

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 818 - Repealing Shoreline Municipal Code Chapter 9.05 Public Disturbance Noise and Replacing it with a New Chapter 9.05 Noise Control
DEPARTMENT:	Planning & Community Development City Attorney's Office
PRESENTED BY:	Brian Lee, Senior Planner Julie Ainsworth-Taylor, Assistant City Attorney
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

The City's existing Noise Code, titled Public Disturbance Noise, Shoreline Municipal Code (SMC) Chapter 9.05, was originally adopted in 1997 and has not had any significant updates since that time. The existing regulations are based on a subjective standard as opposed to measures of maximum decibel readings. The intent of the proposed repeal and replacement of the Noise Code is not to create stricter or less restrictive noise regulations, but rather to reflect the standards established by the Washington State Department of Ecology in WAC 173-60 and 173-62, as authorized by chapter 70.107 RCW Noise Control, while allowing for differences to address the City of Shoreline's special needs.

On April 2, 2018, the City Council discussed the proposed regulations and voiced some concerns in regards to clarity for the differential between hours when transitioning between weekdays and weekends, along with impacts from modifying existing regulations for Public Nuisance Noises. This staff report will be limited to addressing the concerns raised at the April 2nd meeting. Tonight, Council is scheduled to adopt proposed Ordinance No. 818, which would adopt the new Noise Control regulations.

RESOURCE/FINANCIAL IMPACT:

Proper implementation of the Noise Code will require purchase of two (2) new noise measuring devices. Although equipment prices vary widely, staff is recommending mid-range models priced at approximately \$3,000 per unit. Funding for these devices will come from the current year budget.

RECOMMENDATION

Staff recommends adoption of Ordinance No. 818 with an effective date of August 1, 2018.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

The City's existing Noise Code, titled Public Disturbance Noise, Shoreline Municipal Code (SMC) Chapter 9.05, was originally adopted in 1997 and has not had any significant updates since that time. The existing regulations are based on a subjective standard as opposed to measures of maximum decibel readings. Staff feels that the Code is insufficient to address the changes that have occurred in the City since adoption of the current code. As well, there is an additional need to provide regulatory clarity regarding the City's noise regulations for the upcoming Sound Transit Link Light Rail project in Shoreline. Based on these considerations, staff developed a proposed Noise Code to replace the current SMC Chapter 9.05. The new Noise Code would be adopted by proposed Ordinance No. 818 (Attachment A).

On April 2, 2018, the City Council discussed the proposed Noise Code regulations and voiced some concerns in regards to clarity for the differential between hours when transitioning between weekdays and weekends, along with impacts from modifying existing regulations for Public Nuisance Noises. The staff report for the April 2nd Council discussion can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2018/staffreport040218-9a.pdf>.

This staff report will be limited to addressing the concerns raised at the April 2nd Council meeting. Tonight, Council is scheduled to adopt proposed Ordinance No. 818, which would adopt the new Noise Control regulations.

DISCUSSION

At the April 2nd Council meeting, while the City Council raised some concerns about the decibel levels established in the proposed Noise Code, the Council's primary concerns were in regards to clarity for the differential between hours when transitioning between weekdays and weekends, along with impacts from modifying existing regulations for Public Disturbance Noises. To address these concerns, staff has proposed a few changes to the proposed Noise Code from what was presented to Council on April 2nd. Attached to this staff report are both the updated Noise Code regulations (Attachment A, Exhibit A), which incorporate changes to the proposed code based on Council's questions and concerns, and a tracked changes version of the proposed regulations (Attachment B) showing the changes that staff has proposed.

The following section of this report describes the issues with the proposed Noise Code as identified by Council and staffs' responses and proposed Noise Code changes to the issues raised.

Decibel Levels

As stated at the April 2nd Council meeting, the decibel levels set forth in the proposed regulations are those established by the Washington State Department of Ecology (Ecology) in WAC Chapter 173-60 Maximum Environmental Noise Levels. These regulations, which have largely not been amended since 1975, can be viewed at the following link: <http://app.leg.wa.gov/wac/default.aspx?cite=173-60>.

While the State recognizes noise control is primarily the role of local government, the City is prohibited from imposing noise control requirements differing from those adopted by Ecology unless approved by Ecology and necessitated by special conditions. The proposed regulations do not modify the decibel levels themselves but do provide a differing time period for Ecology's regulations for weekend/holidays, so they do have some minor modifications. Ecology has been provided with a draft copy of the regulations and will be provided with a copy of Ordinance No. 818 upon adoption by the Council. If Ecology objects, the state standards would apply. At this time, there is no recommendation by staff to change the decibel levels themselves in the proposed Noise Code.

