



ORDINANCE NO. 27673

1 AN ORDINANCE relating to the regulation of noise; adopting definitions and
2 standards for noise regulation; adopting or amending enforcement
3 provisions; adding a new Chapter 8.122, entitled "Noise Enforcement" to
4 Title 8 of the Tacoma Municipal Code; amending Chapters 1.06, 6B.180,
5 8.12, and 8.30 of the Tacoma Municipal Code in connection therewith; and
6 repealing Chapters 8.06 and 9.35 in their entirety.

7 WHEREAS excessive noise affects the quality of life of the citizens of
8 Tacoma, and

9 WHEREAS, cognizant of the need to balance the rights of persons living
10 and working in a mixed urban environment with the needs of business, the City
11 Council has determined that it is in the best interests of the City to revise, update,
12 and consolidate the City's laws related to the regulation of noise; Now, Therefore,

13 BE IT ORDAINED BY THE CITY OF TACOMA:

14 Section 1. Findings. Based on the testimony provided to the
15 Neighborhoods and Housing Committee and at public hearings before the Tacoma
16 City Council, the City Council makes the following findings:

17 A. That excessive noise is a serious hazard to the public health, safety,
18 welfare, and quality of life of the citizens of Tacoma;

19 B. That every citizen has the right to the quiet enjoyment of his or her
20 private property and the usability of his or her commercial and industrial property;

21 C. That a substantial body of science and technology exists by which
22 excessive noise may be substantially abated; and
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1 D. That, based on special conditions related to the urban environment and
2 measurements of ambient sound levels throughout the City, the City needs to
3 impose limits that differ from the standards adopted by the State of Washington in
4 Section 173-60-040 of the Washington Administrative Code.

5 Section 2. Policy. It is the policy of the City of Tacoma to prevent noise
6 that may jeopardize the health and welfare or safety of its citizens or degrade the
7 quality of life. This ordinance is intended to apply to the control of noise originating
8 from activity within the City limits. It is not intended to regulate the content of any
9 speech.

10 Section 3. That Title 8 of the Tacoma Municipal Code, entitled "Public
11 Safety and Morals," is amended by adding a new Chapter 8.122, entitled "Noise
12 Enforcement," as set forth in Exhibit "A."

13 Section 4. That subsection 1.06.710.F of the Tacoma Municipal Code is
14 amended, as set forth in Exhibit "B."

15 Section 5. That Section 6B.180.110.H of the Tacoma Municipal Code is
16 amended, as set forth in Exhibit "C."

17 Section 6. That Section 8.12.060 of the Tacoma Municipal Code is
18 amended as set forth in Exhibit "D."

19 Section 7. That Section 8.30.040.D of the Tacoma Municipal Code is
20 amended, as set forth in Exhibit "E."

21 Section 8. That Section 8.06.100 of the Tacoma Municipal Code is
22 repealed in its entirety.



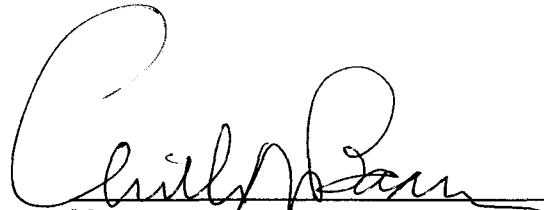
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Section 9. That Section 9.35.060 of the Tacoma Municipal Code is repealed in its entirety.

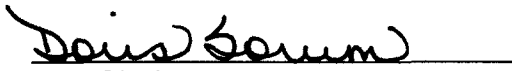
Section 10. Severability. If any provision or section of this ordinance is held to be unconstitutional or preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

Section 11. That Sections 1 through 9 of this ordinance shall become effective April 2, 2008.

Passed FEB 19 2008


Mayor

Attest:


City Clerk

Approved as to form:

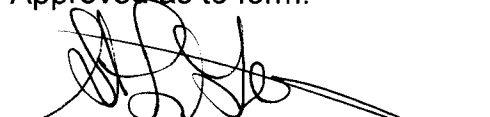

Assistant City Attorney



EXHIBIT "A"

Chapter 8.122

NOISE ENFORCEMENT

Sections:

- 8.122.010 General definitions.
- 8.122.020 General powers of the Director.
- 8.122.030 Testing by order of the Director.
- 8.122.040 Inspection.
- 8.122.050 Procedures for the determination of sound levels.
- 8.122.060 Nuisance regulations not prohibited.
- 8.122.070 Exemptions.
- 8.122.080 General prohibitions.
- 8.122.090 Construction.
- 8.122.100 Commercial music.
- 8.122.110 Variances.
- 8.122.120 Noise control plan.
- 8.122.130 Penalty for violation.
- 8.122.140 Notice of Violation and civil penalty.
- 8.122.150 Hearing by the Hearing Officer.

8.122.010 General definitions.

As used in this Chapter, the following terms shall have the meanings set forth in this Section, unless a different meaning is clearly indicated by the context in which the term is used:

A. "Activity" means any act or combination of acts, which actually results in the production of sound.

B. "Ambient" sound means the sound level at a given location that exists as a result of the combined contribution in that location of all sound sources, excluding the contribution of a source or sources under investigation for violation of this code and excluding the contribution of extraneous sound sources. For purposes of the enforcement of this code, the ambient sound level of a given location may be determined based upon measurements taken at a comparable site (which includes but is not limited to comparable physical locations and time of day) in the nearby area.

