is the express intent of the City Council to control the level of noise in a manner which promotes commerce; the use, value and enjoyment of property; sleep and repose; and the quality of the environment.

(Ord. 106360 § 101, 1977.)

25.08.020 - Findings of special conditions.

The problem of noise in the City has been studied since 1974 by the City Council. On the basis of this experience and knowledge of conditions within the City, the City Council finds that special conditions exist within the City which make necessary any and all differences between this chapter and the regulations adopted by the Department of Ecology.

(Ord. 106360 § 102, 1977.)

25.08.030 - Chapter additional to other law.

The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise, but shall be deemed additional to existing legislation and common law on noise.

(Ord. 106360 § 1001, 1977.)

Subchapter II Definitions

25.08.040 - Definitions generally—Gender

All technical terminology used in this chapter, not defined in this subchapter, shall be interpreted in conformance with American National Standards Institute ("ANSI") Specifications, Section 1.1 1994, as it now exists or as hereafter amended and Section 1.4-1983, as it now exists or as hereafter amended. Words used in the masculine gender include the feminine and words used in the feminine gender include the masculine. For the purposes of this chapter the words and phrases used herein shall have the meanings set forth in the following sections of this subchapter.

(Ord. 122923, § 2, 2009; Ord. 106360 § 200, 1977.)

25.08.050 - Administrative Code

"Administrative Code" means the Administrative Code of The City of Seattle, SMC Chapter 3.02, as now or hereafter amended.

(Ord. 122923, § 3, 2009; Ord. 106360 § 201, 1977.)

25.08.060 - Administrator

"Administrator" means the Director of the Department of Planning and Development or the Director's authorized representative.

(Ord. 122923, § 4, 2009; Ord. 121276 § 28, 2003; Ord. 116621 § 1, 1993; Ord. 106360 § 202, 1977.)

25.08.068 - Amplified Noise.

"Amplified Noise" means noise that is increased by electronic means.
(Ord. 122614, § 1, 2007.)

25.08.069 - City Holiday

"City Holiday" means the days during which city offices are not open for transaction of business as provided by SMC 3.102.010.
(Ord. 122923, § 5, 2009)

25.08.070 - Commercial agriculture.

"Commercial agriculture" means the production of livestock or agricultural commodities on lands defined as "farm and agricultural" by RCW 84.34.020(2) and the offering of the livestock and agricultural commodities for sale.
(Ord. 112976 § 5, 1986; Ord. 106360 § 203, 1977.)

25.08.080 - Construction.

"Construction" means any site preparation, assembly, erection, demolition, substantial repair, maintenance, alteration, or similar action for or of public or private rights-of-way, structures, utilities, or similar property.
(Ord. 112976 § 5, 1986; Ord. 111458 § 5, 1983; Ord. 106360 § 204, 1977.)

25.08.090 - dB(A).

"dB(A)" means the sound level measured in decibels, using the "A" weighting network.
(Ord. 106360 § 205, 1977.)

25.08.100 - Districts

"District" means the land use zones to which the provisions of this chapter are applied. For the purposes of this chapter:

A. "Residential District" includes zones defined as residential zones and NC1 zones in The Seattle Land Use Code, Title 23.

B. "Commercial District" includes zones designated as NC2, NC3, SM, C1, C2, DOC1, DOC2, DRC, DMC, PSM, IDM, DH1, DH2, PMM, and IB in the Seattle Land Use Code, Title 23.

C. "Industrial District" includes zones designated as IG1, IG2, and IC in the Seattle Land Use Code, Title 23.

D. For any zone not listed in subsections A, B, or C of this section 25.08.100, the Administrator may determine that the zone is substantially similar to a zone listed in subsections 25.08.100.A, B, or C and may classify it similarly for purposes of this chapter.
(Ord. 122923, Section 6, 2009; Ord 115041 Section 1, 1990; Ord. 106360 Section 206, 1977.)

25.08.110 - Emergency work.

"Emergency work" means work required to restore property to a safe condition following a public calamity, work required to protect persons or property from an imminent exposure to danger, or work by private or public utilities for providing or restoring immediately necessary utility service.

(Ord. 115041 § 1, 1990; Ord. 106360 § 207, 1977.)

25.08.120 - Equipment.

"Equipment" means any stationary or portable device or any part thereof capable of generating sound.

(Ord. 106360 § 208, 1977.)

25.08.140 - Gross vehicle weight rating (GVWR).

"Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a single vehicle.

(Ord. 106360 § 210, 1977.)

25.08.150 - Impulsive sound.

"Impulsive sound" means sound having the following qualities: the peak of the sound level is less than one (1) second and short compared to the occurrence rate; the onset is abrupt; the decay rapid; and the peak value exceeds the ambient level by more than ten (10) dB(A).

(Ord. 106360 § 211, 1977.)

25.08.155 - Legal Holiday

"Legal Holiday" means the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day after, and Christmas Day.

(Ord. 122923, § 7, 2009.)

25.08.160 - Leq.

"Leq" means the equivalent sound level, which is the constant sound level in a given time period that conveys the same sound energy as the actual time-varying A-weighted sound. The applicable time period for the Leq must be specified.

(Ord. 122923, § 8, 2009; Ord. 108552 § 1, 1979; Ord. 106360 § 211.5, 1977.)

25.08.165 - Lmax

"Lmax" means the maximum sound level over a measurement interval determined by using a sound level meter set to "Fast" response time.

(Ord. 122923, § 9, 2009.)

25.08.168 - Major public project

"Major public project" means a project for a public facility as defined in SMC Title 23, the construction of which the Administrator determines is likely to be of at least six months duration, and is likely to have a substantial impact on the public safety, health and welfare and the provision of public services, including transportation services. In making this determination the Administrator shall consider factors such as the expected size, complexity or cost of the proposed construction or reconstruction; the expected duration of the proposed construction or reconstruction; the magnitude of the expected impacts on traffic and transportation; and/or the degree of impact on the provision of public services during the proposed construction or reconstruction.

(Ord. 122923, § 10, 2009.)

25.08.170 - Motorcycle.

"Motorcycle" means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground; except that farm tractors and vehicles powered by engines of less than five (5) horsepower shall not be included.

(Ord. 106360 § 214, 1977.)

25.08.180 - Motor vehicle

"Motor vehicle" means any vehicle that is self-propelled, used primarily for transporting persons or property upon highways and required to be licensed under RCW 46.16.010. (Ord. 122923, § 11, 2009; Ord. 106360 § 212, 1977.)

25.08.190 - Motor vehicle racing event

"Motor vehicle racing event" means any competition between motor vehicles and/or off-highway vehicles under the auspices of a sanctioning body recognized by the Administrator under rules adopted in accordance with the Administrative Code, SMC Chapter 3.02. (Ord. 122923, § 12, 2009; Ord. 106360 § 213, 1977.)

25.08.200 - Muffler.

"Muffler" means a device consisting of a series of chambers or other mechanical designs for the purpose of receiving exhaust gas from an internal combustion engine, or for the purpose of introducing water to the flow of the exhaust gas and which is effective in reducing sound resulting therefrom. (Ord. 109099 § 1, 1980; Ord. 106360 § 215, 1977.)

25.08.210 - New motor vehicle.

"New motor vehicle" means a motor vehicle manufactured after December 31, 1975, the equitable or legal title of which has never been transferred to a person who, in good faith, purchases the new motor vehicle for purposes other than resale. (Ord. 106360 § 216, 1977.)

25.08.220 - Noise.

"Noise" means the intensity, duration and character of sounds from any and all sources. (Ord. 106360 § 217, 1977.)

25.08.221 - Receiving Dwelling unit.

"Receiving Dwelling unit" is a dwelling unit as defined in Section 23.84A.008 and within which sound originating from sources outside the dwelling unit is received. (Ord. 122614, § 2, 2007.)

25.08.225 - Residential disturbance.

"Residential disturbance" means a gathering of more than one (1) person at a residential property located in a single family or multifamily zone, as defined in SMC Section 23.84A.048 between the hours of ten o'clock (10:00) p.m. (eleven o'clock (11:00) p.m. on Friday and Saturday nights) and seven o'clock (7:00) a.m. at which noise associated with the gathering is frequent, repetitive or continuous and is audible to a person of normal hearing at a distance of seventy-five (75) feet or more from the property. (Ord. 122311, § 103, 2006; Ord. 121192 § 2, 2003.)

25.08.230 - Off-highway vehicle

"Off-highway vehicle" means any self-propelled motor-driven vehicle not used primarily for transporting persons or property upon highways nor required to be licensed under RCW 46.16.010. The term "off-highway vehicle" does not include special construction vehicles.

(Ord. 122923, § 13, 2009; Ord. 106360 § 218, 1977.)

25.08.250 - Person.

"Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.