Time Parameters

Some Councilmembers also raised concerns that the time parameters of the proposed regulations, specifically the transitional period for weekday to weekend, was confusing. The proposed regulations, reviewed by the Council on April 2nd, defined daytime and nighttime as follows:

- Daytime: 7:00am-10:00pm - Monday-Friday
9:00am-10:00pm - Saturday, Sunday, and Holidays
- Nighttime: 10:00pm-7:00am - Monday-Friday
10:00pm-9:00am - Saturday, Sunday, and Holidays

Staff reviewed Ecology's rules and the noise codes from other cities around the state to see if there were other ways to express the time parameters. The City of Mill Creek defines daytime to mean the hours between 7:00am and 9:00pm on weekdays and between 8:00am and 9:00pm on weekends. The Mill Creek Municipal Code (MCMC) defines nighttime as those hours not defined as daytime. The MCMC also defines weekday as Monday to Friday, except if a legal holiday, and weekend as Saturday-Sunday and legal holidays.

The City of Bellevue just defines weekday and weekend, and then inserts the relative hours within the code itself. For example, the Bellevue Municipal Code states that the following sounds are exempt from the provisions of their code between the hours of 7:00am and 10:00pm on weekdays and 9:00am and 10:00pm on weekends. The City of Redmond and the City of Seattle similarly define weekday and weekend and insert the hours within the code.

Based on this code review, staff recommends the proposed regulations be changed so as to delete the definition for daytime and nighttime and replace those definitions with weekday and weekend, and then insert the applicable time at relevant places. These proposed changes are included in Exhibit A.

For Example, proposed SMC 9.05.040 Table 1 would be amended as shown below:

SMC 9.05.040 Table 1. Maximum Permissible Environmental Noise Levels

EDNA of Noise Source	EDNA of Receiving Property			
	Class A (dBA)		Class B (dBA)	Class C (dBA)
	Daytime Hours 7 a.m.-10 p.m. Weekdays	Nighttime hours 10 p.m.-7 a.m. Weekdays		
	9 a.m.-10 p.m. Weekends	9 a.m.-10 p.m. Weekends		
Class A	55	45	57	60
Class B	57	47	60	65
Class C	60	50	65	70

Public Nuisance Noise

Council also voiced some concern about the change in the language for Public Nuisance Noise, from a suggestive listing to a finite listing. The City’s current regulations provide a listing of the types of sounds that *may*, depending upon location, be public disturbance noises. The proposed regulations, at SMC 9.05.070, that states in the introduction that the listed sounds *are* defined to be public nuisance noise.

Staff also reviewed the codes from cities around the state to see how such regulations were articulated. This same language that is being proposed in the new regulations is found in most public nuisance noise regulations. The City of Sammamish, the City of Woodinville, the City of Tacoma, and the City of Bothell all state “... *the following sounds are determined to be public disturbance noises ...*” The City of Seattle uses “shall” when listing the sounds that are public disturbance noise.

Some cities even state that while the sounds are public disturbance noises, that the listing is not exclusive. The City of Yakima states “*the following sounds are determined to be public disturbance noises in violation of this section, however, the following enumeration shall not be deemed to be exclusive.*” As well, the City of Renton states “*Noises constituting a public nuisance shall include, but shall not be limited to, the following sounds or combination of sounds.*”

Thus, codes around Washington State start their listing of public nuisance noise with phrases containing “shall” or “are determined”. Since laws should be written so that people know what conduct is expected of them, the use of “are” creates a clear expectation for conduct. For this reason, staff does not recommend changing the introductory section of SMC 9.05.070, and proposes that Exhibit A stay the same as it was presented to Council on April 2nd.

Amplified/Unamplified Human Voice

The proposed Noise Code regulations, in SMC 9.05.070(4) state that the human voice, if unreasonably interfering with peace, comfort, and repose, are a public nuisance noise, particularly during 10:00pm-7:00am. Councilmember Roberts raised concerns about this provision both in regards the human voice including amplified and unamplified methods and the “particularly during” language. It must be noted that while the

amplified/unamplified is new, the current, existing SMC 9.05 does use the “particularly” language.

Staff also looked at codes from cities around the state for assistance on this matter, and found that some cities simply state that Yelling, Shorting, Hooting, Whistling, and Signing that unreasonably disturbs is public nuisance noise without any “amplified or unamplified” modifier. In many cases, there is also not a designated set of hours where this is particularly a concern. The cities of Yakima, Woodinville, and Auburn are examples.

However, some cities, like the cities of Seattle and Renton, have the modifier amplified/unamplified and hours. While Woodinville doesn’t use amplified/unamplified, it uses the “particularly” language and adds to it with the phrase “*or at any time and place so as to unreasonably disturb.*” The same is true for the City of Auburn with their time parameters being 10:00pm to 8:00am; the City of Bonney Lake setting the particularly between hours of 11:00pm and 7:00am; and the City of Bothell setting their particularly hours at 11:00pm to 7:00am.

Thus, the setting of certain hours within this regulatory provision is the norm for many cities and gives emphasis to times where such noise will particularly rise to the level of a public disturbance noise, providing a clear expectation of conduct for the public. Based on this research, staff has changed SMC Section 9.05.070(4), as shown in Exhibit A, to remove the modifier, retain hours for emphasis, but also include “or at any time” language.

