



ORDINANCE NO. 4076-25

AN ORDINANCE relating to Noise Control, repealing, amending, and recodifying certain sections of Chapter 20.08 of the Everett Municipal Code.

WHEREAS,

- A. Chapter 20.08 EMC has not been updated in almost ten years. One purpose of this ordinance is to repeal those.
- B. Chapter 20.08

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. The following sections of chapter 20.08 EMC are repealed:

- 20.08.030 (Environmental sound—Unlawful sounds designated);
- 20.08.050 (Environmental sound—Modifications to maximum permissible noise levels);
- 20.08.130 (Administrator established—Qualifications, powers and duties);
- 20.08.220 (Enforcement Violation--Penalty);

Section 2. EMC 20.08 is amended as follows:

20.08.005 Purpose—Liability.

- A. It is expressly the purpose of this chapter to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.
- B. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, its officers, employees or agents, for any injury or damage resulting from the failure of anyone to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement pursuant to this chapter, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents.

20.08.010 Declaration of policy—Findings of special conditions.

A. Declaration of Policy. It is hereby declared to be the policy of the city to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise. It is the express intent of the city council to control the level of noise and to promote and preserve the public health, safety, and welfare while affording protection to free speech activity as required by applicable constitutional law. 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; the quality of the environment; and which enables all residents of the city to peacefully coexist in a manner which is mutually respectful of the interests and rights of others.

B. Findings of Special Conditions. The problem of noise in the city has been studied since 1972 by the city. On the basis of this experience and knowledge of conditions within the city, the city council finds that special conditions exist within the city which makes necessary any and all differences between this chapter and the regulations adopted by the Department of Ecology.

C. Types of Noise.

1. The City's different zoning districts establish lawful uses which can be anticipated to produce noise at certain reasonable levels associated with these uses. The provisions of EMC Section 20.08.050 utilize thresholds consistent with those set forth in Chapter 70A.20 RCW entitled "Noise Control" and Chapter 173-60 WAC entitled "Maximum Environmental Noise Levels." Regulation of noise due to the use of property for commercial and industrial purposes or operation of fixed equipment in any zone is appropriate for the use of noise measuring devices and a decibel-based approach. Properly trained and certified City staff or a certified consultant trained in the field of sound level measurement can be utilized in these situations when warranted.

2. Sporadic noise that is loud and raucous, such as noise due to social gatherings, car repair, landscape maintenance, or amplified music, and noise generated for the purpose of annoyance, is episodic in nature and subject to the plainly audible standard. The provisions of EMC Section 20.08.090 are aimed at those situations that are difficult or impossible to address through sound level measurement. In this instance, the plainly audible standard is warranted.

C. Enforcement. In any proceeding under this chapter, unless specifically required by regulations adopted herein by reference, evidence of sound level through the use of a sound level meter reading shall not be necessary to establish the commission of the violation.

D. Administration. The administrator shall have the authority to administer and enforce this chapter and is authorized to adopt procedures, policies, rules or guidelines; and conduct inspections.

20.08.015 Adoption of state laws and regulations by reference.

Chapters 46.37 and 70A.20 RCW, Chapters 173-58, 173-60 and 173-62 WAC as existing on the date of enactment of the ordinance codified in this chapter or as hereafter amended by the



state of Washington or applicable agencies, is hereby adopted by reference as if fully set forth herein.

20.08.020 Definitions.

All technical terminology used in this chapter not defined herein shall be interpreted in conformance with American National Standards Institute Specifications Section 1.4-2014 as it currently exists or is later amended. For purposes of this chapter, the words and phrases used herein shall have the meaning indicated below:

A. "Administrator" means ~~the noise control administrator as established in Section 20.08.130, or designee the Chief of Police or Building Official of the City of Everett, as applicable, or their designee.~~

B. "dB(A)" means a sound level, measured in decibels, using the A frequency-weighting network of a sound level meter.

C. "City" means the City of Everett, Washington.

~~C. D.~~ "District" means the land use zones to which the provisions of this chapter are applied. For the purposes of this chapter the following noise control districts shall be established which include land use zones designated in the Everett zoning code as follows:

Noise Control District	Land Use Zones
1. District I	All residentially zoned districts including but not limited to R.S., R-1, R-1A R-2, R-2A, R-3, R-3L, R-4, R-5, and <u>UR3 and UR4.</u>
2. District II	All business and commercially zoned districts including but not limited to <u>NB, B, MU, LI1, LI2 and HI</u> B-1, B-2, UM, BMU, E1, E-1 MUO, C-1, C-1R, C-2 and ULI.
3. District III	All agricultural and manufacturing zoned districts including but not limited to A, M- M, M-1, M-S, W-C and all other

**Noise
Control
District Land Use Zones**

~~nonresidential, nonbusiness and
noncommercially-zoned
districts~~ P-OS, and WRM (See
EMC 19.03.010 as currently
enacted or hereafter amended
for all current zones).