C. "ANSI" means the American National Standards Institute, which serves as the administrator and coordinator of the United States private sector voluntary standardization system.

D. "Apparatus" means any mechanism that prevents, controls, detects, measures or records the production of sound.

E. "Building" means a structure as defined in Section 2.01.050 of the Tacoma Municipal Code.

F. "Charter" means the charter of the city of Tacoma including all of its amendments.

G. "Construction" or "construction work" means any or all activity necessary or incidental to the erection, demolition, assembling, altering, installing, or equipping of buildings, public or private highways, roads, premises, parks or utility lines, including land clearing, grading, excavating, and filling.



1 H. "Construction device" means any device designed and intended for use in construction
2 including, but not limited to any air compressor, pile driver, sledgehammer, bulldozer,
3 pneumatic hammer, steam shovel, derrick, crane, steam or electric hoist, construction vehicle,
4 or pneumatic or electric tool.

5 I. "dB (A)" means the sound level as measured with a sound level meter using the "A"
6 weighting network. This frequency-weighting network for the measurement of sound levels
7 shall comply with standards established by the American National Standards Institute
8 specifications for sound level meters S1.4-1971, as amended or S1.4-1983, as amended.

9 J. "dB(C)" level means the sound level as measured with a sound level meter using the "C"
10 weighting network. This frequency-weighting network for the measurement of sound levels
11 shall comply with standards established by the American National Standards Institute
12 specifications for sound level meters S1.4-1971, as amended or S1.4-1983, as amended.

13 K. "Decibel" means the practical unit of measurement for sound pressure level; the number of
14 decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the
15 sound pressure to the pressure of a reference sound (20 micropascals); abbreviated "dB."

16 L. Device means any mechanism that is intended to or that actually produces sound when
17 operated or handled.

18 M. "Department" means the Department of Public Works.

19 N. "Director" means Director of Public Works or his or her authorized representative.

20 O. "Dwelling" means any building lawfully occupied in whole or in part as the temporary or
21 permanent residence of one or more natural persons.

22 P. "Emergency" means a public calamity or an exposure of any person or property to imminent
23 danger.

24 Q. "Emergency energy release device" means a device used specifically to release excess
25 energy on a nonscheduled basis as necessary for purposes of safety, and not as a part of routine
26 process control.

R. "Emergency signal device" means any gong, siren, whistle, air horn or any similar device
used on authorized emergency vehicles.

S. "Extraneous sound" means a sound that is relatively intense, intermittent, and of short
duration and is neither part of the ambient sound, nor comes from the sound source under
investigation. These sources of sound are noted but excluded from all measurements.

T. "Frequency" means the time rate of repetition of sound waves in cycles per second, reported
as Hertz (Hz). "Frequency" is sometimes colloquially referred to as "pitch." Low frequency
sounds can correspond to the bass notes in music. Low frequency sound waves travel farther
and penetrate structures more efficiently than high frequency sound waves.

U. "Impulsive sound" is sound that is of short duration where each peak of sound lasts one
second or less. The sound is characterized by abrupt onset and rapid decay. As used in this
code, the term impulsive sound shall not include music.

V. "Lmax" means the maximum measured sound level at any instant in time.

W. "Motor vehicle" means any vehicle that is self-propelled, used primarily for transporting
persons or property upon public highways. Vehicles not actively in use for transportation on
public highways are not motor vehicles as that term is used herein.

X. "Owner" means and includes the owner of the freehold of the premises or lesser estate
therein, or mortgagee thereof, a lessee or agent of any of the above persons, a lessee of a device
or his or her agent, a tenant, operator, or any other person who has regular control of a device
or an apparatus.



1 Y. "Person" means any individual, partnership, company, corporation, association, firm,
organization, governmental agency, administration, or department, or any other group of
individuals, or any officer or employee thereof.

2 Z. "Plainly audible sound" means any sound for which any of the content of that sound, such
3 as, but not limited to, comprehensible musical rhythms, is communicated to a person using his
4 or her unaided hearing faculties. For the purposes of the enforcement of this code, the detection
5 of any component of sound, including, but not limited to, the rhythmic bass by a person using
6 his or her unaided hearing faculties is sufficient to verify plainly audible sound. It is not
7 necessary for such person to determine the title, specific words or artist of music, or the content
8 of any speech.

9 AA. "Public right-of-way" means a public highway, road, street, avenue, alley, driveway, path,
10 sidewalk, roadway, or any other public place or public way.

11 BB. "Receiving property" means real property, including, but not limited to, buildings,
12 grounds, offices and dwelling units from which sound levels from sound sources outside such
13 property may be measured. Individual offices or dwelling units within a building may
14 constitute a receiving property.

15 CC. "Sound" means an oscillation in pressure, stress, particle displacement, particle velocity,
16 etc., in a medium with internal forces (e.g., elastic, viscous) or the superposition of such
17 propagated oscillation that evokes an auditory sensation.

18 DD. "Sound level meter" means any instrument including a microphone, an amplifier, an
19 output meter, and frequency weighting networks for the measurement of noise and sound
20 levels in a specified manner and that complies with standards established by the American
21 National Standards Institute specifications for sound level meters S1.4-1971, as amended or
22 S1.4-1983, as amended.