RECOMMENDATION

Staff recommends adoption of Ordinance No. 818 with an effective date of August 1, 2018.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 818

Attachment A, Exhibit A - New Shoreline Municipal Code Chapter 9.05 – Noise Control

Attachment B – Tracked Changes Version of Shoreline Municipal Code Chapter 9.05 – Noise Control, Showing Edits From April 2, 2018 Version

ORDINANCE NO. 818

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON REPEALING SHORELINE MUNICIPAL CODE CHAPTER 9.05 PUBLIC DISTURBANCE NOISE AND REPLACING IT WITH A NEW CHAPTER 9.05 NOISE CONTROL.

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington; and

WHEREAS, as authorized by RCW 70.107, Washington's Noise Control Act of 1974, the Washington State Department of Ecology adopted rules related to noise as set forth in Chapters 173-58, 173-60, and 173-62 WAC; and

WHEREAS, WAC 173-60 sets forth Maximum Environmental Noise Levels and permits the City to adopt measures for noise abatement and control and does not prevent the City from regulating noise from any source as a nuisance; and

WHEREAS, on March 24, 1997, the City of Shoreline adopted Ordinance No. 121 establishing Shoreline Municipal Code (SMC) Chapter 9.05 prohibiting public disturbance noise; SMC 9.05 was last amended on October 23, 2000 with the adoption of Ordinance No. 250; and

WHEREAS, it is the policy of the City to minimize the exposure of its citizens to the physiological and psychological dangers of excessive noise; and

WHEREAS, 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; and

WHEREAS, it is the express intent of the City Council that noise be prohibited when it exceeds certain levels or when it unreasonable disturbs the peace, comfort, and repose of others; and

WHEREAS, the problem of noise in the City of Shoreline has been observed by the City Council and the City Staff and is documented by the complaints received by both the City and the Shoreline Police Department. On the basis of these observations and complaints, the City Council finds that special conditions exist within the City that make necessary any and all differences between this chapter and the regulations adopted by the Washington State Department of Ecology in Chapters 173-58, 173-60, and 173-62 WAC; and

WHEREAS, the City submitted a copy of the proposed regulations to the Washington State Department of Ecology for its review and comment as stated in RCW 70.107.060 on February 20, 2018 and again on March 20, 2018; and

WHEREAS, the City Council has considered the entire public record, public comments, written and oral, and considered the proposed regulations at its regularly scheduled meeting on April 2, 2018; and

WHEREAS, the City Council has determined that the noise control regulations are in the best interest of the public health, safety, and welfare;

THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Repeal and Replacement of Shoreline Municipal Code Chapter 9.05. Shoreline Municipal Code (SMC) Chapter 9.05 Public Disturbance Noise, as adopted by Ordinance No. 121 and amended by Ordinance No. 250, is repealed in its entirety and replaced with a new SMC Chapter 9.05 Noise Control as set forth in Exhibit A to this Ordinance.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 3. Directions to City Clerk to submit Ordinance to Department of Ecology. The City Clerk shall send a copy of this Ordinance to the Washington State Department of Ecology, Shorelands and Environmental Assistance Program, PO Box 47600, Olympia, WA 98504-7600.

Section 4. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance 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 ordinance or its application to any person or situation.

Section 5. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect at 12:01 a.m. on August 1, 2018.

PASSED BY THE CITY COUNCIL ON APRIL 16, 2018

Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: , 2018
Effective Date: , 2018

**Ordinance No. 818
Exhibit A**

**Chapter 9.05
NOISE CONTROL**

Sections:

- 9.05.010 Purpose and Authority.**
- 9.05.020 Definitions.**
- 9.05.030 Measurement of Sound.**
- 9.05.040 Maximum Permissible Environmental Noise Levels.**
- 9.05.050 Motor Vehicle Noise Performance Standards.**
- 9.05.060 Exemptions.**
- 9.05.070 Public Nuisance Noise.**
- 9.05.080 Variances.**
- 9.05.090 Violation – Penalty.**

9.05.010 Purpose and Authority.

- A. The purpose of this chapter is to minimize the exposure of the citizens of the City of Shoreline to the physiological and psychological dangers of excessive noise and to protect, promote, and preserve the public health, safety, and general 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.
- B. In determining a violation of this chapter, the content of the sound shall not be considered.
- C. This chapter is established in conformance with Chapter 70.107 RCW Noise Control, Chapter 173-58 WAC, Sound Level Measurement Procedures, Chapter 173-60 WAC Maximum Environmental Noise Levels, and Chapter 173-62 WAC Motor Vehicle Noise Performance Standards, as amended from time to time.
- D. Nothing herein shall be construed to limit or prohibit different or more restrictive hours for any activity authorized under a permit issued under any other chapter of the Shoreline Municipal Code as provided for in that chapter.

9.05.020 Definitions.

As used in this chapter, the following terms shall have the meanings set forth in this section.