(Ord. 106360 § 220, 1977.)

25.08.260 - Property boundary.

"Property boundary" means an imaginary line exterior to any enclosed structure, at ground surface, which separates the property of one (1) or more persons from that owned by others, and its vertical extension.

(Ord. 106360 § 221, 1977.)

25.08.270 - Highway

"Highway" means the entire width between the boundary lines of every way publicly maintained by the Washington State Department of Transportation or any county or city when any part thereof is generally open to the public for purposes of vehicular travel.

(Ord. 122923, § 14, 2009; Ord. 106360 § 222, 1977.)

25.08.280 - Public nuisance noise.

"Public nuisance noise" means any unreasonable sound which either annoys, injures, interferes with or endangers the comfort, repose, health or safety of an entire community or neighborhood, although the extent of damage may be unequal.

(Ord. 110047 § 1, 1981; Ord. 106360 § 223, 1977.)

25.08.290 - Pure tone component.

"Pure tone component" means a sound having the following qualities: a one-third (1/3) octave band sound pressure level in the band with the tone that exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) decibels for center frequencies of five hundred (500) Hz and above, by eight (8) decibels for center frequencies between one hundred sixty (160) and four hundred (400) Hz, and by fifteen (15) decibels for center frequencies less than or equal to one hundred twenty-five (125) Hz.

(Ord. 106360 § 224, 1977.)

25.08.300 - Real property

"Real property" means an interest or aggregate of rights in land that is guaranteed and protected by law; for purposes of this chapter, the term "real property" includes a leasehold interest.

(Ord. 122923, § 15, 2009; Ord. 106360 § 225, 1977.)

25.08.310 - Receiving property.

"Receiving property" means real property within which sound originating from sources outside the property is received.

(Ord. 106360 § 226, 1977.)

25.08.315 - Shoreline.

"Shoreline" means the existing intersection of water with the ground surface or with any permanent, shore-connected facility.

(Ord. 109099 § 5, 1980; Ord. 106360 § 226.5, 1977.)

25.08.320 - Sound level

"Sound level" means the weighted sound pressure level measured by the use of a metering characteristic and weighted as specified in American National Standards Institute Specifications, Section 1.4-1983, as it now exists or as hereafter amended. The sound pressure level of a sound expressed in decibels is twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound to the reference sound pressure of twenty (20) micropascals. In the absence of any specific modifier, the level is understood to be that of a mean-square pressure.

(Ord. 122923, § 16, 2009; Ord. 106360 § 227, 1977.)

25.08.330 - Sound level meter

"Sound level meter" means a sound level measuring device, either Type I or Type II, as defined by American National Standards Institute Specifications, Section 1.4 1983, as it now exists or as hereafter amended.

(Ord. 122923, § 17, 2009; Ord. 106360 § 228, 1977.)

25.08.340 - Special construction vehicle

"Special construction vehicle" means any vehicle that is designed and used primarily for grading, paving, earth moving, and other construction work, that is not designed or used primarily for the transportation of persons or property on a highway, and that is only incidentally operated or moved over the highway.

(Ord. 122923, § 18, 2009; Ord. 106360 § 229, 1977.)

25.08.350 - Use.

"Use" means the nature of the occupancy, the type of activity, or the character and form of improvements to which land is devoted or may be devoted.

(Ord. 106360 § 230, 1977.)

25.08.360 - Warning device.

"Warning device" means any device intended to provide public warning of potentially hazardous, emergency or illegal activities, including but not limited to a burglar alarm or vehicle back-up signal, but not including any fire alarm.

(Ord. 106360 § 231, 1977.)

25.08.370 - Watercraft.

"Watercraft" means any contrivance, including aircraft taxiing but excluding aircraft in the act of actual landing or takeoff, used or capable of being used as a means of transportation or recreation on water, powered by an internal or external combustion engine.

(Ord. 109099 § 2, 1980; Ord. 106360 § 232, 1977.)

25.08.380 - Weekday

"Weekday" means any day Monday through Friday that is not a legal holiday.

(Ord. 122923, § 19, 2009; Ord. 106360 § 233, 1977.)

25.08.390 - Weekend

"Weekend" means Saturday and Sunday.

(Ord. 122923, § 20, 2009; Ord. 106360 § 234, 1977.)

Subchapter III Environmental Sound Levels

25.08.400 - Unlawful sounds

It is unlawful for any person to cause sound, or for any person in possession of property to permit sound originating from such property, to intrude into the real property of another person whenever such sound exceeds the exterior sound level limits established by this subchapter.

(Ord. 122923, § 21, 2009; Ord. 122923, § 21, 2009; Ord. 106360 § 301, 1977.)

25.08.410 - Exterior sound level limits.

A. The exterior sound level limits are based on the Leq during the measurement interval, using a minimum measurement interval of 1 minute for a constant sound source, or a one-hour measurement for a non-continuous sound source. For sound sources located within the City, the exterior sound level limits are as follows:

Exterior sound level limits

District of Sound Source	District of Receiving Property		
	Residential (dB(A)) (Leq)	Commercial (dB(A)) (Leq)	Industrial (dB(A)) (Leq)
Residential	55	57	60
Commercial	57	60	65
Industrial	60	65	70

B. During a measurement interval, Lmax may exceed the exterior sound level limits shown in subsection 25.08.410.A by no more than 15 dB(A).

(Ord. 122923, § 22, 2009; Ord. 106360 § 302, 1977.)

25.08.420 - Modifications to exterior sound level limits

A. Between the hours of 10 p.m. and 7 a.m. during weekdays, and between the hours of 10 p.m. and 9 a.m. on weekends and legal holidays, the exterior sound level limits established by Section 25.08.410 are reduced by 10 dB(A) where the receiving property lies within a residential district of the City.

B. For any source of sound that has a pure tone component, the exterior sound level limits established by this subchapter are reduced by 5 dB(A); provided, however, this 5 dB(A) reduction shall not be imposed on any electrical substation.

C. For any source of sound that is impulsive and not measured with an impulse sound level meter, the exterior sound level limits established by this subchapter are reduced by 5 dB(A).

(Ord. 122923, § 23, 2009; Ord. 106360 § 303, 1977.)

25.08.425 - Sounds created by construction and maintenance equipment

A. The exterior sound level limits established by Sections 25.08.410 and 25.08.420, as measured from the property line of the real property of another person or at a distance of 50 feet from the construction or maintenance equipment making the sound, whichever is greater, may be exceeded during the following times by the sound levels specified in subsection 25.08.425.B for the types of equipment listed in that subsection.

1. Within Lowrise, Midrise, Highrise, Residential-Commercial and Neighborhood Commercial zones, between 7 a.m. and 7 p.m. on weekdays and between 9 a.m. and 7 p.m. on weekends and legal holidays, provided that if no property in residential use exists within 100 feet of the property generating the sound, or if the equipment is being used for a public project, then between 7 a.m. and 10 p.m. on weekdays and between the hours of 9 a.m. and 10 p.m. on weekends and legal holidays.

2. Within all other zones, between 7 a.m. and 10 p.m. on weekdays and between 9 a.m. and 10 p.m. on weekends and legal holidays.

B. During the time periods specified in subsection 25.08.425.A, the exterior sound level limits, as measured from the property line of the real property of another person or at a distance of 50 feet from the construction or maintenance equipment making the sound, whichever is greater, may be exceeded by no more than the following dB(A)'s for the following types of equipment:

1. Twenty-five dB(A) for equipment on construction sites, including but not limited to crawlers, tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, graders, off-highway trucks, ditchers, trenchers, compactors, compressors, and pneumatic-powered equipment;

2. Twenty dB(A) for portable powered equipment used in temporary locations in support of construction activities or used in the maintenance of public facilities, including but not limited to chainsaws, log chippers, lawn and garden maintenance equipment, and powered hand tools; or

3. Fifteen dB(A) for powered equipment used in temporary or periodic maintenance or repair of the grounds and appurtenances of residential property, including but not limited to lawnmowers, powered hand tools, snow-removal equipment, and composters.

C. Sounds created by impact types of equipment, including but not limited to pavement breakers, piledrivers, jackhammers, sandblasting tools, or by other types of equipment that create impulse sound or impact sound or are used as impact equipment, as measured at the property line or 50 feet from the equipment, whichever is greater, may exceed the exterior sound level limits established in subsection 25.08.425.B in any one hour period between the hours of 8 a.m. and 5 p.m. on weekdays and 9 a.m. and 5 p.m. on weekends and legal holidays, but in no event may the sound level exceed the following:

1. Leq 90 dB(A) continuously;

2. Leq 93 dB(A) for 30 minutes;

3. Leq 96 dB(A) for 15 minutes; or

4. Leq 99 dB(A) for 7½ minutes; provided that sound levels in excess of Leq 99

dB(A) are prohibited unless authorized by variance obtained from the Administrator; and provided further that sources producing sound levels less than 90 dB(A) shall comply with subsection 25.08.425.A and B of this section during those hours not covered by this subsection 25.08.425.C.