23 EE. "Sound level" (decibels) means an expression of the acoustic pressure calculated as
24 20 times the logarithm to the base 10 of the ratio of the root mean square of the pressure of the
25 sound to the reference pressure, 20 micropascals.

26 FF. "Sound reproduction device" means a device intended primarily for the production or
reproduction of sound, including but not limited to any musical instrument, radio receiver,
television receiver, tape recorder, phonograph or electronic sound amplifying system.

GG. "Sound signal" means any sound produced by a sound signal device designed to transmit
information.

HH. "Sound signal device" means a device designed to produce a sound signal when operated,
including but not limited to any claxon, air horn, whistle, bell, gong, siren, but not an
emergency signal device.

II. "Sound source" means any activity or device that emits sound.

JJ. "Total sound level" means that measured sound level that represents the combined sound
level of the source or sources under investigation and the ambient sound level. Total sound
level measurements shall exclude extraneous sound sources.

KK. "Unreasonable noise" means any excessive or unusually loud sound that disturbs the
peace, comfort, or repose of a reasonable person of normal sensibilities, injures or endangers
the health or safety of a reasonable person of normal sensibilities, or that causes injury or
damage to property or business.

LL. "Weekday" means any day that is not a federal holiday and beginning on Monday at 7:00
a.m. and ending on the following Friday at 6:00 p.m.

MM. "Weekend" means beginning on Friday at 6:00 p.m. and ending on the following Monday
at 7:00 a.m.



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8.122.020 General powers of the Director.

A. Subject to the provisions of this code, the Director may take such action as may be necessary to abate a sound source that causes or may cause, by itself or in combination with any other sound source or sources, an unreasonable or prohibited noise. The Director may exercise or delegate any of the functions, powers and duties vested in him or her or in the department by this code.

B. The Director shall promulgate such rules as are necessary to effectuate the purposes of this code, including, without limitation, rules setting forth specifications for the operation, installation, best available technology, or manufacture of sound generating equipment or devices, or sound mitigation equipment or devices.

C. The Director shall promulgate such rules as are necessary with regard to standards and procedures to be followed in the measurement of sound pressure levels governed by the provisions of this code.

D. The police department, as well as other agencies of the city designated by the Director, shall have the authority to enforce the provisions of this code and police officers and designated employees of the department and of such other city agencies shall have the power to issue notices of violation for violations of this code.

8.122.030 Testing by order of the Director.

A. If the Director has reasonable cause to believe that any device is in violation of this code, the Director may order the owner of the device to conduct such tests as are necessary in the opinion of the Director to determine whether the device or its operation is in violation of this code and to submit the test results to the Director within ten days after the tests are completed.

B. Such tests shall be conducted in a manner approved by the Director. If any part of the test is conducted at a place other than the site where the device is located, that part of the test shall be certified by a laboratory acceptable to the Director. The Director may require that the entire test results shall be reviewed and certified by (i) a professional engineer with acoustical experience as specified in the rules of the department or (ii) a noise consultant with qualifications of education and/or acoustical experience as set forth in the rules of the department.

C. If in the opinion of the Director, tests by the department are necessary, the Director may order the owner to provide such access to the device as the Director may reasonably request, to provide a power source suitable to the points of testing, and to provide allied facilities, exclusive of sound level meter. These provisions shall be made at the expense of the owner of the device. The owner shall be furnished with copies of the analytical results of the data collected.

8.122.040 Inspection.

A. The department may inspect at any reasonable time and in a reasonable manner any device that creates or may create unreasonable or prohibited noise including but not limited to the premises where the device is used.

B. The department may inspect at any reasonable time and in a reasonable manner any record relating to a use of a device that creates or may create unreasonable or prohibited noise.



1 **8.122.050 Procedures for the determination of sound levels.**

2 Unless otherwise specifically provided, sound levels shall be determined as follows:

3 A. The sound level shall be measured with a sound level meter. The sound level meter and
4 calibrator must be recertified annually at a laboratory approved by the Director. A field check
5 of meter calibration and batteries must be conducted before and after every set of
6 measurements, and at least every hour as necessary.

7 B. Total and ambient sound levels shall be taken in accordance with procedures approved by
8 the Director. Calculation of source sound levels shall conform to accepted practice.

9 C. The ambient sound level shall be taken in the A-weighting network and the C-weighting
10 network, as appropriate, with the sound level meter set to slow response.

11 D. Impulsive sound levels shall be measured in the A-weighting network with the sound level
12 meter set to fast response, and shall be measured from any point within the receiving property.
13 The requirement for A-weighted measurements shall not apply to impulsive sounds arising
14 from amplified sound sources, when measured indoors.

15 E. all sound level measurements under this code shall be taken in LMax.

16 F. Measurements shall be taken in three 30-second intervals within a 30-minute period.

17 G. dB(A) will be measured from any point within the receiving property.

18 H. dB(C) will be measured from any point inside a building on the receiving property.

19 **8.122.060 Nuisance regulations not prohibited.**

20 Nothing in this chapter or the exemptions provided herein shall be construed as preventing the
21 regulation of noise from any source as a nuisance. Ordinances or rules regulating noise on such
22 a basis shall not be deemed inconsistent with this chapter.