- 1. "Construction" means any site preparation, including blasting or pile driving, assembly, erection, demolition, substantial repair, alteration or similar action on private or public property, buildings, structures, or utilities.
- 2. "dB(A)" means the sound level measured in decibels, using the A-weighted network on a sound level meter.

3. "EDNA" means environmental designation for noise abatement, which is an area or zone within which maximum permissible noise levels are established. EDNA classifications include the following zones as set forth in the city Unified Development Code, SMC Title 20, at SMC 20.40.20:
 - a. Class A EDNA: Residential zones and Mixed-use residential zones;
 - b. Class B EDNA: Non-residential zones;
 - c. Class C EDNA: Industrial land use zones.
4. "Emergency work" means work necessary to restore property to a safe condition following a public calamity, work required to protect persons or property from imminent exposure to danger, or work by private or public utilities to provide or restore immediately necessary utility service.
5. "Holidays" means the "legal holidays" set forth in RCW 1.15.050, as it may be amended from time to time.
6. "Motor vehicle" means any vehicle that is self-propelled, used primarily for transporting persons or property upon public highways, and required to be licensed under RCW 46.16.010. Aircraft, watercraft, and vehicles used exclusively on stationary rails or tracks are not "motor vehicles" as the term is used herein.
7. "Noise" means the intensity, duration, and character of sounds from any and all sources.
8. "Permitting Authority" means the Director, or designee, of the city department that issues the permit, such as the Department of Community and Economic Development, Department of Public Works, and the Department of Parks, Recreation, and Cultural Resources.
9. "Person" means any individual, corporation, firm, partnership, association, or other entity, public or private.
10. "Property boundary" means the surveyed line at ground level which separates real property.
11. "Receiving property" means real property within which sound originating from outside the property is received.
12. "Sound level meter" means an electronic instrument that measure sound pressure levels so as to establish dBA.
13. "Weekday" means any day, Monday through Friday, which is not a legal holiday.
14. "Weekend" means the days of Saturday, Sunday, and any legal holiday.

9.05.030 Measurement of Sound.

- A. Sound level meter. The use of a sound level meter may not be required to verify all noise violations such as public disturbance noises which may be discrete and/or intermittent and, therefore, not measurable at the time of the occurrence. If the measurement of sound is made with a sound level meter, the instrument shall be in good operating condition and shall meet the requirement for a Type I or Type II instrument, as described in the most current American National Standards Institute Specifications.
- B. Location of Measurement. Unless otherwise specified in this chapter, the point of measurement shall be at the property boundary of the receiving property or anywhere within it.

- C. Multiple EDNAs. When the receiving property lies within more than one EDNA, the maximum permissible environmental noise levels shall be determined by the most sensitive EDNA.

9.05.040 Maximum Permissible Environmental Noise Levels.

- A. Maximum Noise Levels. No person shall cause or permit sound to intrude into the real property of another person that exceeds the maximum permissible environmental noise levels established by this section. For sound sources located within the city, the maximum permissible environmental noise levels shall be as follows:

Table 1. Maximum Permissible Environmental Noise Levels

EDNA of Noise Source	EDNA of Receiving Property			
	Class A (dBA)		Class B (dBA)	Class C (dBA)
	7 a.m.-10 p.m. Weekdays	10 p.m.-7 a.m. Weekdays		
	9 a.m.-10 p.m. Weekends	10 p.m.-9 a.m. Weekends		
Class A	55	45	57	60
Class B	57	47	60	65
Class C	60	50	65	70

- B. Deviations. The following deviations from the Maximum Permissible Environmental Noise Levels set forth in Table 1 of this Subsection are permitted:
 1. At any hour of the day or night, the applicable maximum permissible noise levels may be exceeded for any receiving property by no more than:
 - a. 5 dBA for 15 minutes in any one-hour period; or
 - b. 10 dBA for 5 minutes in any one-hour period; or
 - c. 15 dBA for 1.5 minutes in any one-hour period.

9.05.050 Motor Vehicle Noise Performance Standards.

No person shall operate any motor vehicle or any combination of such vehicle upon the public highways in violation of the standards specified in WAC 173-62-030, as amended from time to time, which is hereby adopted by reference.

9.05.060 Exemptions.

Nothing in these exemptions precludes the City from requiring the installation of best available noise abatement technology consistent with economic feasibility.

- A. The following sounds are exempt from the provisions of this chapter at any time:
 1. Sounds generated by construction or maintenance activities in the city’s right-of-way that have been conditioned by the city to minimize the impact on adjacent property owners.