For any land use zone not listed in this subsection C, the Administrator may determine that the zone is substantially similar to a zone listed in this subsection C and may classify it similarly for purposes of this chapter.

~~D. F.~~ "Emergency work" means work made 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 for providing or restoring immediately necessary utility service.

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

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

~~E.~~ "Gross vehicle weight rating" means the value specified by the manufacturer as the recommended maximum loaded weight of a single vehicle.

~~F. I.~~ "Motorcycle" means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, except farm tractors and such vehicles powered by engines of less than five horsepower.

~~G. J.~~ "Motor vehicle" means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways, and required to be licensed under RCW 46.16A.030. (Aircraft, watercraft, and vehicles used on rails or tracks are not motor vehicles as that term is used herein.)

~~H. K.~~ "New motor vehicle" means a motor vehicle manufactured after December 31, 1976, the

equitable or legal title of which has never been transferred to a person who, in good faith, purchases the new motor vehicle for purposes other than resale.

~~L. "Noise" means the intensity, duration and character of sounds from any and all sources. The terms "noise" and "sound" can be used interchangeably for purposes of this chapter.~~

~~M. "Off-highway vehicle" means any self-propelled motor driven vehicle not used primarily for transporting persons or property upon public highways nor required to be licensed under RCW 46.16A.030.~~

~~N. "Officially sanctioned" means written approval given by the City.~~

~~O. "Owner" shall mean any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the personal representative or executor or administrator of the estate of such person if ordered to take possession of real property by a court, as well as a bankruptcy trustee.~~

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

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

~~L. R. "Property boundary" means the survey line at ground surface which separates the real property owned, rented or leased by one or more other persons and its vertical extension.~~

~~M. S. "Public highway" means the entire width between the boundary lines of every way publicly maintained by the department of highways or any county or city when any part thereof is generally open to the use of the public for purposes of vehicular travel as a matter of right.~~

~~N. "Public nuisance noise" means any sound which annoys, injures, interferes with or endangers the comfort, repose, health or safety of others and affects the rights of a community or neighborhood although the extent of the damage may be unequal.~~

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

~~P. U. "Sound level" means a weighted sound pressure level obtained by the use of a sound level meter and weighted as specified in American National Standards Institute Specifications, Section 1.4-2014.~~

~~Q. V.~~ “Sound level measurement procedures” means standardized procedures for the measurement of sound levels of sources regulated by this chapter and performed in accordance with the Washington State Department of Ecology rules, Chapter 173-58 WAC.

~~R. W.~~ “Sound level meter” means a sound level measuring device, either Type I or Type II, as defined by American National Standards Institute Specifications, Section 1.4-2014, or other instruments, or assemblages of instruments, that (1) result in an overall accuracy of ± 2 dBA; tested according to standards in a reverberant chamber at the NIOSH acoustics laboratory (2) meets Type 2 requirements of IEC 61672:3 SLM standard when used with calibrated external microphone.

~~S. X.~~ “Temporary construction site” means any location where site clearing, construction of plat improvements, or construction or remodeling of a structure, facility, improvement or other feature attached to the land occurs. This includes roadway, bikeway, trail, sidewalk or other similar construction, repair or improvement.

~~T. Y.~~ “WAC” means the Washington Administrative Code as currently enacted or hereafter amended.

~~U. Z.~~ “Watercraft” means any contrivance, excluding aircraft, used or capable of being used as a means of transportation or recreation on water.

~~V. AA.~~ “Weekend” means Saturday and Sunday or any legal holiday observed by the state of Washington.

20.08.040 Environmental sound—Maximum permissible levels.

A. Maximum permissible noise levels. For sound sources located within the city of Everett, the maximum permissible exterior noise levels are as follows:

District Sound Source	District of Receiving Property within the City of Everett		
	I	II	III
I	55 dB(A)	57 dB(A)	60 dB(A)
II	57 dB(A)	60 dB(A)	65 dB(A)
III	60 dB(A)	65 dB(A)	70 dB(A)

B. Modifications to maximum noise levels. The maximum permissible sound levels established by this chapter shall be modified as follows:

1. Between the hours of ten p.m. and seven a.m. during weekdays, and between the hours of ten p.m. and nine a.m. on weekends, the levels established in Section 20.08.050 are reduced by ten dB(A) where the receiving property lies within District I of the city of Everett.
2. At any hour of the day or night, for any source of sound which is an impulse sound, the levels established by this chapter are increased by:
 - i. Five dB(A) for a total of fifteen minutes in any one-hour period; or
 - ii. Ten dB(A) for a total of five minutes in any one-hour period; or
 - iii. Fifteen dB(A) for a total of one and one-half minutes in any one-hour period.