23 **8.122.070 Exemptions.**

24 The operational performance standards established in this subchapter shall not apply to any of
25 the following noise sources:

26 A. Sounds originating from residential property relating to temporary projects for the
maintenance or repair of homes, grounds, and appurtenances between the hours of 7:00 a.m.
and 9:00 p.m. on weekdays, or between the hours of 9:00 a.m. and 9:00 p.m. on weekends and
federal holidays;

B. Agricultural activities;

C. Unamplified bells, chimes, or carillons while being used in conjunction with ongoing
religious activities;

D. Emergency energy release and signal devices;

E. Emergency work conducted at the site of the emergency;

F. National Warning System ("NAWAS"): systems used to warn the community of an attack or
imminent public danger, such as flooding, explosion, or hurricane;

G. Noise of aircraft operations;

H. Sounds originating from officially sanctioned parades and other public events when
properly permitted under Chapter 11.15 TMC;

I. Sounds created by animals, which sounds shall be regulated under the provisions of
Chapter 17 TMC.

J. Sounds created by motor vehicles, which sounds shall be regulated under the provisions of
Chapter 8.12 TMC.

K. Sounds created by motor boats competing in a regatta or in a boat race, whether on trial
runs or on official trial for speed records, authorized by the City under Chapter 9.35 TMC.



L. Sounds generated by a shooting range operated by a law enforcement agency.

M. Sounds generated by trains.

N. Events at City facilities, including but not limited to the Greater Tacoma Convention and Trade Center, the Tacoma Dome, the Broadway Center for the Performing Arts, and Cheney Stadium, provided that general or event-specific noise limits shall be set forth in license agreements established for such facilities.

O. Emergency sirens at either a fixed location or on an emergency vehicle, responding to an emergency.

8.122.080 General prohibitions.

A. No person shall make, continue, or cause or permit to be made or continued any sound attributable to any device that , increases the total sound level by the limits in Table 1 when measured at or within a receiving property:

Table 1. Maximum permissible source sound level in excess of increase in total sound level above the ambient sound level:

| | Outdoors | Indoors |
|-------------------------|----------|---------|
| 7:00 a.m. to 10:00 p.m. | 10 dBA | 6 dBC |
| 10:00 p.m. to 7:00 a.m. | 5 dBA | 3 dBC |

B. No person shall make, continue, or cause or permit to be made or continued any impulsive sound, attributable to the source, that increases the total sound level by 15 dB(A) or more above the ambient sound level, when there are less than ten impulses per hour between the hours of 7:00 a.m. and 10:00 p.m., less than four impulses within one hour between the hours of 10:00 p.m. and 7:00 a.m. If the number of impulses exceeds that set forth in this subsection, the sound level limits in Table 1 of subsection A shall apply.

C. Notwithstanding the provisions of subsection A of this section, where a particular sound source or device is subject to decibel level limits and requirements specifically prescribed for such source, device or activity elsewhere in this code, the decibel level limits set forth in this section shall not apply to such sound source, device, or activity.

D. This section shall not apply to Construction Activities conducted between the hours of 7:00 a.m. and 9:00 p.m., during the week, and 9:00 a.m. and 9:00 p.m. on the weekend.

8.122.090 Construction.

A. All construction devices used in construction and demolition activity shall be operated with a muffler if a muffler is commonly available for such constructing device.

B. Construction and demolition activity, excluding emergency work, shall not be performed between the hours of 9:00 p.m. and 7:00 a.m. on weekdays or between the hours of 9:00 p.m. and 9:00 a.m. on weekends and federal holidays, except as otherwise provided in this code.

C. After hours work on weekdays and weekends shall be allowed, provided that no sound created by the work exceeds the limits in 8.122.080(a).



8.122.100 Commercial music.

1 A. No person shall make or cause or permit to be made or caused any music originating from
2 or in connection with the operation of any commercial establishment or enterprise when the
3 level of sound attributable to such music, as measured inside any receiving property dwelling
4 unit:

- 5 1. causes a 6 dB(A) or more increase in the total sound level above the ambient sound level
6 as measured in decibels in the "A" weighting network; or
7 2. causes a 6 dB(C) or more increase in the total sound level above the ambient sound level
8 as measured in decibels in the "C" weighting network.

9 B. No person shall make or cause or permit to be made or caused any music originating from
10 or in connection with the operation of any commercial establishment or enterprise when the
11 level of sound attributable to such music is plainly audible from a distance of at least one
12 hundred feet in any direction from the property line of the commercial establishment.

8.122.110 Variances.

13 A. Any person who owns or operates a sound source may apply for a variance from the
14 Director:

15 B. Applications for a permit of variance shall supply information including, but not limited to:

- 16 1. The nature and location of the noise source for which such application is made;
17 2. The reason for which the permit of variance is requested, including the hardship that will
18 result to the applicant, his/her client, or the public if the permit of variance is not granted;
19 3. The nature and intensity of noise that will occur during the period of the variance, and;
20 4. A description of interim noise control measures to be taken by the applicant to minimize
21 noise and the impacts occurring therefrom;
22 5. The name, address and means of contacting a responsible party during the hours of
23 operation for which the permit of variance is issued.

24 C. The Director may charge the applicant a fee to cover expenses resulting from the processing
25 of the permit of variance application.

26 D. In making the determination on granting a variance, the Director shall consider:

1. The character and degree of injury to, or interference with, the health and welfare of the
reasonable use of property which is caused or threatened to be caused by the sound to result
from the permit of variance.
2. The social and economic value of the activity for which the variance is sought.
3. The ability of the applicant to apply best practical noise control measures.
4. Physical conditions that create a significant financial hardship in complying with the
provisions of this chapter.