D. The standard of measurement shall be a one hour Leq. Leq may be measured for times not less than one minute to project an hourly Leq. Reference to one hour is for

measurement purposes only and shall not be construed as limiting construction or maintenance to a one hour period.

E. The exterior sound level limits established in this section shall be reviewed periodically by the City to assure that the exterior sound level limits are technically feasible.

F. Construction or maintenance equipment that exceeds the exterior sound level limits established by Section 25.08.410, when measured from the interior of buildings within a commercial district, is prohibited between the hours of 8 a.m. and 5 p.m. For purposes of this subsection, interior sound levels shall be measured only after every reasonable effort, including but not limited to closing windows and doors, is taken to reduce the impact of the exterior construction noise.

(Ord. 122923, § 24, 2009; Ord. 115041 § 2, 1990; Ord. 112976 § 1, 1986; Ord. 111458 § 1, 1983.)

25.08.426 - Plan review fee.

Whenever any project or proposal is submitted to the Administrator for review and/or commenting relating to any special noise studies and mitigation measures proposed as part of a mitigated DNS or EIS under any of the following:

1. Chapter 43.21C of the Revised Code of Washington, the State Environmental Policy Act ("SEPA");
2. Chapter 197-11 of the Washington Administrative Code, the State SEPA Rules; or
3. Chapter 25.05 of the Seattle Municipal Code, the City's SEPA rules; the request for review shall be accompanied by a plan review fee of Fifty Dollars (\$50); provided, that such fee shall not be required for any such review and/or commenting wherein the Administrator determines that the reasonable amount of time necessary to accomplish the same is less than one (1) hour. This fee shall be nonrefundable, and shall accompany each such request for comment by the Administrator.

(Ord. 114832 § 2, 1989.)

Subchapter IV Motor Vehicle Sound Levels

25.08.430 - Sounds created by operation of motor vehicles

It is unlawful for any person to operate upon any highway any motor vehicle or any combination of motor vehicles under any conditions of grade, load, acceleration or deceleration in such a manner that the motor vehicle's exhaust noise exceeds 95 decibels as measured by the Society of Automotive Engineers (SAE) test procedure J1169 (May 1998).

(Ord. 122923, § 25, 2009; Ord. 120481 § 9, 2001; Ord. 106360 § 401, 1977.)

25.08.450 - Modification to motor vehicles.

No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase, the noise emitted by the engine of such vehicle above that emitted by the muffler originally installed on the vehicle, and it shall be unlawful for any person to operate a motor vehicle not equipped as required by Sections 11.84.060 and 11.84.080 or which has been amplified as prohibited by this section. (RCW 46.37.390(3))

(Ord. 122742, § 41, 2008; Ord. 120481 § 10, 2001; Ord. 106360 § 403, 1977.)

25.08.460 - Tire noise.

It is unlawful for any person to operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such sound from the tires in contact with the

ground because of rapid acceleration or excessive speed around corners or other such reason, provided that sound resulting from emergency braking to avoid imminent danger shall be exempt from this section.

(Ord. 106360 § 404, 1977.)

25.08.470 - Sale of new motor vehicles that exceed limits

It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-highway vehicle, that produces a sound level exceeding the following exterior sound level limits at a distance of 50 feet, by acceleration test procedures established by the State Commission on Equipment:

Vehicle Category	dB(A)
Motorcycles manufactured after 1975	83
Any motor vehicle over 10,000 pounds gross vehicle weight rating (GVWR) manufactured after 1975 and prior to 1978	86
Any motor vehicle over 10,000 pounds GVWR manufactured during or after 1978	83
All other motor vehicles	80

(Ord. 122923, § 26, 2009; Ord. 106360 § 405, 1977.)

25.08.480 - Motor vehicle exemptions

Sounds created by motor vehicles are exempt from the exterior sound level limits of Subchapter III, except that sounds created by any motor vehicle operated off highways shall be subject to the exterior sound level limits of Subchapter III when the sounds are received within a residential district of the City.

(Ord. 122923, § 27, 2009; Ord. 106360 § 406, 1977.)

25.08.485 - Watercraft

A. It is unlawful for any person to operate any watercraft in such a manner as to exceed the following exterior sound level limits when measured within 50 feet of the shoreline or anywhere within a receiving property:

1. At any hour of the day or night, the limit for any receiving property is 74 dB(A), except that;
2. Between 10 p.m. and 7 a.m. the limit for any receiving property within a residential district is 64 dB(A).

B. It is unlawful for any person to operate any watercraft, except aircraft, that is not equipped with a functioning underwater exhaust or a properly installed and adequately maintained muffler. Any of the following defects in the muffling system is a violation of this subsection:

1. The absence of a muffler;
2. The presence of a muffler cutout, bypass, or similar device that is not standard or normal equipment for the exhaust system being inspected;
3. Defects in the exhaust system including, but not limited to, pinched outlets, holes, or rusted-through areas of the muffler or pipes; and

4. The presence of equipment that will produce excessive or unusual noise from the exhaust system. Dry stacks or water-injected stacks not containing a series of chambers or mechanical designs effective in reducing sound shall not be considered as adequately maintained mufflers.

C. The following exemptions apply to sounds created by watercraft or watercraft operations:

1. Normal docking, undocking, and water skier pick-up and drop-off operations of all watercraft are exempt from the provisions in subsection 25.08.485.A;

2. Sounds created by the operation of commercial, nonrecreational watercraft are exempt at all times from provisions of this chapter. These commercial activities include, but are not limited to, tugboats, fishing boats, ferries, and vessels engaged in intrastate, interstate, or international commerce;

3. Sounds created by boat races and regattas, and trials sanctioned by the Chief of Police acting as Port Warden pursuant to Section 16.20.160 as amended, are exempt from provisions in this section and in this chapter between the hours of 7 a.m. and 10 p.m. on weekdays and between the hours of 9 a.m. and 10 p.m. on weekends and legal holidays.

D. Nothing in this section shall be construed to limit the powers of the Chief of Police enumerated in Section 16.12.010.

(Ord. 122923, § 28, 2009; Ord. 109099 § 6, 1980; Ord. 106360 § 407, 1977.)

Subchapter V Public Nuisance Noises

25.08.490 - Prohibited.

Pursuant to the notice and order procedure set forth in Subchapter IX, the Administrator may determine that a sound constitutes a public nuisance noise as defined in this chapter. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound which has been determined a public nuisance noise.

(Ord. 106360 § 501, 1977.)

25.08.500 - Public disturbance noises.

It is unlawful for any person knowingly to cause or make, or for any person in possession of property knowingly to allow or originate from the property, unreasonable noise which disturbs another, and to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a police officer or, in the case of noise described in subsection A of this section, when ordered to do so by any of the following: a police officer, an animal control officer, or, in the case of a pet daycare center as defined in chapter 23.84A of this Code, any employee of the Department of Planning and Development authorized by the Director of that Department. "Unreasonable noise" shall include the following sounds or combination of sounds:

A. Loud and raucous, and frequent, repetitive, or continuous sounds made by any animal, except sounds made in animal shelters, commercial kennels, veterinary hospitals, pet shops, or pet kennels that have current permits issued under Chapter 10.72 of this Code, are operated in compliance with that chapter, and are not pet daycare centers as defined in Chapter 23.84A of this Code; provided, that notwithstanding any other provision of this chapter, if the owner or other person having custody of the animal cannot, with reasonable inquiry, be located by the investigating officer or if the animal is a repeated violator of this subsection, the animal shall be impounded, subject to redemption in the manner provided by Chapter 9.25 of this Code;

B. Loud and raucous, and frequent, repetitive, or continuous sounds made by any horn or siren attached to a motor vehicle, except such sounds that are made to warn of danger or that are specifically permitted or required by law;

C. Loud and raucous, and frequent, repetitive, or continuous sounds made in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine;

D. Loud or raucous, and frequent, repetitive, or continuous sounds created by use of a musical instrument, or other device capable of producing sound when struck by an object, a whistle, or a sound amplifier or other device capable of producing, amplifying, or reproducing sound;

E. Loud and raucous, and frequent, repetitive, or continuous sounds made by the amplified or unamplified human voice between the hours of ten (10:00) p.m. and seven (7:00) a.m. The content of the speech shall not be considered against any person in determining a violation of this subsection; and

F. Loud and raucous, and frequent, repetitive, or continuous sounds made by the amplified human voice within the Pike Place Market Historical District, as designated in Chapter 25.24 of the Seattle Municipal Code, between the hours of ten (10:00) a.m. and five (5:00) p.m. The content of the speech shall not be considered against any person in determining a violation of this subsection.

