

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Discussion of Ordinance No. 977 - Amending Shoreline Municipal Code Chapter 9.05 Noise Control to exempt noise originating from City Park and Recreation Facilities
DEPARTMENTS:	City Attorney's Office
PRESENTED BY:	Julie Ainsworth-Taylor, Assistant City Attorney
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

The City's Noise Control regulations, Shoreline Municipal Code (SMC) Chapter 9.05, were last amended in 2018 with the passage of Ordinance No. 818. The purpose of these amendments was to align with Washington State statutes and regulations set for in the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC).

While the 2018 Code amendments included an exemption for sounds generated by city-approved or sanctioned events at parks between certain hours, the Code does not generally apply to all types of noise that may arise from the daily operation of City parks and recreation facilities. Proposed Ordinance No. 977 would provide for such an exemption.

Tonight, Council is scheduled to discuss proposed Ordinance No. 977. This proposed Ordinance is currently scheduled to return to Council for potential action on February 13, 2023.

RESOURCE/FINANCIAL IMPACT:

Staff does not believe adoption of this Ordinance would have a financial impact. Resources would be utilized when a noise complaint is received but, this amendment allows Staff to quickly respond with reference to the regulation so as to preclude additional expenditures of resources.

RECOMMENDATION

No action is required; this is a discussion item only. Staff recommends that the City Council provide staff with any direction regarding the proposed amendment. Staff further recommends that Council adopt Ordinance No. 977 when it is scheduled to return to Council for potential action on February 13, 2023.

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

BACKGROUND

State law (RCW 70A.20 Noise Control) tasks Washington's Department of Ecology with the responsibility of establishing, by rule, maximum noise levels permissible in identified environments in order to protect against adverse effects of noise on the health, safety and welfare of the people, the value of property, and the quality of environment. These rules are set forth in WAC 173-58 Sound Level Measurement Procedures; WAC 173-60 Maximum Environmental Noise Levels; and WAC 173-62 Motor Vehicle Performance Standards.

In 2018, with the passage of [Ordinance No. 818](#), the City Council established regulations consistent with the above RCW and WAC in SMC Chapter 9.05 Noise Control. SMC 9.05.060(A) lists sounds that are exempt at all times from SMC Chapter 9.05, such as sounds originating from Sound Transit's operation of the light rail; sounds from emergency vehicles; and sounds from the City's authorized contractor collecting garbage. SMC 9.05.060(B) lists sounds that are only exempt during certain times periods, such as sounds originating from the maintenance and repair of homes; sounds from construction sites; and, as specifically requested by the former Parks Director, SMC 9.05.060(B)(1) exempts sounds generated by city-approved or sanctioned events at parks, including public address systems for sporting events or concerts, festivals, parades, or outdoor movies during specified times.

While SMC 9.05.060(B)(1) does reference sporting events, the regulation is not stated broadly enough to encompass all types of activities that may occur at the City's Parks and Recreation Facilities, such as the sounds of children playing on playground equipment, non-scheduled "pick-up" sports such as basketball, tennis, pickleball, or soccer, or other similar activities where people are gathering for exercise, bonding, or celebration. Therefore, broadening the exemption to include noise originating from these types of activities is necessary.

DISCUSSION

Proposed Ordinance No. 977 (Attachment A) provides for this exemption. Specifically, the proposed Ordinance states that the following sounds are exempt from the provisions of this chapter: "*Sounds originating from use of the following public areas: parks, playgrounds, sport fields and courts, and recreation areas, during the hours the park, playground, sports field, sport court, or recreation area is open for public use as established pursuant to SMC 8.12.030, as the same may be amended from time to time.*"

Since the City wants to be a good neighbor to those living in close proximity to these areas, limiting this exemption to the hours a parks or recreation facility is operating aligns with the expectation of those individuals living near such a facility. Additionally, this regulation is not intended to preclude the City from further prohibiting any specific activity or from limiting the hours at a specific location as necessary to ensure the use and enjoyment of neighboring properties by their owners or tenants. This caveat is also provided in proposed Ordinance No. 977: "*PROVIDED, that this provision does not prevent the City, at its sole discretion, from limiting or precluding any activity,*

temporarily or permanently, in a public area where the activity unreasonably burdens the use and enjoyment of properties adjacent to the public area.”