Attachment A - Exhibit A

2. Sounds generated in the performance of necessary construction for emergency work.
 3. Sounds generated by railroad trains engaged in interstate commerce and regulated by the Federal Railroad Administration pursuant to 49 CFR Part 210 and 49 CFR Part 222, as amended.
 4. Sounds generated by the normal operation of a light rail transit system consistent with the Federal Transit Administration guidance set forth in *Transit Noise and Vibration Impact Assessment (May 2006)*, as amended.
 5. Sounds generated during routine railroad or light rail transit way maintenance activities and does not involve the use of general construction equipment consistent with federal regulations or guidance as denoted in Subsection (A)(3) and (A)(4) of this Section.
 6. Sounds caused by auxiliary equipment on motor vehicles used for highway maintenance.
 7. Sounds caused by motor vehicle in the performance of emergency work for the immediate safety, health, or welfare of the community or of individuals of the community, or to restore property to a safe condition following a public calamity.
 8. Sounds created by emergency equipment and vehicles, such as police and fire, necessary in the interests of law enforcement or the health, safety or welfare of the community.
 9. Sounds caused by fire alarms.
 10. Sounds created by surface carriers engaged in interstate commerce by railroad.
 11. Sounds originating from aircraft in flight.
 12. Sounds created by the removal of refuse by the city's Authorized Collection Company consistent with contract terms as provided in SMC 13.14 Solid Waste Code.
 13. Sound from electrical substations and existing stationary equipment used in the conveyance of water, waste water, and natural gas by a utility.
 14. Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible.
- B. The following sounds are exempt from the provisions of this chapter between the hours designated:
1. Sounds generated by City-approved or sanctioned events at parks, including but not limited to, public address systems for sporting events or concerts, festivals, parades, or outdoor movies between the hours of 9:00 a.m. and 11:00 p.m. Weekdays or Weekends.
 2. Sounds generated between the hours of 7:00 am and 10:00 pm Weekdays and 9:00 a.m. and 10:00 p.m. Weekends for the following:
 - a. Sounds originating from property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances, including but not limited to sounds from lawnmowers, power hand tools, snow removal equipment and composters.
 - b. Sounds created by construction and emanating from construction sites.
 - c. Sounds created by the installation or repair of essential utility services.
 - d. Sounds created by warning devices, including back-up beepers, bells, chimes, and carillons, not operating continuously for more than five minutes.

9.05.070 Public Nuisance Noise.

It is unlawful for any person knowingly to cause or make, or from any person in possession of property knowingly to allow to originate from property, sound that is a public nuisance. Public nuisance noise is any sound which unreasonably annoys, injures, interferes with, or endangers the comfort, repose, health of a person or persons. The following sources of sound are defined to be public nuisance noise, except as otherwise provided in this chapter:

1. Frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle or watercraft, except as a warning of danger or as specifically permitted or required by law.
2. Frequent, repetitive or continuous sounds made by any domesticated animal which unreasonably disturbs or interferes with the peace of residents, except that such sounds shall be exempt when originating from a lawfully operated animal shelter, commercial kennel, or veterinary offices between the hours of 7:00 a.m. and 10:00 p.m. Weekdays and 9:00 a.m. and 10:00 p.m. Weekends.
3. 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 Class A EDNA so as to reasonably disturb or interfere with the peace, comfort, and repose of owners or possessors of real property.
4. Yelling, shouting, whistling, and singing, which unreasonably interferes with the peace, comfort and repose of property owners or possessors, particularly during the hours of 10:00 p.m. to 7:00 a.m. Weekdays and 10:00 p.m. to 9:00 a.m. Weekends, or at any time and place so as to unreasonably disturb or interfere with peace, comfort and repose of owners or possessors of real property.
5. Creation of frequent, repetitive or continuous sounds that emanate from any building, structure, apartment or condominium, such as sounds from musical instruments, audio sound systems, band sessions or social gatherings.
6. Sound from audio equipment or motor vehicle audio sound equipment, such as radios, compact disc players, and MP3 players, that area operated at a volume so as to be audible greater than 50 feet from the source, and if not operated upon the property of the operator.
7. Sounds from motor vehicle engines and/or exhaust systems in violation of performance standards provided in WAC 173-62-030.
8. The squealing, screeching or other such sounds from motor vehicle tires in contact with the ground or other roadway surface because of rapid acceleration, braking or excessive speed around corners or because of such other reason; provided that sounds which result from actions that are necessary to avoid danger shall be exempt from this section.
9. Sounds made by the construction activities outside the hours of 7:00 a.m. through 10:00 p.m. Weekdays and 9:00 a.m. through 10:00 p.m. Weekends.
10. Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances, including but not limited to sounds from lawnmowers, power hand tools, snow removal equipment and composters between the hours of 10:00 p.m. and 7:00 a.m. Weekdays and 10:00 p.m. and 9:00 a.m. Weekends.

9.05.080 Variances.

- A. Variances may be granted to any person from the noise level requirements of this chapter, if findings are made by the City that compliance with such requirement cannot be achieved because of special circumstances rendering compliance unreasonable in light of economic or physical factors, encroachment upon an existing noise source, or because of non-availability of feasible technology or control methods.
- B. Any such variance, or renewal thereof, shall be granted only for the minimum time period found to be necessary under the facts and circumstances.
- C. If the variance is related to a permitted activity, variances shall be approved by the Permitting Authority. If a variance is not related to a permitted activity, variances shall be approved by the City Manager, or designee. The applicant for a variance shall supply information including, but not limited to:
 - 1. The nature and location of the noise source for which the application is made;
 - 2. The reason for which the variance is requested, including the hardship that will result to the applicant and/or the public if variance is not granted;
 - 3. The nature and intensity of noise that will occur during the period of the variance; and
 - 4. A description of interim noise control measures to be taken by the applicant to minimize noise impacts.
- D. In authorizing a variance, the city may attach any conditions deemed necessary to carry out the purpose of this chapter, including maximum noise levels, duration, and public notice requirements
- E. The city's decision on a variance application may be appealed to the Hearing Examiner as set forth in SMC 20.30 Subchapter 4.