(Ord. 122311, § 104, 2006; Ord. 114656 § 2, 1989; Ord. 110047 § 2, 1981; Ord. 106360 § 502, 1977.)

25.08.501 - Nightlife disturbance.

A. It is unlawful for any person in possession of real property, other than residential property, to allow to originate from that property between the hours of ten (10:00) p.m. and seven (7:00) a.m. amplified noise that is plainly audible to a person of normal hearing when measured inside a receiving dwelling unit.

B. It is an affirmative defense to any proceeding arising under this section that the receiving dwelling unit was unoccupied at the time of the violation.

C. The Administrator shall promulgate by rule a standard for amplified noise plainly audible to a person of normal hearing which can be measured using a sound level meter.

(Ord. 122614, § 3, 2007.)

25.08.505 - Residential disturbance violation.

It is unlawful for any person to knowingly allow real property under one's possession or control to be used for a residential disturbance, as defined in Section 25.08.225.

(Ord. 121192 § 3, 2003.)

25.08.508 - Abatement of chronic violations.

A. A residential property at which three (3) or more violations of SMC Section 25.08.505 occur within any twelve (12) month period constitutes a nuisance and is subject to an action for abatement pursuant to this section; provided that the person or persons responsible for such violations were residents of the same housing unit, as defined in SMC Section 22.204.090.

B. The City Attorney shall notify the owner and tenant(s) of any property when a tenant or other person has been found to be in violation of Section 25.08.505 at the owner's property. All notices pursuant to this subsection shall include notification that an action for abatement under this section may be commenced if three (3) or more violations of Section 25.08.505 occur

at the property within a twelve (12) month period and the person or persons responsible were residents of the same housing unit as defined in SMC Section 22.204.090.

C. In addition to any other remedies provided by this chapter or any other law, an action to abate chronic violations of Section 25.08.505, may be commenced by the City Attorney against the owner and/or tenant(s) of a property following a third or subsequent violation of SMC Section 25.08.505 at the property within a twelve (12) month period where the person or persons responsible for such violations were residents of the same housing unit as defined in SMC Section 22.204.090. An action shall not be commenced under this section until at least thirty (30) days after the mailing of a notice of a finding of a third violation which occurs within a twelve (12) month period. If during this thirty (30) day period an owner provides written notice to the City Attorney that the owner has filed a legal proceeding to evict the person or persons responsible for three (3) or more violations of Section 25.08.505 and the City Attorney is satisfied the owner will diligently prosecute such eviction action, an action against the owner under this section shall not be filed. If the court determines that three (3) or more violations of Section 25.08.505 have occurred at a property within any twelve (12) month period, the court may order any remedy that is reasonably likely to abate future violations, providing that the court should not enter an order prohibiting the rental of a housing unit or units unless other remedies have failed to abate future violations.

D. Notices required by this section shall be in writing. Notice to an owner is sufficient if sent to the address of the owner listed in the records of the King County Recorder. If the City Attorney knows that a property is managed by a third party property manager, notices required by the section may be sent to such third party property manager. No inference shall be drawn in a private dispute between a landlord and a tenant or tenants solely because of the lack of a notice from the City Attorney as contemplated by this section.

(Ord. 121192 § 4, 2003.)

25.08.510 - Exempted sources

No sound source specifically exempted from exterior sound level limits by this chapter is a public nuisance noise or public disturbance noise.

(Ord. 122923, § 29, 2009; Ord. 106360 § 503, 1977.)

25.08.515 - Public disturbance noise from portable or motor vehicle audio equipment.

A. While in park areas, residential or commercial zones, or any area where residences, schools, human service facilities or commercial establishments are in obvious proximity to the source of the sound, it is unlawful for any person to negligently cause, make or allow to be made from audio equipment under such person's control or ownership the following:

1. Sound from a motor vehicle audio system, such as a radio, tape player or compact disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of seventy-five (75) feet or more from the vehicle itself; or

2. Sound from portable audio equipment, such as a radio, tape player or compact disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of seventy-five (75) feet or more from the source of the sound.

B. This section shall not apply to persons operating portable audio equipment upon their own premises, such as an owner or a tenant, or to persons operating such equipment within a public park pursuant to an event under a permit issued under SMC Section 18.12.042, in which

event other provisions of the Noise Code shall apply, including SMC Sections 25.08.500 and 25.08.520, respectively.

C. The content of the sound will not be considered in determining a violation of this section.

(Ord. 114656 § 1, 1989.)

25.08.520 - Noise in public parks and places.

A. It is unlawful for any person to cause, or for any person in charge of a group of persons to allow sound from an officially sanctioned musical event to originate in a public park, public place, as defined in the Street Use Ordinance No. 90047,1 public market or civic center which exceeds an L eq of ninety-five (95) dB(A) for one (1) minute as measured fifty feet (50') (approximately fifteen (15) meters) from the source or sources, whether or not the sounds are live or recorded. Provided, that this section shall not apply to indoor events.

B. Each violation of this section which occurs after notice to the person (designated on the permit as the agent to receive notices of violations in the case of events with permits) that he or she is in violation of this section shall constitute a separate offense. At the time of application the applicant shall designate an on-premises agent who will accept notices of violations of this chapter during the event. The absence of the designated on-premises agent from the event or the inability of the serving agency to locate the on-premises agent or the refusal of an on-premises agent or responsible official of a group to accept notice of a violation shall not affect the validity of the initial or successive violations.

C. The Administrator, the Director of Seattle Center, the Superintendent of Parks, the Director of Transportation, the Chief of Police, or an authorized representative of any of them may terminate a performance as a public nuisance after following the notice requirements of subsection B of this section if the decibel level exceeds one hundred five (105) dB(A) for a total of five (5) minutes in any thirty (30) minute period as measured fifty feet (50') (approximately fifteen (15) meters) from the source or sources.

D. Before any permit or other authorizing document is issued for any event which will produce sounds which may violate this section, the application shall be circulated to the Administrator. The Department of Construction and land use is authorized to attach any conditions consistent with this chapter and reasonably calculated to prevent annoying sounds.

E. 1. In any permit for use of a public park, public market, civic center, or other public place, the Superintendent of Parks and Recreation, the Director of Transportation or the Director of the Seattle Center or the designee of any of them, respectively, shall stipulate that the Department of Construction and land use provide sound-control monitoring services whenever:

a. Amplified sound will be used at the proposed event; and

b. The Administrator or his designee finds that, unless monitored, the sound level originating at the proposed event may exceed the sound level in SMC Section 25.08.520 A. The Administrator shall be guided principally by the expected power and type of amplification and, for those with a record of prior usage, by past events held on City property within the last two (2) years.

2. The Administrator, in his or her discretion, may perform the service directly, delegate performance to the authority issuing the permit, or retain an acoustician.

F. This section does not limit or diminish the management authority of the Superintendent of Parks and Recreation, the Director of Transportation or the Director of the Seattle Center to require a performance bond or cash deposit for the use and occupancy of a public park, a public place or public market, or the Seattle Center, respectively, as security for

payment of costs and expenses related thereto, damages or cleanup costs that may arise from a proposed event, and/or taxes and other amounts that may become payable; nor does this section limit or diminish their management authority to grant or deny such permits for causes independent of the Noise Ordinance codified in this chapter.

G. A copy or digest of this section on noise in public parks and public places shall be delivered to every person applying for a permit or other authorizing document which involves the production of sounds which may violate this section and the permittee shall sign a receipt signifying that he or she has received the same.

(Ord. 118409 § 219, 1996; Ord. 116621 § 2, 1993; Ord. 112379 §§ 1 and 2, 1985; Ord. 108552 § 2, 1979; Ord. 106360 § 504, 1977.)

Subchapter VI Exemptions

25.08.530 - Sounds exempt at all times

A. The following sounds are exempt from the provisions of this chapter at all times:

1. Sounds originating from aircraft in flight, and sounds that originate at airports and are directly related to flight operations;
2. Sounds created by safety and protective devices, such as relief valves, where noise suppression would defeat the safety release intent of the device;
3. Sounds created by fire alarms;
4. Sounds created by emergency equipment and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community;
5. Sounds created by natural phenomena;
6. Sounds originating from forest harvesting and silviculture activity and from commercial agriculture, if the receiving property is located in a commercial or industrial district of the City;
7. Sounds created by auxiliary equipment on motor vehicles while used for highway surface maintenance; and
8. Sounds created by warning devices or alarms not operated continuously for more than 30 minutes per incident.

(Ord. 122923, § 30, 2009; Ord. 112976 § 2, 1986; Ord. 111458 § 2, 1983; Ord. 110047 § 3, 1981; Ord. 109099 § 4, 1980; Ord. 106360 § 601, 1977.)