C. Noise levels based on Leq. The exterior noise level limits are based on the Leq, as defined in EMC 20.08.040, during the measurement interval, using a minimum interval of one (1) minute for a constant sound source, or a one (1) hour measurement for a noncontinuous sound source. The standard of measurement shall be a one (1) hour Leq. Leq may be measured for times not less than one (1) minute to project an hourly Leq.

D. Split district properties. Where a receiving property lies within more than one district, the most restrictive maximum permissible noise level shall apply to the receiving property.

E. Violation, enforcement; habitual violators.

1. It shall be a violation of this chapter if at any hour of the day or night, the applicable noise limitations in subsection A and B of this section are exceeded for any receiving property.
2. Sound levels taken by the administrator, or trained and certified designee, with a sound level meter, or equivalent instrument, shall be determinative for purposes of establishing violations.
3. Violation of this section is a civil violation and enforceable as set forth in Chapter 1.16 EMC with the penalty amount(s) established in EMC Section 1.20.190.
4. Any person, after receiving three or more notice and orders, for prior violations of this chapter within a three hundred sixty five (365) day period, shall be guilty of a misdemeanor upon a subsequent violation within said three hundred sixty five (365) day period.

20.08.060 Motor vehicle noise—~~Maximum permissible levels.~~

A. It is unlawful for any person to operate any motor vehicle upon any public highway or any combination of such vehicles under any conditions of grade, load, acceleration, or deceleration in such a manner as to exceed the maximum permissible sound levels for the category of vehicle, as measured at a distance of fifty feet from the center of the lane of travel within the speed limits specified, under procedures set forth in Chapter 173-62 WAC, Motor Vehicle Noise Performance Standards, including:

Vehicle Category Type	45 MPH or Less	Over 45 MPH
Motor vehicles over 10,000 pounds GVWR	86 dB(A)	90 dB(A)
Motorcycles	78 dB(A)	82 dB(A)
All other motor vehicles	72 dB(A)	78 dB(A)

B. Violation of this section is a traffic infraction, enforced by such authorities and in such manner as violations of chapter 46.37 RCW.

20.08.070 Motor vehicle noise—~~Maximum levels for new vehicles.~~

A. It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-highway vehicle, which produces a maximum noise exceeding the following noise levels at a distance of fifty feet under acceleration test procedures set forth in Chapter 173-62 WAC.

Vehicle Category	Date of Manufacture	Maximum Sound
Any motor vehicle over 10,000 pounds GVWR excluding	Before January 1, 1978	86 dBA

Vehicle Category	Date of Manufacture	Maximum Sound
buses		
Any motor vehicle over 10,000 pounds GVWR excluding buses	After January 1, 1978	83 dBA
Any motor vehicle over 10,000 pounds GVWR excluding buses	After January 1, 1982	80 dBA
All buses over 10,000 pounds GVWR	After January 1, 1980	85 dBA
All buses over 10,000 pounds GVWR	After January 1, 1983	83 dBA
All buses over 10,000 pounds GVWR	After January 1, 1986	80 dBA
Any motor vehicle 10,000 pounds GVWR or less	After January 1, 1976	80 dBA
Motorcycles	After January 1, 1976	83 dBA
Motorcycles	After January 1, 1986	80 dBA

C. Violation of this section is a traffic infraction, enforced by such authorities and in such manner as violations of chapter 46.37 RCW.

20.08.080 Motor vehicle noise—Specific prohibitions.

A. *Mufflers and Exhaust Systems.* It is unlawful for any person to operate any motor vehicle upon any public highway that is not ~~Every motor vehicle operated upon the public highways shall~~ at all times ~~be~~ equipped with an exhaust system and a muffler in good working order and constant operation to prevent excessive or unusual noise.

B. *Tire Noise.* It is unlawful for any person to operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such noise from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, except that noise resulting from emergency braking to avoid imminent danger shall be exempt from this section.

C. *Alteration of Motor Vehicles.* It is unlawful for any person to modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the engine of such vehicle ~~change or modify any part of a motor vehicle or install any device thereon in any manner that permits sound to be emitted by the motor vehicle~~ in excess of the limits prescribed in Sections 20.08.060 and 20.08.070.