9.05.090 Violation – Penalty.

- A. Enforcement of violations of this chapter shall be subject to enforcement by the Code Enforcement Officer or the Shoreline Police Department.
- B. Any person found in violation of the provisions of this chapter shall be deemed to have committed a civil infraction. The penalty for each violation shall be a fine of \$100.00.
- C. For enforcement purposes, each day in which a violation occurs or exists shall constitute a separate violation.
- D. The Code Enforcement Officer or a Police Officer may issue a civil infraction in accordance with SMC 20.30.770(A) and Chapter 7.80 RCW, upon the person(s) responsible for the violation.
- E. Any person who receives a civil infraction may contest the determination by filing an appeal in the King County District Court – West Division (Shoreline).

- F. The penalties set forth in this chapter are not exclusive. The City reserves the right to seek any other remedies provided by law to prevent or remedy any violation.

Chapter 9.05
NOISE CONTROL

Exhibit A – Tracked Changes Version from
April 2, 2018 Council Discussion

Sections:

- 9.05.010 Purpose and Authority.
- 9.05.020 Definitions.
- 9.05.030 Measurement of Sound.
- 9.05.040 Maximum Permissible Environmental Noise Levels.
- 9.05.050 Motor Vehicle Noise Performance Standards.
- 9.05.060 Exemptions.
- 9.05.070 Public Nuisance Noise.
- 9.05.080 Variances.
- 9.05.090 Violation – Penalty.

9.05.010 Purpose and Authority.

- A. The purpose of this chapter is to minimize the exposure of the citizens of the City of Shoreline to the physiological and psychological dangers of excessive noise and to protect, promote, and preserve the public health, safety, and general 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.
- B. In determining a violation of this chapter, the content of the sound shall not be considered.
- C. This chapter is established in conformance with Chapter 70.107 RCW Noise Control, Chapter 173-58 WAC, Sound Level Measurement Procedures, Chapter 173-60 WAC Maximum Environmental Noise Levels, and Chapter 173-62 WAC Motor Vehicle Noise Performance Standards, as amended from time to time.
- D. Nothing herein shall be construed to limit or prohibit different or more restrictive hours for any activity authorized under a permit issued under any other chapter of the Shoreline Municipal Code as provided for in that chapter.

9.05.020 Definitions.

As used in this chapter, the following terms shall have the meanings set forth in this section.

- 1. "Construction" means any site preparation, including blasting or pile driving, assembly, erection, demolition, substantial repair, alteration or similar action on private or public property, buildings, structures, or utilities.
- 2. ~~"Daytime" means 7:00 a.m. — 10:00 p.m., Monday through Friday, and 9:00 a.m. — 10:00 p.m., Saturday, Sunday and Holidays.~~

3. "dB(A)" means the sound level measured in decibels, using the A-weighted network on a sound level meter.
4. "EDNA" means environmental designation for noise abatement, which is an area or zone within which maximum permissible noise levels are established. EDNA classifications include the following zones as set forth in the city Unified Development Code, SMC Title 20, at SMC 20.40.20:
 - a. Class A EDNA: Residential zones and Mixed-use residential zones;
 - b. Class B EDNA: Non-residential zones;
 - c. Class C EDNA: Industrial land use zones.
5. "Emergency work" means work necessary to restore property to a safe condition following a public calamity, work required to protect persons or property from imminent exposure to danger, or work by private or public utilities to provide or restore immediately necessary utility service.
6. "Holidays" means the "legal holidays" set forth in RCW 1.15.050, as it may be amended from time to time.
7. "Motor vehicle" means any vehicle that is self-propelled, used primarily for transporting persons or property upon public highways, and required to be licensed under RCW 46.16.010. Aircraft, watercraft, and vehicles used exclusively on stationary rails or tracks are not "motor vehicles" as the term is used herein.
8. ~~"Nighttime" means 10:00 p.m.—7:00 a.m., Monday through Friday, and 10:00 p.m.—9:00 a.m., Saturday, Sunday and Holidays.~~
9. "Noise" means the intensity, duration, and character of sounds from any and all sources.
10. "Permitting Authority" means the Director, or designee, of the city department that issues the permit, such as the Department of Community and Economic Development, Department of Public Works, and the Department of Parks, Recreation, and Cultural Resources.
11. "Person" means any individual, corporation, firm, partnership, association, or other entity, public or private.
12. "Property boundary" means the surveyed line at ground level which separates real property.
13. "Receiving property" means real property within which sound originating from outside the property is received.
14. "Sound level meter" means an electronic instrument that measure sound pressure levels so as to establish dBA.
15. "Weekday" means any day, Monday through Friday, which is not a legal holiday.
16. "Weekend" means the days of Saturday, Sunday, and any legal holiday.