25.08.540 - Sounds exempt during daytime hours—Generally

A. The following sounds are exempt from the provisions of this chapter between the hours of 7 a.m. and 10 p.m. on weekdays and between the hours of 9 a.m. and 10 p.m. on weekends and legal holidays:

1. Sounds created by bells, chimes, or carillons not operating for more than 5 minutes in any one hour;
2. Unamplified sounds originating from officially sanctioned parades and other public events;
3. Sounds created by the discharge of firearms on legally established shooting ranges;
4. Sounds created by blasting; and

5. Sounds originating from forest harvesting and silviculture activity and from commercial agriculture, if the receiving property is located in a residential district of the City. The Administrator is authorized to promulgate regulations that extend the hours during which this exemption is in effect to conform with operating laws designated by the Washington State Department of Natural Resources in directing an official fire closure. (Ord. 122923, § 31, 2009; Ord. 112976 § 4, 1986; Ord. 112379 § 3, 1985; Ord. 111458 § 4, 1983; Ord. 108498 § 1, 1981; Ord. 106360 § 602, 1977.)

25.08.545 - Sounds exempt during daytime hours-Aircraft testing and maintenance

Sounds created by the testing or maintenance of aircraft, or of components of aircraft, are exempt from the provisions of this chapter between the hours of 7 a.m. and 10 p.m. on weekdays and between 9 a.m. and 10 p.m. on weekends and legal holidays, when performed according to the following instructions:

A. Testing and maintenance for any aircraft or component not connected thereto shall be performed at an airport designated as such by the Federal Aviation Administration prior to April 1, 1979, or designated as such by the Administrator at any time.

B. If the testing or maintenance is performed at the King County International Airport, the aircraft or component shall be entirely within the ultimate airport property line as shown on the map entitled "King County International Airport - Airport Layout Plan" (prepared December 1, 1976, revised October 10, 1978), and at areas designated by the Airport Manager). It is intended that this map be the reference map regardless of any future changes, provided that the Administrator may grant exceptions to this subsection for good cause shown. A copy of the King County International Airport Layout Plan Map is on file in the City Clerk's office (C.F. 288269), at the office of the Airport Manager of the King County International Airport, and at the Planning and Research Department of the Port of Seattle.

(Ord. 122923, § 32, 2009; Ord. 108498 § 2, 1981; Ord. 106360 § 604, 1977.)

25.08.550 - Sounds exempt from nighttime reduction

The following sounds are exempt from the provisions of Section 25.08.420.A:

A. Sounds created by existing stationary equipment used in the conveyance of water by a utility; and

B. Sounds created by existing electrical substations.

(Ord. 122923, § 33, 2009; Ord. 106360 § 603, 1977.)

Subchapter VII Variances

25.08.560 - Application—Generally

Any person who owns or is in possession of any property or use, or any process or equipment, may apply to the Administrator for relief from the requirements of any provision of this chapter other than Sections 25.08.500 or 25.08.505, or from the rules or regulations promulgated hereunder governing the quality, nature, duration or extent of discharge of noise. In a proper case, a variance may apply to all sources of a particular class or type. The application shall be accompanied by such information and data as the Administrator may require. In accordance with the Administrative Code, SMC Chapter 3.02, the Administrator shall promulgate rules and regulations governing application for and granting of such variances.

(Ord. 122923, § 34, 2009; Ord. 110047 § 4, 1981; Ord. 107377 § 1(part), 1978; Ord. 106360 § 701(a), 1977.)

25.08.580 - Discretion of Administrator

A variance or its extension shall not be a right of the applicant or holder thereof but shall be at the reasonable discretion of the Administrator.

(Ord. 122923, § 35, 2009; Ord. 107377 § 1(part), 1978; Ord. 106360 § 701(b), 1977.)

25.08.590 - Granting of variance

A. No variance shall be granted until the Administrator has considered the relative interests of the applicant, other owners or possessors of property likely to be affected by the noise, and the general public.

B. A technical, economic, or major public project construction variance may be granted only after notice and an opportunity for public comment. For technical or economic variances proposed for more than two weeks and for major public project construction variances, a public meeting is also required, in accordance with rules adopted by the Administrator.

C. The Administrator may grant a variance if the Administrator finds that:

1. The noise occurring or proposed to occur does not endanger public health or safety; and

2. The applicant demonstrates that the criteria required for the variance are met; and

3. For temporary variances, if the scale and duration of the requested relief is more appropriate for a temporary variance than a technical, economic, or major public project construction variance.

D. Noise Management and Mitigation Plan. As part of the application for a variance, an applicant must submit a Noise Management and Mitigation Plan to be approved by the Administrator. A Noise Management and Mitigation Plan must contain the following components, except that the Administrator may modify the required components for a temporary noise variance as the Administrator determines appropriate to fit the circumstances surrounding the requested temporary variance:

1. A description of the exterior sound level limits of the chapter expected to be exceeded, estimates of the amount(s) by which these levels are expected to be exceeded and by what equipment, the exterior sound level limits that will be in effect during the variance, the time periods during which the pre-variance exterior sound level limits may be exceeded, and the expected sources of the sound during each of the time periods (e.g., types of equipment or activity causing the exterior sound level limits to be exceeded);

2. Measures and provisions to be taken to avoid exceeding the exterior sound level limits of this chapter;

3. Provisions to mitigate sounds that exceed the exterior sound level limits and that cannot otherwise be avoided.

4. A process for informing the public in the affected areas about the provisions of the variance.

E. The Administrator may impose conditions, including but not limited to conditions relating to types of equipment, hours of use, and duration, to mitigate the adverse impacts of granting the variance. The Administrator may also include conditions proposed by the applicant as part of the variance application. Compliance with the Noise Management and Mitigation Plan approved by the Administrator is a condition of every variance.

F. A temporary variance shall be effective on the effective date stated on the variance form. Any other variance shall be effective 30 days following the mailing of the decision

granting the variance, unless it is appealed to the Hearing Examiner, in which case the effective date is the date of the Hearing Examiner's written decision on the appeal.
(Ord. 122923, § 36, 2009; Ord. 107377 § 1(part), 1978; Ord. 106360 § 701(c), 1977.)

25.08.600 - Extension of variances

A. Technical, economic and major public project construction variances granted pursuant to this chapter may be extended on terms and conditions and for periods that would be appropriate on the initial granting of a variance. No extension of a technical, economic or major public project construction variance shall be granted except on application made at least 60 days prior to the expiration of the variance and after public notice in accordance with rules adopted by the Administrator.

B. Temporary variances may not be extended, but more than one temporary variance may be granted on a project.

(Ord. 122923, § 37, 2009; Ord. 107377 § 1(part), 1978; Ord. 106360 § 701(d), 1977.)

25.08.610 - Appeal procedure

A. Any person aggrieved by the denial, approval, or the terms and conditions imposed on a variance or by the extension of a variance by the Administrator, may appeal such decision by filing an appeal in writing with the Hearing Examiner by 5 p.m. of the tenth day following the date of the issuance of the decision on a variance application. When the last day of the appeal period is a Saturday, Sunday, or federal or City holiday, the appeal may be filed until 5 p.m. on the next business day.

B. In form and content, the appeal shall conform to the rules of the Hearing Examiner.

C. The Hearing Examiner shall consider the appeal in accordance with the procedure established for hearing contested cases under the Administrative Code, SMC Chapter 3.02.

D. Appeals shall be considered de novo, and the Administrator's decision on the variance shall be given no deference.

E. The Hearing Examiner may affirm, reverse or modify the Administrator's decision or remand to the Administrator for additional review and analysis.

F. The Hearing Examiner shall issue a written decision within 15 days of the conclusion of the hearing.

G. The decision of the Hearing Examiner is the final decision of the City, and the appellant and the Administrator are bound by the terms and conditions of the Hearing Examiner's decision.

(Ord. 122923, § 38, 2009; Ord. 107377 § 1(part), 1978; Ord. 106360 § 701(e), 1977.)

25.08.615 - Revocation of Variance

A. Standards for revocation. Any noise variance may be revoked if:

1. The noise code or the conditions of the variance have been, or are being violated and issuance of a notice of violation or stop work order has been, or would be ineffective to secure compliance because of circumstances related to the violation; or

2. The variance was obtained with false or misleading information.

B. Notice of Revocation. Whenever the Administrator determines there are grounds for revoking a variance, the Administrator may issue a Notice of Revocation.

1. The Notice of Revocation shall identify the reason for the proposed revocation, including the violations, the conditions violated, and/or the alleged false or misleading information provided.

2. The Notice of Revocation shall be served on the owner of the property on which the work is occurring, the holder of the variance, and the person doing or causing the work to be done.