RCW 70A.20.060(3) states that local governments may impose standards differing from those adopted or controlled by the Department of Ecology but that those standards must first be approved by Ecology. If Ecology fails to approve or disapprove the standards within 90 days of submittal by the local government, the standards are deemed approved. If Ecology disapproves, the City has an option to appeal to the Pollution Control Hearings Board. Therefore, unless denied by Ecology, the Ordinance’s effective date is 90 days from the date of transmittal to Ecology. Staff has proactively contacted the Department of Ecology and was directed to submit a copy of the Ordinance after adoption but, Ecology did not anticipate rejecting such an exemption.

RESOURCE/FINANCIAL IMPACT

Staff does not believe adoption of this Ordinance would have a financial impact. Resources would be utilized when a noise complaint is received but, this amendment allows Staff to quickly respond with reference to the regulation so as to preclude additional expenditures of resources.

RECOMMENDATION

No action is required; this is a discussion item only. Staff recommends that the City Council provide staff with any direction regarding the proposed amendment. Staff further recommends that Council adopt Ordinance No. 977 when it is scheduled to return to Council for potential action on February 13, 2023.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 977

ORDINANCE NO. 977

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING CHAPTER 9.05, NOISE CONTROL, OF THE SHORELINE MUNICIPAL CODE TO EXEMPT PUBLIC PARKS, PLAYGROUNDS, SPORTS FIELDS AND COURTS, AND RECREATION AREAS.

WHEREAS, the City of Shoreline established Shoreline Municipal Code (SMC) Chapter 9.05 Noise Control in conformance with Chapter 70.107 RCW Noise Control, Chapter 173-58 WAC Sound Level Measurement Procedures, and Chapter 173-60 WAC Maximum Environmental Noise Levels; and

WHEREAS, SMC 9.05.060 exempts certain sounds from SMC Chapter 9.05 in their entirety or only during designated hours; and

WHEREAS, the City of Shoreline has numerous public parks, playgrounds, sport fields and courts, and recreation areas that provide for both a variety of active and passive recreational activities during the hours of operation established pursuant to SMC 8.12 Rules for Parks; and

WHEREAS, these activities produce sounds ranging from cheers at both scheduled and unscheduled athletic games to the sounds of children at play which may, at times, intrude into neighboring properties and disturb residents and businesses; and

WHEREAS, as the City of Shoreline continues to grow and densify, there will be a greater demand for the City's parks, playgrounds, sport fields and courts, and recreation areas along with an increase in sounds arising from their use carrying into the surrounding community; and

WHEREAS, the City Council desires to encourage activities at its public parks, playgrounds, sport fields and courts, and recreation areas as they provide for the overall well-being of the Shoreline community while balancing the quality of life for nearby residents and businesses through the setting of reasonable hours of operation for use pursuant to SMC 8.12 Rules for Parks; and

WHEREAS, pursuant to RCW 70A.20.060, noise limiting requirements that are different from those adopted by the Department of Ecology must be approved by Ecology. Ecology has ninety (90) days to approve the exemption set forth in this Ordinance or it is deemed approved;

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

Section 1. Amendments. SMC Chapter 9.05 Noise Control. Section 9.05.060 of Chapter 9.05 Noise Control of the Shoreline Municipal Code is amended as follows:

SMC 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:

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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 a.m. and 10:00 p.m. 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.

3. Sounds originating from use of the following public areas: parks, playgrounds, sport fields and courts, and recreation areas, during the hours the park, playground, sports field, sport court, or recreation area is open for public use as established pursuant to SMC 8.12.030, as the same may be amended from time to time. PROVIDED, that this provision does not prevent the City, at its sole discretion, from limiting or precluding any activity, temporarily or permanently, in a public area where the activity unreasonably burdens the use and enjoyment of properties adjacent to the public area.

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. 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 4. Transmittal to Washington Department of Ecology. Pursuant to WAC 173-60-110, the City Attorney, or designee, shall transmit a full and complete copy of this Ordinance to the Department of Ecology via email to sepahelp@ecy.wa.gov. The City Clerk shall record the date of transmittal below the signature lines of this Ordinance.

Section 5. Publication and Effective Dates. A summary of this Ordinance consisting of the title shall be published in the official newspaper. Unless denied by the Department of Ecology, this Ordinance shall take effect ninety (90) days after the transmittal date as provided in Section 4 or the date of the Department of Ecology’s approval.

PASSED BY THE CITY COUNCIL ON FEBRUARY 13, 2023.

Keith Scully, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Margaret King
City Attorney

Date of Publication: , 2023
Effective Date: , 2023

Date of Transmittal to Ecology , 2023