9.05.030 Measurement of Sound.

- A. Sound level meter. The use of a sound level meter may not be required to verify all noise violations such as public disturbance noises which may be discrete and/or intermittent and, therefore, not measurable at the time of the occurrence. If the measurement of sound is made with a sound level meter, the instrument shall be in good operating condition and shall meet the requirement for a Type I or Type II instrument, as described in the most current American National Standards Institute Specifications.

- B. Location of Measurement. Unless otherwise specified in this chapter, the point of measurement shall be at the property boundary of the receiving property or anywhere within it.
- C. Multiple EDNAs. When the receiving property lies within more than one EDNA, the maximum permissible environmental noise levels shall be determined by the most sensitive EDNA.

9.05.040 Maximum Permissible Environmental Noise Levels.

- A. Maximum Noise Levels. No person shall cause or permit sound to intrude into the real property of another person that exceeds the maximum permissible environmental noise levels established by this section. For sound sources located within the city, the maximum permissible environmental noise levels shall be as follows:

Table 1. Maximum Permissible Environmental Noise Levels

EDNA of Noise Source	EDNA of Receiving Property			
	Class A (dBA)		Class B (dBA)	Class C (dBA)
	Daytime Hours 7 a.m.-10 p.m. Weekdays 9 a.m.-10 p.m. Weekends	Nighttime hours 10 p.m.-7 a.m. Weekdays 10 p.m.-9 a.m. Weekends		
Class A	55	45	57	60
Class B	57	47	60	65
Class C	60	50	65	70

- B. Deviations. The following deviations from the Maximum Permissible Environmental Noise Levels set forth in Table 1 of this Subsection are permitted:
 1. At any hour of the day or night, the applicable maximum permissible noise levels may be exceeded for any receiving property by no more than:
 - a. 5 dBA for 15 minutes in any one-hour period; or
 - b. 10 dBA for 5 minutes in any one-hour period; or
 - c. 15 dBA for 1.5 minutes in any one-hour period.

9.05.050 Motor Vehicle Noise Performance Standards.

No person shall operate any motor vehicle or any combination of such vehicle upon the public highways in violation of the standards specified in WAC 173-62-030, as amended from time to time, which is hereby adopted by reference.

9.05.060 Exemptions.

Nothing in these exemptions precludes the City from requiring the installation of best available noise abatement technology consistent with economic feasibility.

- A. The following sounds are exempt from the provisions of this chapter at any time:
1. Sounds generated by construction or maintenance activities in the city's right-of-way that have been conditioned by the city to minimize the impact on adjacent property owners.
 2. Sounds generated in the performance of necessary construction for emergency work.
 3. Sounds generated by railroad trains engaged in interstate commerce and regulated by the Federal Railroad Administration pursuant to 49 CFR Part 210 and 49 CFR Part 222, as amended.
 4. Sounds generated by the normal operation of a light rail transit system consistent with the Federal Transit Administration guidance set forth in *Transit Noise and Vibration Impact Assessment (May 2006)*, as amended.
 5. Sounds generated during routine railroad or light rail transit way maintenance activities and does not involve the use of general construction equipment consistent with federal regulations or guidance as denoted in Subsection (A)(3) and (A)(4) of this Section.
 6. Sounds caused by auxiliary equipment on motor vehicles used for highway maintenance.
 7. Sounds caused by motor vehicle in the performance of emergency work for the immediate safety, health, or welfare of the community or of individuals of the community, or to restore property to a safe condition following a public calamity.
 8. Sounds created by emergency equipment and vehicles, such as police and fire, necessary in the interests of law enforcement or the health, safety or welfare of the community.
 9. Sounds caused by fire alarms.
 10. Sounds created by surface carriers engaged in interstate commerce by railroad.
 11. Sounds originating from aircraft in flight.
 12. Sounds created by the removal of refuse by the city's Authorized Collection Company consistent with contract terms as provided in SMC 13.14 Solid Waste Code.
 13. Sound from electrical substations and existing stationary equipment used in the conveyance of water, waste water, and natural gas by a utility.
 14. Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible.
- B. The following sounds are exempt from the provisions of this chapter between the hours designated:
1. Sounds generated by City-approved or sanctioned events at parks, including but not limited to, public address systems for sporting events or concerts, festivals, parades, or outdoor movies between the hours of 9:00 a.m. and 11:00 p.m. Weekdays or Weekends.
 2. Sounds generated between the hours of 7:00 am and 10:00 pm ~~Weekdays Monday through Friday~~ and 9:00 a.m. and 10:00 p.m. ~~Weekends Saturday, Sunday and Holidays~~ for the following:
 - a. Sounds originating from property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances, including but not limited to sounds from lawnmowers, power hand tools, snow removal equipment and composters.
 - b. Sounds created by construction and emanating from construction sites.
 - c. Sounds created by the installation or repair of essential utility services.