E. The permit of variance shall enumerate the conditions of the variance including:

1. Specific dates and times for which the variance is valid;
2. Sound level limits which may not be exceeded at the nearest affected residential property.

F. The permit of variance may be revoked by the Director if the terms of the variance are
violated.

G. A variance may be revoked by the Director, and the issuance of future variances withheld, if
there is:

1. Violation of one or more conditions of the variance;
2. Material misrepresentation of fact in the variance application; or,



1 3. Material change in any of the circumstances relied upon by the Director in granting the
2 variance.

3 **8.122.120 Noise control plan.**

4 A. Any person who receives a Notice of Violation under this chapter shall be required to
5 submit a noise control plan.

6 B. The noise control plan shall include but not necessarily be limited to:

- 7 1. The nature and location of the noise source to be controlled;
- 8 2. The nature and intensity of noise that will be controlled under the plan;
- 9 3. Sound level limits which may not be exceeded at the nearest affected residential property;
- 10 4. A description of noise control measures to be taken to insure compliance with this code;
- 11 5. Information on the ability of the applicant to apply best practical noise control measures;
12 and
- 13 6. The name, address and means of contacting a responsible party for the noise control plan.

14 **8.122.130 Penalty for violation.**

15 A. Every person who violates any provision of this chapter has committed a civil violation and
16 shall be subject to the provisions herein. The owners, agents, contract buyers, tenants, or
17 lessees of all residential dwellings, commercial establishments, and/or real estate upon which a
18 violation of this article is found shall be jointly and severally responsible for compliance with
19 this article and jointly and severally liable for any damages or costs incurred and awarded
20 under this article.

21 B. The penalties set forth in this Chapter are not exclusive. The City may avail itself of any
22 other remedies provided by law.

23 **8.122.140 Notice of Violation and civil penalty.**

24 A. Any person who violates any of the provisions of this chapter shall, upon a determination
25 that a violation has been committed, be assessed monetary penalties.

26 B. The Notice of Violation will be either:

1. Prepared and sent by first-class mail to the Owner of the Property and to the Person in
control of the Property, if different; or
2. Personally served upon the Owner of the property and to the Person in control of the
Property, if different; or
3. Posted on the Property in a prominent location on the premises in a conspicuous manner that
is reasonably likely to be discovered.

C. The Notice of Violation shall contain the following:

1. The address of the site and specific details of the condition that is to be corrected;
2. The citation penalties that shall be imposed in the event that the condition is not corrected
within 18 days.
3. If required, the specified timeframe to submit an approved noise control plan.
4. The appropriate department and/or division investigating the case and the contact person.

D. At the end of the specified timeframe, the site will be reinspected to see if the condition has
been corrected. If the condition has been corrected or an acceptable noise control plan
submitted, the case will be closed. If the condition has not been corrected or an acceptable
noise control plan has not been submitted, a civil penalty shall be assessed. The monetary
penalties for violations of this chapter shall be as follows:

1. First civil penalty, \$250;



1 2. Second and subsequent civil penalties, \$500. At such time that two civil penalties have been
2 assessed within a one-year period City-issued permits and/or licenses for the site or site activity
3 may be suspended, in accordance with the procedures appropriate for each permit or license,
4 until such time that an approved noise control plan has been submitted and deemed operational
5 by the Director;

6 3. Civil penalties will continue to accumulate until the condition is corrected. At such time that
7 the assessed penalty exceeds \$1,000, a Certificate of Complaint may be filed with the Pierce
8 County Auditor to be attached to the title of the property. A copy of the Certificate of
9 Complaint shall be sent to the Property Owner and parties of interest, if different from the
10 Owner.

11 E. Each day that a property or person is not in compliance with the provisions of this chapter
12 may constitute a separate violation of this chapter.

13 F. The Director is authorized to waive monetary penalties upon the Director's finding that the
14 person to whom a Notice of Violation has been issued has either come into compliance or has
15 taken all practicable steps toward coming into compliance.

9 **8.122.150 Hearing by the Hearing Officer.**

10 A. A person to whom a Notice of Violation is issued may request a hearing by filing the
11 request with the City Clerk no later than seven (7) calendar days after said Notice of Violation
12 is issued.

13 B. If a hearing is requested, the Hearing Officer, or his or her designee will conduct the hearing
14 required by this chapter no more than 18 calendar days after the Director issues the Notice of
15 Hearing.

16 C. If a request for a hearing is received, the Hearing Officer shall mail a notice giving the time,
17 location, and date of the hearing, by certified mail, with a five-day return receipt requested, to
18 person or persons to whom the Notice of Violation was directed.

19 D. The Hearing Officer, or his or her designee, shall conduct a hearing on the civil violation.
20 The Director, as well as the person to whom the Notice of Violation was directed, may
21 participate as parties in the hearing, and each party may call witnesses. The City shall have the
22 burden of proof to establish, by a preponderance of the evidence, that a violation has occurred
23 and that the required corrective action is reasonable.

24 E. The Hearing Officer shall determine whether the City has established, by a preponderance
25 of the evidence, that a violation has occurred and that the required corrective action is
26 reasonable and shall affirm, modify, or vacate the Director's decisions regarding the alleged
violation and/or the required corrective action, with or without written conditions.