3. The Notice of Revocation shall be served in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail. The Notice of Revocation may also be posted in a conspicuous place on the site. For purposes of this section, service is complete at the time of personal service, or if mailed, three days after the date of mailing. When the last day of the period so computed is a Saturday, Sunday or City holiday, the period runs until 5 p.m. on the next business day.

4. The Administrator shall identify in the Notice of Revocation a date certain on which the revocation will take effect unless review before the Administrator is requested and pursued pursuant to subsection 25.08.615.C.

C. Review by the Administrator.

1. Any person aggrieved by a Notice of Revocation of a noise variance may obtain a review by making a request in writing to the Administrator within three business days of the date of service of the Notice of Revocation.

2. The review shall occur within five business days after receipt by the Administrator of the request for review.

3. Any person aggrieved by or interested in the Notice of Revocation may submit additional information to the Administrator for consideration as part of the review at any time prior to the review.

4. The review will be made by a representative of the Administrator who will review all additional information received and may also request a site visit. After the review, the Administrator may:

a. Sustain the Notice of Revocation and set or modify the date the revocation will take effect;

b. Withdraw the Notice of Revocation;

c. Modify the Notice of Revocation and set or modify the date the revocation will take effect; or

d. Continue the review to a date certain for receipt of additional information.

D. Order of the Administrator.

1. The Administrator shall issue an Order of the Administrator containing the decision within ten days after the review and shall cause the same to be sent by first class mail to the person or persons requesting the review, any other person on whom the Notice of Revocation was served, and any other person who requested a copy before issuance of the Order of the Administrator.

2. The Order of the Administrator is the final order of the City and the City and all parties shall be bound by the Order unless judicial review is sought pursuant to subsection 25.08.615.E.

E. Judicial Review. Any judicial review must be commenced pursuant to RCW 36.70C within 21 days after issuance of the Order of the Administrator.

(Ord. 122923, § 39, 2009)

25.08.630 - Temporary variance

The Administrator may grant a temporary variance, not to exceed 14 days, for any activity, use, process or equipment that the Administrator determines, in accordance with rules

and regulations, does not annoy a substantial number of people and does not endanger public health or safety.

(Ord. 122923, § 40, 2009; Ord. 106360 § 702(a), 1977.)

25.08.640 - Technical variance

A technical variance may be granted by the Administrator on the ground that there is no practical means known or available for the adequate prevention, abatement or control of the noise involved. The Administrator shall determine the duration of each technical variance. The holder of a technical variance shall make reports to the Administrator, on a schedule prescribed by the Administrator, detailing actions taken to develop a means of noise control or to reduce the noise involved and relating these actions to pertinent current technology.

(Ord. 122923, § 41, 2009; Ord. 106360 § 702(b), 1977.)

25.08.650 - Economic variance

An economic variance may be granted by the Administrator on the ground that compliance with the particular requirement or requirements from which the variance is sought will require the taking of measures that, because of their extent or cost, must be spread over a period of time. The duration of an economic variance shall be for a period not to exceed such reasonable time as is required in the view of the Administrator for the taking of the necessary measures. An economic variance shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to the timetable.

(Ord. 122923, § 42, 2009; Ord. 106360 § 702(c), 1977.)

25.08.655 - Major Public Project Construction Variance

A. The Administrator may grant a major public project construction variance to provide relief from the exterior sound level limits established by this chapter during the construction periods of major public projects. A major public project construction variance shall provide relief from the exterior sound level limits during the construction or reconstruction of a major public project only to the extent the applicant demonstrates that compliance with the levels would:

1. Be unreasonable in light of public or worker safety or cause the applicant to violate other applicable regulations, including but not limited to regulations that reduce impacts on transportation infrastructure or natural resources; or

2. Render the project economically or functionally unreasonable due to factors such as the financial cost of compliance or the impact of complying for the duration of the construction or reconstruction of the major public project.

B. A major public project construction variance shall set forth the period or periods during which the variance is effective, which period or periods shall be the minimum reasonably necessary in light of the standard set forth in subsection A, and the exterior sound level limits that will be in effect during the period of the variance. Different major public project construction variances may be issued for distinct phases of a construction project, or one major public project construction variance may be issued for the entire major public project. The period or periods during which a major public project construction variance is effective may be stated in terms of calendar dates or in terms of the duration of a construction project or a phase or phases of a construction project.

C. The Administrator shall condition a major public project construction variance as necessary to provide reasonable control or mitigation of the construction noise that may be expected to occur pursuant to the variance.

D. One-year review and decision.

1. No later than one year after the start of construction to which a major public project construction variance applies, the Administrator shall review, and provide opportunity for public comment on, the operation of the variance during the first year, including the provisions of the Noise Management and Mitigation Plan, and the conditions of the variance. For purposes of determining the date of the start of the project's construction work, site exploration work is excluded.

2. After considering the public comments received, the Administrator may modify the terms and conditions of the variance or the Noise Management and Mitigation plan as needed if the Administrator determines that the current variance, the conditions of the variance, or the Noise Management and Mitigation Plan are not adequately protecting the public health and safety or reasonably controlling or mitigating the construction noise, or that there are more reasonable methods of doing so.

3. The Administrator shall make a decision whether to modify a variance pursuant to this review within one-year and 90 days after the start of construction work as provided in subsection 25.08.655.D.1.

4. Appeal. Any person aggrieved by the decision of the Administrator whether to modify a variance pursuant to this subsection 25.08.655.D may appeal such decision by filing an appeal in writing with the Hearing Examiner by 5 p.m. of the tenth day following the date of the issuance of the decision. When the last day of the appeal period is a Saturday, Sunday, or federal or City holiday, the appeal may be filed until 5 p.m. on the next business day. The Hearing Examiner appeal shall be conducted pursuant to section 25.08.610.

5. Effective date. The decision of the Administrator whether to modify a variance pursuant to this subsection 25.08.655.D is effective 30 days following the decision unless it is appealed to the Hearing Examiner. If the Administrator's decision is appealed to the Hearing Examiner, the Administrator's decision does not take effect and the original terms and conditions of the variance remain in effect until the effective date of the Hearing Examiner decision. The Hearing Examiner decision is a final decision of the City for purposes of RCW 36.70C, and is effective 30 days from the date of the decision, unless otherwise ordered by a court. If a court stays the effective date of the decision, the original unmodified variance shall remain in effect during the stay.

(Ord. 122923, § 43, 2009)

Subchapter VIII Administration And Noise Measurement

25.08.660 - Authority of Administrator and Chief of Police.

Unless provided otherwise by this chapter, the Chief of Police shall be responsible for enforcing Sections 25.08.500, 25.08.505 and 25.08.515, the Chief of Police and the Administrator shall be responsible for enforcing Subchapter IV of this chapter, and the Administrator shall be responsible for enforcing the remaining provisions of this chapter. Upon request by the Administrator or the Chief of Police, all other City departments and divisions are authorized to assist them in enforcing this chapter.

(Ord. 121192 § 5, 2003; Ord. 114656 § 3, 1989; Ord. 110047 § 5, 1981; Ord. 106360 § 801, 1977.)

25.08.670 - Duties of Administrator

The duties of the Administrator include, but are not limited to:

A. Obtaining assistance from other appropriate City departments and divisions;

- B. Training field inspectors;
 - C. Purchasing measuring instruments and training inspectors in their calibration and use;
 - D. Promulgating and publishing rules and procedures, in accordance with the Administrative Code, SMC Chapter 3.02, to establish techniques for measuring or reducing noise and to provide for clarification, interpretation, and implementation of this chapter;
 - E. Investigating noise complaints;
 - F. Enforcement of this chapter in accordance with Subchapter IX;
 - G. Assisting the public and City departments in evaluating and reducing the noise impact of their activities;
 - H. Assisting City planning officials in evaluating the noise component in planning and zoning actions;
 - I. Instituting a public education program on noise; and
 - J. Reviewing at least every three years the provisions of this chapter and recommending revisions consistent with technology to reduce noise.
- (Ord. 122923, § 44, 2009; Ord. 106360 § 802, 1977.)

25.08.680 - Measurement of sound

If the measurements of sound are made with a sound level meter, it shall be an instrument in good operating condition and shall meet the requirements for a Type I or Type II instrument, as described in American National Standards Institute Specifications, Section 1.4-1983, as it now exists or as hereafter amended. If the measurements are made with other instruments, or assemblages of instruments, the procedure must be carried out in such manner that the overall accuracy shall be at least that called for in Section 1.4-1983, as it now exists or as hereafter amended for Type II instruments.

(Ord. 122923, § 45, 2009; Ord. 106360 § 803, 1977.)

25.08.690 - Technical corrections.

When the location, distance or technique prescribed in this chapter for measurement of sound is impractical or would yield misleading or inaccurate results, measurements shall be taken at other locations or distances using appropriate correction factors, as specified in the rules promulgated by the Administrator.