- d. Sounds created by warning devices, including back-up beepers, bells, chimes, and carillons, not operating continuously for more than five minutes.

9.05.070 Public Nuisance Noise.

It is unlawful for any person knowingly to cause or make, or from any person in possession of property knowingly to allow to originate from property, sound that is a public nuisance. Public nuisance noise is any sound which unreasonably annoys, injures, interferes with, or endangers the comfort, repose, health of a person or persons. The following sources of sound are defined to be public nuisance noise, except as otherwise provided in this chapter:

1. Frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle or watercraft, except as a warning of danger or as specifically permitted or required by law.
2. Frequent, repetitive or continuous sounds made by any domesticated animal which unreasonably disturbs or interferes with the peace of residents, except that such sounds shall be exempt when originating from a lawfully operated animal shelter, commercial kennel, or veterinary offices between the hours of 7:00 a.m. and 10:00 p.m. Weekdays and 9:00 a.m. and 10:00 p.m. Weekends.
3. 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 Class A EDNA so as to reasonably disturb or interfere with the peace, comfort, and repose of owners or possessors of real property.
4. ~~The amplified or unamplified human voice, such as y~~elling, shouting, whistling, and singing, which unreasonably interferes with the peace, comfort and repose of property owners or possessors, particularly during the hours of 10:00 p.m. to 7:00 a.m. Weekdays and 10:00 p.m. to 9:00 a.m. Weekends, or at any time and place so as to unreasonably disturb or interfere with peace, comfort and repose of owners or possessors of real property.
5. Creation of frequent, repetitive or continuous sounds that emanate from any building, structure, apartment or condominium, such as sounds from musical instruments, audio sound systems, band sessions or social gatherings.
6. Sound from audio equipment or motor vehicle audio sound equipment, such as radios, compact disc players, and MP3 players, that area operated at a volume so as to be audible greater than 50 feet from the source, and if not operated upon the property of the operator.
7. Sounds from motor vehicle engines and/or exhaust systems in violation of performance standards provided in WAC 173-62-030.
8. The squealing, screeching or other such sounds from motor vehicle tires in contact with the ground or other roadway surface because of rapid acceleration, braking or excessive speed around corners or because of such other reason; provided that sounds which result from actions that are necessary to avoid danger shall be exempt from this section.
9. Sounds made by the construction activities outside the hours of 7:00 a.m. through 10:00 p.m. Weekdays Monday through Friday and 9:00 a.m. through 10:00 p.m. ~~Weekends, Saturday, Sunday, and Holidays.~~
10. Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances, including but not limited to sounds from

lawnmowers, power hand tools, snow removal equipment and composters between the hours of 10:00 p.m. and 7:00 a.m. Weekdays and 10 p.m. and 9 a.m. Weekends.

9.05.080 Variances.

- A. Variances may be granted to any person from the noise level requirements of this chapter, if findings are made by the City that compliance with such requirement cannot be achieved because of special circumstances rendering compliance unreasonable in light of economic or physical factors, encroachment upon an existing noise source, or because of non-availability of feasible technology or control methods.
- B. Any such variance, or renewal thereof, shall be granted only for the minimum time period found to be necessary under the facts and circumstances.
- C. If the variance is related to a permitted activity, variances shall be approved by the Permitting Authority. If a variance is not related to a permitted activity, variances shall be approved by the City Manager, or designee. The applicant for a variance shall supply information including, but not limited to:
 - 1. The nature and location of the noise source for which the application is made;
 - 2. The reason for which the variance is requested, including the hardship that will result to the applicant and/or the public if variance is not granted;
 - 3. The nature and intensity of noise that will occur during the period of the variance; and
 - 4. A description of interim noise control measures to be taken by the applicant to minimize noise impacts.
- D. In authorizing a variance, the city may attach any conditions deemed necessary to carry out the purpose of this chapter, including maximum noise levels, duration, and public notice requirements
- E. The city's decision on a variance application may be appealed to the Hearing Examiner as set forth in SMC 20.30 Subchapter 4.

9.05.090 Violation – Penalty.

- A. Enforcement of violations of this chapter shall be subject to enforcement by the Code Enforcement Officer or the Shoreline Police Department.
- B. Any person found in violation of the provisions of this chapter shall be deemed to have committed a civil infraction. The penalty for each violation shall be a fine of \$100.00.
- C. For enforcement purposes, each day in which a violation occurs or exists shall constitute a separate violation.
- D. The Code Enforcement Officer or a Police Officer may issue a civil infraction in accordance with SMC 20.30.770(A) and Chapter 7.80 RCW, upon the person(s) responsible for the violation.

- E. Any person who receives a civil infraction may contest the determination by filing an appeal in the King County District Court – West Division (Shoreline).
- F. The penalties set forth in this chapter are not exclusive. The City reserves the right to seek any other remedies provided by law to prevent or remedy any violation.