F. The Hearing Officer shall issue a final Order that contains the following information:

1. The decision regarding the alleged violation including findings of facts and conclusion
based thereon;

2. The required corrective action, if any;

3. The date and time by which the correction must be completed;

4. A statement of any appeal remedies;

5. A notice that a lien may be assessed against the property if the civil penalties are not paid in
accordance with the provisions of this chapter.

G. If the person to whom the Notice of Violation was directed fails to appear at the scheduled
hearing, the Hearing Officer will enter an Order finding that the violation has occurred.

H. The Order shall be served on the person in the same manner as a Notice of Violation as
provided for in this Chapter.



I. A final Order of the Hearing Officer may be appealed to a court of competent jurisdiction no more than ten calendar days of its issuance.

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EXHIBIT "B"

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1.06.170 Public Works Department.

The Public Works Department shall be under the Director of Public Works, and shall:

* * *

F. Issue and revoke all building and sign permits; administer all building codes and ordinances; cause to be inspected all gas, plumbing, heating system installations, boilers, sanitary and safety equipment of all buildings and structures within the City; issue, and collect the fees for, all building, plumbing, sewer, street obstruction, sign, and all other permits relating to the construction, maintenance and repair of buildings and structures, and installations appurtenant thereto; propose and revise all building and construction codes; recommend condemnation and abatement of unsafe buildings and structures; enforce all codes and ordinances regulating commercial, industrial, and residential building and housing; regulate and maintain the City's master address maps and records; administer and enforce the City's zoning, open space, shoreline, and environmental regulations, as provided in Title 13 hereof; and administer and enforce provisions of the City's noise enforcement ordinances.



EXHIBIT "C"

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6B.180.110 Restrictions.

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H. No vendor shall make any noise that exceeds the standards in Chapter 8.122.020 TMC or use mechanical audio or noise-making devices to advertise his or her product.



EXHIBIT "D"

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8.12.060 Public disturbance noises.

A. It is unlawful for any person to cause, or for any person in possession of property to allow originating from the property, sound that is:

- 1. an unreasonable noise, as defined in subsection 8.122.010(39) TMC; or
- 2. any sound that is plainly audible (as that term is defined in Chapter 8.122 TMC) within any dwelling unit; or
- 3. any sound produced by a sound reproduction device (as that term is defined in Section 8.122.010) that is plainly audible (as that term is defined in ~~Chapter 8.122 TMC~~Section 8.122.010 TMC) 50 feet from the source of the sound; Provided, that this subsection c shall not apply to commercial music under TMC 8.122.100; or
- 4. Commercial music in excess of the limitations set forth in TMC 8.122.100.

B. In addition to the provisions of Section 8.12.060(1), the following sounds are determined to be public disturbance noises:

- 1. The frequent, repetitive, or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;
- 2. The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within a residential district, so as to disturb or interfere with the peace, comfort, and repose of a reasonable person of normal ~~sensitivitiessensibilities~~sensibilities.
- 3. Sound from motor vehicle sound systems, such as tape players, radios, and compact disc players, operated at a volume so as to be audible distance greater than 50 feet from the vehicle itself;



EXHIBIT "E"

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8.30.040 Specific public nuisances declared.

The following specific acts, omissions, places, conditions, and things are hereby declared to be public nuisances: The erecting, maintaining, using, placing, depositing, causing, allowing, leaving, or permitting to be or remain in or upon any private lot, building, structure, or premises, or in or upon any sidewalk, street, avenue, alley, park, parkway, or other public or private place in the City, of any one or more of the following disordered, disturbing, or unsanitary conditions or things:

* * *

D. Making, causing, or permitting to be made any noise in violation of the provisions of Chapter 8.122 TMC.



REQUEST FOR ORDINANCE RESOLUTION

RECEIVED
Request #: 11616
Ord./Res. #: 27673
2007 NOV 16 AM 9:41

| | |
|--------------|-------|
| Request #: | 11616 |
| Ord./Res. #: | 27673 |

1. DATE: November 15, 2007

2. SPONSORED BY: COUNCIL MEMBER(S) N/A

CITY CLERK'S OFFICE

| | | |
|---|--|---|
| 3a. REQUESTING DEPARTMENT PWD/Building & Land Use Services 3b. DO PASS FROM <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Did not go before a Committee | 4a. CONTACT (for questions): Charles Solverson, P.E. | PHONE: 591-5017 |
| | 4b. Person Presenting: Charles Solverson, P.E., BLUS Division Manager | PHONE: 591-5017 |
| | 4c. ATTORNEY: Steve Gross | PHONE: 591-5638 |
| <i>William L. Pugh, P.E., Asst. City Manager/PW Director</i> | <i>Joe Delaney, Interim Finance Director</i> | <i>Tansy Hayward, City Manager's Office</i> |

5. REQUESTED EFFECTIVE DATE: December 11, 2007

6. SUMMARY AGENDA TITLE: (A concise sentence, as it will appear on the Council agenda.)

An ordinance relating to the regulation of noise; adopting definitions and standards for noise regulations, adopting or amending enforcement and penalty provisions, and amending the TMC by adopting a new chapter 8.122 "Noise Control" and re-codifying or repealing other sections of the Municipal Code in connection therewith. Program start up costs for equipment, technical services, inspector certification, and training are estimated at \$20,000. Annual costs for public awareness, data analysis, equipment calibration, and inspector recertification are estimated at \$5,000. All costs will be derived from the City's General Fund 0010.