(Ord. 106360 § 804, 1977.)

25.08.700 - Receiving properties within more than one district

Where a receiving property lies within more than one district, the exterior sound level limits shall be determined by the district within which the measurement is made.

(Ord. 122923, § 46, 2009; Ord. 106360 § 805, 1977.)

Subchapter IX Enforcement

25.08.710 - Right of entry

Upon presentation of proper credentials, and with the consent of the occupant or the consent of the owner of any unoccupied building, structure, property or portion thereof, or pursuant to a lawfully issued warrant, the Administrator or the Administrator's designee may enter at all reasonable times, any building, structure, property or portion thereof whenever necessary to make an inspection to enforce or determine compliance with the provisions of this chapter. If the building, structure, property or portion thereof is unoccupied, the Administrator

shall, except in case of emergency first locate the owner or other persons having charge or control of the building, structure, property or portion thereof and request entry.
(Ord. 122923, § 47, 2009; Ord. 10047 § 6, 1981; Ord. 106360 § 901, 1977.)

25.08.720 - Stop Work Order

A. Stop Work Order. A Stop Work Order may be issued whenever a violation of this Code or a violation of the conditions of a variance threatens the health or safety of the public or materially impairs the Administrator's ability to secure compliance with this Code.

1. The Stop Work Order must specify the violation and may prohibit all or any work or other activity at the site that is a cause of the code violation or the violation of the variance condition.

2. The Administrator may serve the Stop Work Order by posting it in a conspicuous place at the site, if posting is physically possible. If posting is not physically possible, then the Stop Work Order may be served in the manner set forth in RCW 4.28.080 for service of a summons or by sending it by first class mail to the last known address of: the property owner(s), the person(s) doing or causing the work to be done, and the holder of any variance if work is being stopped on a variance. For purposes of this section, service is complete at the time of posting or of personal service, or if mailed, three days after the date of mailing. When the last day of the period so computed is a Saturday, Sunday or City holiday, the period runs until 5 p.m. on the next business day.

3. A Stop Work Order is effective when posted, or if posting is not physically possible, when one of the persons identified in subsection 25.08.720.A.2 is served.

B. Review by the Administrator.

1. Any person aggrieved by a Stop Work Order may obtain a review of the Stop Work Order by delivering to the Department a request in writing within two business days of the date of service of the Stop Work Order.

2. The review shall occur within two business days after receipt by the Administrator of the request for review unless the requestor requests or agrees to a longer time.

3. Any person aggrieved by or interested in the Stop Work Order may submit additional information to the Administrator for consideration as part of the review at any time prior to the review.

4. The review will be made by a representative of the Administrator who will review all additional information received and may also request a site visit. After the review, the Administrator may:

- a. Sustain the Stop Work Order;
- b. Withdraw the Stop Work Order;
- c. Modify the Stop Work Order; or
- d. Continue the review to a date certain for receipt of additional

information.

C. Order of the Administrator. The Administrator shall issue an Order of the Administrator containing the decision within two business days after the review and shall cause the same to be sent by first class mail to the person or persons requesting the review, any person on whom the stop work order was served, and any other person who requested a copy before issuance of the Order. The City and all parties shall be bound by the Order.

(Ord. 122923, § 48, 2009)

25.08.730 - Notice of Violation

A. In addition to other remedies provided by this chapter or by law, whenever the Administrator has reason to believe that an exterior sound level limit established by this chapter is being or has been exceeded, that a public nuisance noise is being emitted, that the terms of a variance have not been met or are being violated, or that any other provision of this chapter that the Administrator is authorized to enforce is being violated, the Administrator may issue a written notice of violation to the owner or operator of the source, or to the holder of a variance.

B. The notice of violation shall contain a brief and concise description of the conditions alleged to be in violation, the provision(s) of this Chapter alleged to have been violated, the sound level readings, if taken, including the time and place of their recording, a statement of the corrective action required, and if applicable, a reasonable time for correction.

C. Nothing in this section shall be deemed to limit or preclude any action or proceeding to enforce this chapter, and nothing shall be deemed to obligate or require the Administrator to issue a notice of violation prior to the imposition of civil or criminal penalties.

(Ord. 122923, § 49, 2009; Ord. 110047 § 7, 1981; Ord. 106360 § 903(a), 1977.)

25.08.740 - Service, Mailing and Posting of Notice.

The notice of violation shall be served upon the persons responsible for the condition or violation by personal service or by first class mail, to the person's last known address. If the address of the responsible person is unknown and cannot be found after a reasonable search, the notice may be served by posting a copy of the notice of violation at a conspicuous place on the property where the violation occurred. If a notice of violation is directed to a person responsible for the violation who is not the owner of the property where the violation is occurring, a copy of the notice of violation may be sent to the owner of the property.

(Ord. 122923, § 50, 2009; Ord. 106360 § 903(b), 1977.)

25.08.760 - Review by the Administrator

A. Any person significantly affected by or interested in a notice of violation issued by the Administrator pursuant to this chapter may obtain a review of the notice by requesting such review within ten days after service of the notice. When the last day of the period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until 5 p.m. on the next business day. The request shall be in writing, and upon receipt of the request, the Administrator shall notify any persons served the notice and the complainant, if any, of the request for review and the deadline for submitting additional information for the review. Additional information shall be submitted to the Administrator no later than 15 days after the notice of a request for a review is mailed, unless otherwise agreed by all persons served with the notice. Before the deadline for submission of additional information, any person significantly affected by or interested in the notice (including any persons served the notice and the complainant) may submit any additional information in the form of written material or oral comments to the Administrator for consideration as part of the review.

B. The review will be made by a representative of the Administrator who is familiar with the case and the applicable ordinances. The Administrator's representative will review all additional information received by the deadline for submission of additional information. The reviewer may also request clarification of information received and a site visit. After review of the additional information, the Administrator may:

1. Sustain the notice;
2. Withdraw the notice;
3. Continue the review to a date certain for receipt of additional information; or

4. Modify the notice, which may include an extension of any compliance date.
(Ord. 122923, § 51, 2009; Ord. 106360 § 903(d), 1977.)

25.08.765 - Order of the Administrator

A. Where review by the Administrator has been conducted pursuant to Section 25.08.760, the Administrator shall issue an order of the Administrator containing the decision within fifteen days of the date the review is completed and shall cause the same to be mailed by regular first class mail to the person or persons named in the notice of violation and mailed to the complainant, if any.

B. Unless a request for review before the Administrator is made pursuant to Section 25.08.760, the notice of violation shall become the order of the Administrator.

C. Civil actions to enforce orders of the Administrator are brought in Seattle Municipal Court and are not subject to judicial review pursuant to chapter 36.70C RCW.
(Ord. 122923, § 52, 2009)

25.08.800 - Civil Enforcement and Criminal Penalties

A. Civil Penalties. In addition to any other remedy authorized by law or equity, and except for violations of Sections 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, any person violating or failing to comply with any requirement of this chapter or order issued by the Administrator shall be subject to a cumulative civil penalty of up to \$1,300 per day for each day that the violation or failure to comply continues. Alternatively, for violations of Sections 25.08.410, 25.08.420, and 25.08.425, the Administrator may follow the citation process in Sections 25.08.900-25.08.970.

B. Crime. Conduct made unlawful by Section 25.08.500 of this chapter constitutes a crime subject to the provisions of Chapters 12A.02 and 12A.04 of this Code (Seattle Criminal Code), except that absolute liability shall be imposed for such a violation, and none of the mental states described in Section 12A.04.030 need be proved, and any person convicted thereof shall be punished by a fine not to exceed \$500, or by imprisonment in the City Jail for a term not to exceed six months, or by both such fine and imprisonment.

C. Penalties for other violations.

1. Conduct made unlawful by Section 25.08.515 shall be punished by a civil fine or forfeiture not to exceed \$50.

2. Conduct in violation of Subchapter IV of this chapter shall be punished by a civil fine or forfeiture not to exceed \$500.

D. Alternative criminal penalty. As an alternative to the civil penalties provided in this section the Administrator may request that violations of or failure to comply with this chapter or orders issued by the Administrator be prosecuted criminally. In such case, any person who violates or fails to comply with an order issued by the Administrator or any of the provisions of this chapter except for Sections 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, shall be guilty of a gross misdemeanor subject to the provisions of Chapter 12A.02 and 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply, and none of the mental states described in Section 12A.04.030 need be proved. Any person convicted thereof shall be punished by a fine not to exceed \$5,000 or by imprisonment in the City Jail for a term not to exceed one year, or by both such fine and imprisonment.