7. BACKGROUND INFORMATION/GENERAL DISCUSSION:

A number of citizens have expressed concern regarding the impacts of growing noise pollution on the health and welfare of the community. Currently, the City has limited options under the Tacoma Municipal Code for managing noise pollution. The proposed noise ordinance has been prepared in response to these concerns.

In developing the proposed ordinance, the EPA Model Noise Ordinance, Washington State Noise Code, Pierce County Noise Code, Seattle Noise Ordinance and the noise codes of several other cities within Washington State, as well as cities outside of the State, were reviewed to learn how others have dealt with noise problems.

Comments have been received through public hearings, Neighborhood and Housing Committee meetings and in response to local news articles on the subject.

Enforcement of the regulations is planned to be accomplished through broadening the scope of responsibilities of existing staff. In addition to enforcement, this will include efforts to promote noise abatement through public awareness and environmental design.

8. LIST ALL MATERIAL AVAILABLE AS BACKUP INFORMATION FOR THE REQUEST AND INDICATE WHERE FILED:

| Source Documents/Backup Material | Location of Document |
|----------------------------------|----------------------|
| Noise Control Report | City Clerk |
| Draft Ordinance | City Clerk |

9. FINANCIAL IMPACT:
- A. NO IMPACT (NO FISCAL NOTE)
 - B. YES, OVER \$100,000, Fiscal Note Attached
 - C. YES, UNDER \$100,000, (NO FISCAL NOTE)

FUNDING SOURCE: (Enter amount of funding from each source)

| Fund Number & Name: | State \$ | City \$25,000 | Other | Total Amount \$25,000 |
|---------------------|----------|---------------|-------|-----------------------|
| General Fund 0010 | | | | |

If an expenditure, is it budgeted? Yes No Where? 404300
 Cost Center:
 Acct #: Various

JS



TO: Mayor William H. Baarsma and City Council Members
City Manager Eric A. Anderson

FROM: Elizabeth A. Pauli, City Attorney *EAP*
Steve Gross, Assistant City Attorney

SUBJECT: Legislative Process - Amendment of Ordinances

DATE: February 14, 2008

The purpose of this memorandum is to inform you of a proposed change in the way our office drafts certain changes to ordinances that have already had a first reading before Council.

As you know, pending ordinances are currently amended before Council one of two ways. In some cases, a substitute ordinance is prepared, and introduced in lieu of the ordinance originally introduced at first reading. This method is appropriate for changes that are fairly extensive, such as bond ordinances, or in situations where the Council has sent matters back to a committee for further review. For fairly simple changes, the Clerk will script out a motion to be read from the dais after the original ordinance is brought back before the Council.

The proposed use of amendment memoranda is similar to scripting out a motion. The main advantage of using memoranda is that it can incorporate several changes, but the council only has to take one vote to approve those changes. (Of course, Council may elect to vote on each individual change.) From an administrative standpoint, use of memoranda for amendments makes it easier to track the changes from the current Code, through the changes proposed in an original ordinance, to the final changes at the second reading. A good example where this would be useful is the Comprehensive Plan updates. Several amendments were proposed during this process, and keeping track of the status of those changes became complicated fairly quickly.

You will see an amendment memo in your packets for the February 19, 2008 Council meeting. Ordinance 27673, the proposed new Noise Enforcement regulations, is coming back for a second reading. Based on Council direction at the first reading, staff is recommending a series of changes to the proposed regulations, some technical, and some substantive.

The process for adopting these amendments is almost identical to making an amendment from the dais. The Mayor will announce the ordinance, and the Clerk will read the title into the record. A motion should be made to consider the amendment memo. If approved, staff will describe all of the changes made by the memo. Public testimony should be taken on the amendments. A motion should then be made to adopt or reject the amendment memo, and a voice vote will be taken (unless any member requests a roll call vote.) If the amendment memo is adopted, the Council will then move to adopt the ordinance as amended, and a roll call vote will be taken.

I am enclosing a copy of the proposed noise regulations and the amendment memo. Please call me or Steve Gross if you have any questions.

Encls.

064A



TO: Mayor William H. Baarsma &
City Council Members

FROM: Charles Solverson, P.E., Manager, Building and Land Use Services Division

SUBJECT: Proposed Amendments to Ordinance 27673 (Noise Regulation)

DATE: January 30, 2008

Based on comments received from the Council, other stakeholders, and the City’s consultant, the Department recommends the following changes to proposed Ordinance 27673.

1. Exhibit A, Subsection 8.122.010 KK is amended to read as follows:

8.122.010 Definitions

As used in this Chapter, the following terms shall have the meanings set forth in this Section, unless a different meaning is clearly indicated by the context in which the term is used:

* * *

KK. “Unreasonable noise” means any excessive or unusually loud sound that disturbs the peace, comfort, or repose of a reasonable person of normal ~~sensitivities~~ sensibilities, injures or endangers the health or safety of a reasonable person of normal ~~sensitivities~~ sensibilities, or that causes injury or damage to property or business.

2. Exhibit A, Subsection 8.122.050 D is amended to read as follows:

8.122.050 Procedures for the determination of sound levels.

* * *

D. Impulsive sound levels shall be measured in the A-weighting network with the sound level meter set to fast response, and shall be measured from any point within the receiving property. The requirement for A-weighted measurements shall not apply to impulsive sounds arising from amplified sound sources, when measured indoors.

3. Exhibit A, Section 8.122.070 is amended by adding a new Subsection “O” as follows:

8.122.070 Exemptions.

* * *

O. Emergency sirens at either a fixed location or on an emergency vehicle, responding to an emergency.

4. Exhibit A, Subsection 8.122.080 A is amended to read as follows, and the rest of the Section shall be renumbered accordingly:

8.122.080 General prohibitions.

A. No person shall make, continue, or cause or permit to be made or continued any sound attributable to any device that ~~exceeds the following prohibited noise levels,~~ increases the total sound level by the limits in Table 1, when measured at or within a receiving property:

~~1. Sound, other than impulsive sound, attributable to the source, measured at a level of 5 dB(A) or 3 dB(C) or more above the ambient sound level at or after 10:00 p.m. and before 7:00 a.m.~~

~~2. Sound, other than impulsive sound, attributable to the source, measured at a level of 10 dB(A) or 6 dB(C) or more above the ambient sound level at or after 7:00 a.m. and before 10:00 p.m.~~

Table 1. Maximum permissible source sound level in excess of increase in total sound level above the ambient sound level:

| | <u>Outdoors</u> | <u>Indoors</u> |
|--------------------------------|-----------------|----------------|
| <u>7:00 am. to 10:00 p.m</u> | <u>10 dBA</u> | <u>6 dBC</u> |
| <u>10:00 p.m. to 7:00 a.m.</u> | <u>5 dBA</u> | <u>3 dBC</u> |

~~3. B. No person shall make, continue, or cause or permit to be made or continued any impulsive sound, attributable to the source, measured at a that increases the total sound level of by 15 dB(A) or more above the ambient sound level, when there are more less than ten impulses per hour between the hours of 7:00 a.m. and 10:00 p.m., or less than four impulses within one hour between the hours of 10:00 p.m. and 7:00 a.m. If the number of impulses exceeds that set forth in this subsection, the sound level limits in Table 1 of Subsection A shall apply.~~

* * *

5. Exhibit A, Subsection 8.122.090 A is amended to read as follows:

8.122.090 Construction

A. All ~~motorized equipment~~ construction devices used in construction and demolition activity shall be operated with a muffler if a muffler is commonly available for such construction device.

* * *

6. Exhibit A, Subsection 8.122.100 A(3) is renumbered and amended to read as follows:

8.122.100 Commercial music.

* * *

~~3. B. No person shall make or cause or permit to be made or caused any music originating from or in connection with the operation of any commercial establishment or enterprise when the level of sound~~

attributable to such music is plainly audible ~~from~~ at a distance of at least one hundred feet in any direction from the exterior wall property line of the commercial establishment or enterprise that is closest to the point of measurement.

7. Exhibit A. Subsection 8.122.110 D is amended by adding a new Subsection D(4), to read as follows:

8.112.110 Variances.

* * *

D. In making the determination on granting a variance, the Director shall consider:

* * *

4. Physical conditions that create a significant financial hardship in complying with the provisions of this Chapter.

8. Exhibit D, Subsection 8.12.060 A (3) is amended to read as follows:

8.12.060 Public disturbance noises.

A. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound that is:

* * *

3. any sound produced by a sound reproduction device (as that term is defined in Section 8.122.010) that is plainly audible (as that term is defined in ~~Chapter 8.122 TMC~~ Section 8.122.010 TMC) 50 feet from the source of the sound; Provided, that this subsection A(3) shall not apply to commercial music under TMC 8.122.100; or

* * *

9. Exhibit D, Subsection 8.12.060 B (2) is amended to read as follows:

8.12.060 Public disturbance noises.

* * *

B. In addition to the provisions of Section 8.12.060(1), the following sounds are determined to be public disturbance noises:

* * *

2. The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within a residential district, so as to disturb or interfere with the peace, comfort, and repose of a reasonable person of normal ~~sensitivities~~ sensibilities.

Ordinance No. 27673, Amended

First Reading of Ordinance: DEC 11 2007

Final Reading of Ordinance: FEB 19 2008

Passed: FEB 19 2008

Roll Call Vote:

| MEMBERS | AYES | NAYS | ABSTAIN | ABSENT |
|----------------|------|------|---------|--------|
| Ms. Anderson | ✓ | | | |
| Mr. Fey | ✓ | | | |
| Ms. Ladenburg | ✓ | | | |
| Mr. Lonergan | ✓ | | | |
| Mr. Manthou | ✓ | | | |
| Ms. Strickland | ✓ | | | |
| Mr. Talbert | | | | ✓ |
| Ms. Walker | | | | ✓ |
| Mayor Baarsma | ✓ | | | |

| MEMBERS | AYES | NAYS | ABSTAIN | ABSENT |
|----------------|------|------|---------|--------|
| Ms. Anderson | | | | |
| Mr. Fey | | | | |
| Ms. Ladenburg | | | | |
| Mr. Lonergan | | | | |
| Mr. Manthou | | | | |
| Ms. Strickland | | | | |
| Mr. Talbert | | | | |
| Ms. Walker | | | | |
| Mayor Baarsma | | | | |