E. Each day a violation continues and each occurrence of a prohibited activity shall be deemed a separate offense.

(Ord. 122923, § 53, 2009; Ord. 114656 § 4, 1989; Ord. 110047 § 8, 1981; Ord. 106360 § 905(a), 1977.)

25.08.805 - Residential disturbance penalties.

A. Except as provided in subsection B of this section, conduct made unlawful by Section 25.08.505 shall be a Class 1 civil infraction as contemplated by RCW Chapter 7.80 and is subject to a monetary penalty and a default amount of Two Hundred Fifty Dollars (\$250), plus any statutory assessments. A civil infraction under this section shall be processed in the manner set forth in RCW Chapter 7.80.

B. A person who continues to be in violation of Section 25.08.505 after receiving a notice of infraction pursuant to subsection A of this section, or who again violates Section 25.08.505 within twenty-four (24) hours after receiving a notice of infraction pursuant to subsection A of this section commits a misdemeanor and any person who is convicted thereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500), or by imprisonment in the City Jail for a term not to exceed six (6) months, or by both such fine and imprisonment. (Ord. 121192 § 6, 2003.)

25.08.820 - Penalties cumulative

The penalties imposed by Sections 25.08.800, 25.08.805, and 25.08.960 are in addition to any other sanction or remedial procedure that may be available at law or equity. (Ord. 122923, § 54, 2009; Ord. 121192 § 7, 2003; Ord. 110047 § 10, 1981.)

25.08.890 - Warning for Nightlife disturbance violations.

If after investigation the Administrator determines that the provisions of Section 25.08.501 have been violated, the Administrator may issue a citation, but only if a written warning has been issued to the person by the City within the previous three hundred and sixty-five (365) days. A warning shall be served upon the persons responsible for the condition or violation by personal service or by first class mail, addressed to the person's last known address. If the address of the responsible person is unknown and cannot be found after a reasonable search, the warning may be served by posting a copy at a conspicuous place on the property where the violation occurred. If a warning is directed to a person responsible for the violation who is not the owner of the property where the violation is occurring, a copy of the warning may be sent to the owner of the property. The warning is effective on the earliest date of: the date of personal service, the date of posting, three days after mailing by the City, or the day the notice is actually received.

(Ord. 122614, § 4, 2007.)

25.08.900 - Citation.

- A. Citation. The citation shall include the following information:
1. The name and address of the person to whom the citation is issued;
 2. A reasonable description of the location of the property on which the violation occurred;
 3. A separate statement of each requirement or provision of the Chapter violated;
 4. The date of the violation;
 5. A statement that the person cited must respond to the citation within fifteen (15) days after service;
 6. A space for entry of the applicable penalty;
 7. A statement that a response must be received at the Office of Hearing Examiner not later than five p.m. on the date the response is due;

8. The name, address and phone number of the Office of Hearing Examiner where the citation is to be filed;

9. A statement that the citation represents a determination that a violation has been committed by the person named in the citation and that the determination shall be final unless contested as provided in this chapter; and

10. A certified statement of the person issuing the citation, authorized by RCW 9A.72.085, setting forth facts supporting issuance of the citation.

B. Service. The citation may be served by personal service in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of such person(s). Service shall be complete at the time of personal service, or if mailed, on the date of mailing. If a citation sent by first class mail is returned as undeliverable, service may be made by posting the citation at a conspicuous place on the property on which the violation occurred.

(Ord. 122614, § 5, 2007.)

25.08.910 - Response to citations.

A. A person must respond to a citation in one (1) of the following ways:

1. Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited committed the violation; or

2. Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing a mailing address to which notice of such hearing may be sent; or

3. Requesting a contested hearing in writing, specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing a mailing address to which notice of such hearing may be sent.

B. A response to a citation must be received by the Office of the Hearing Examiner no later than fifteen (15) days after the date the citation is served. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five p.m. on the next business day.

(Ord. 122614, § 6, 2007.)

25.08.915 - Voluntary mitigation and waiver of initial penalty for nightlife disturbance violations.

For violations of Section 25.08.501 only, the Administrator may waive the penalty for the first violation if, within fifteen (15) days of the date of the citation, the respondent admits liability for the violation and elects, in a manner prescribed by rule, to provide permanent improvements or modifications that are reasonably likely to prevent future violations, which may include, but not be limited to, installation of sound insulation, isolators, suspension mounting or other sound mitigating measures. To be eligible for waiver, these improvements must be installed and approved by the Administrator within ninety (90) days of the citation.

(Ord. 122614, § 7, 2007.)

25.08.920 - Failure to respond.

If a person fails to respond to a citation within fifteen (15) days of service, an order shall be entered by the Hearing Examiner finding that the person cited committed the violation stated in the citation, and assessing the penalty specified in the citation.

(Ord. 122614, § 8, 2007.)

25.08.930 - Mitigation hearings.

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within thirty (30) days after written response to the citation requesting such hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing will be sent by first class mail to the address provided in the request for hearing not less than ten (10) days prior to the date of the hearing.

B. Procedure at Hearing. The Hearing Examiner shall hold an informal hearing, which shall not be governed by the Rules of Evidence. The person cited may present witnesses, but witnesses may not be compelled to attend. A representative of the Administrator may also be present and may present additional information, but attendance by a representative of the Administrator is not required.

C. Disposition. The Hearing Examiner shall determine whether the person's explanation justifies reduction of the monetary penalty; however, the monetary penalty may not be reduced unless the Administrator affirms or certifies that the violation has been corrected prior to the mitigation hearing. Factors that may be considered in whether to reduce the penalty include whether the violation was caused by the act or neglect of another; or whether correction of the violation was commenced promptly prior to citation but that full compliance was prevented by a condition or circumstance beyond the control of the person cited.

D. Entry of Order. After hearing the explanation of the person cited and any other information presented at the hearing, the Hearing Examiner shall enter an order finding that the person cited committed the violation and assessing a monetary penalty in an amount determined pursuant to this section. The Hearing Examiner's decision is the final decision of the City on this matter.

(Ord. 122614, § 9, 2007.)

25.08.940 - Contested case hearing.

A. Date and Notice. If a person requests a contested case hearing, the hearing shall be held within sixty (60) days after the written response to the citation requesting such hearing is received.

B. Hearing. Contested case hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for hearing contested cases, except as modified by this section. The issues heard at the hearing shall be limited to those raised in writing in the response to the citation and that are within the jurisdiction of the Hearing Examiner. The Hearing Examiner may issue subpoenas for the attendance of witnesses and the production of documents.

C. Sufficiency. No citation shall be deemed insufficient for failure to contain a detailed statement of the facts constituting the specific violation which the person cited is alleged to have committed or by reason of defects or imperfections, provided such lack of detail, or defects or imperfections do not prejudice substantial rights of the person cited.

D. Amendment of Citation. A citation may be amended prior to the conclusion of the hearing to conform to the evidence presented if substantial rights of the person cited are not thereby prejudiced.

E. Evidence at Hearing. The certified statement or declaration authorized by RCW 9A.72.085 submitted by a representative of the Administrator shall be prima facie evidence that a violation occurred and that the person cited is responsible. Any certifications or declarations

authorized under RCW 9A.72.085 shall be admissible without further evidentiary foundation. The person cited may rebut the evidence and establish that the cited violation(s) did not occur or that the person contesting the citation is not responsible for the violation.

F. Disposition. If the citation is sustained at the hearing, the Hearing Examiner shall enter an order finding that the person cited committed the violation and shall impose the applicable penalty. If the Hearing Examiner determines that the violation did not occur, the Hearing Examiner shall enter an order dismissing the citation.

G. Appeal. The Hearing Examiner's decision is the final decision of the City. Any judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision in accordance with RCW 36.70C.040.
(Ord. 122614, § 10, 2007.)

25.08.950 - Failure to appear for hearing.

Failure to appear for a requested hearing will result in an order being entered finding that the person cited committed the violation stated in the citation and assessing the penalty specified in the citation. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

(Ord. 122614, § 11, 2007.)

25.08.960 - Citation Penalties

A person or entity found to have violated Sections 25.08.410, 25.08.420, 25.08.425 or 25.08.501 and to whom a citation was issued, is subject to a penalty according to the following schedule.

Citation Penalty Schedule

Section or Subsection Violated	First Violation	Second Violation	Third and Subsequent Violations
25.08.410, 25.08.420, 25.08.425 B, or 25.08.425 F	\$150	\$300	\$600
25.08.425 C	\$325	\$650	\$1,300
25.08.501	\$1,000	\$2,000	\$2,000

(Ord. 122923, § 55, 2009; Ord. 122614, § 12, 2007.)

25.08.970 - Each day a separate violation.

Each day a person violates or fails to comply with the provisions of this chapter for which a citation may be issued may be considered a separate violation for which a citation may be issued and for which penalties may be imposed.

(Ord. 122614, § 13, 2007.)