D. *Violation.* Violation of this section is a ~~misdemeanor~~ traffic infraction, enforced by such authorities and in such manner as violations of chapter 46.37 RCW.

20.08.090 Public nuisance ~~and disturbance~~ noises.

A. *Public Nuisance Noises.*

1. The administrator may determine that a sound constitutes a public nuisance noise as defined herein.

2. It is unlawful for any person to cause or allow to be emitted a noise or sound which has been determined a public nuisance noise as defined herein, or refuses or intentionally fail to cease a public nuisance noise when directed to do so by an enforcement officer. The content of the sound will not be considered in determining any violation of this section.

3. It is unlawful and declared a public nuisance for any person to cause, or for any person in possession of property to allow to originate from the property, public nuisance noise as defined

herein. For prosecution under this section, evidence of sound level through the use of a sound level meter reading shall not be necessary to establish a commission of the offense.

4. Sounds which do not exceed the maximum environmental noise levels set forth in EMC 20.08.050 may constitute public disturbance noises.

5. For purposes of this section, any noise or sound emanating from a business or other source on the property shall be presumed to be with knowledge, permission or consent of the owner or legal occupant of the property, which presumption may be rebutted by reasonable evidence to the contrary.

~~B. Public Disturbance Nuisance Noises Originating from Real or Personal Property Plainly Audible Across a Real Property Line Or Fifty Feet from the Source. Unless specifically exempted, public disturbance noises emanating from real or personal property possessed or controlled by the person causing or permitting the public disturbance noise are prohibited at all times. These include but are not limited to the following sounds-~~ The following sounds, unless specifically exempted from this chapter are prohibited if the sound is plainly audible across a real property line or fifty feet from the source, whichever is less: -

1. The frequent, repetitive and/or continuous sounding of any horn, siren or alarm attached to a motor vehicle, except when used as a warning of danger or as specifically permitted or required by law.
2. The frequent, repetitive and/or continuous sounds in connection with the starting, operation, repair and/or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine.
3. ~~The creation of~~ frequent, repetitive and/or continuous sounds ~~which emanate from real property possessed or controlled by the person causing or permitting the sound,~~ such as sounds from audio equipment, television, video equipment, musical instruments, band sessions, outdoor events and/or social gatherings.
4. ~~Violations of this section is a misdemeanor. The frequent, repetitive and/or continuous sounds caused by operating or playing, or permitting the operating or playing, of motor vehicle audio equipment such as speakers, tape players, radios, and compact disc players, whether portable, or stationary, or mounted on or within a motor vehicle.~~

~~C. Public Disturbance Noises Plainly Audible One Hundred Feet from the Source. Originating from Public Property. Unless specifically exempted, public disturbance noises originating from a person or personal property while on public property or a public right-of-way are~~

~~prohibited at all times. In addition to public disturbance noises defined in subsection B of this section, the following are public disturbance noises: The following sounds, unless specifically exempted from this chapter are prohibited if the sound is plainly audible one hundred feet or more from the source:~~ 1. The frequent, repetitive, and/or continuous sounds with the human voice, whether by amplification equipment, such as a microphone.
2. The creation of any loud noises which emanate frequently, or repetitively or continuously from any building, structure or property which unreasonably disturbs the peace, comfort and repose of others.

~~1. A person or performer creating a sound, whether amplified or unamplified, between the hours of ten p.m. and seven a.m. so as to be plainly audible across a real property boundary which is not the source of sound; 2. A person or performer creating a sound, whether amplified or unamplified, between the hours of seven a.m. and ten p.m.~~

~~3. The use of a sound amplifier or other device capable of producing or reproducing amplified sound upon public streets for the purpose of commercial advertising or sales or for attracting the attention of the public to any vehicle, structure or property or the contents therein, except that vendors whose sole method of selling is from a moving vehicle shall be exempt from this subsection;~~

~~4. Sound from the frequent, repetitive and/or continuous operating or playing of motor vehicle audio equipment, whether portable or stationary or mounted on or within a motor vehicle.~~

~~5. Violation of this section is a misdemeanor.~~

D. *Violation; enforcement; habitual violators.*

1. It is unlawful to intentionally fail to cease a public disturbance noise when directed to do so by a law enforcement officer. The content of the sound will not be considered in determining any violation of this section. Violation of this EMC section 20.08.090 is a misdemeanor. For enforcement purposes, each day, defined as a twenty-four (24) hour period beginning at 12:01 a.m. in which violation of this chapter occurs, shall constitute a separate violation.

2. This section shall be enforceable by enforcement officer(s).

3. Any person, after receiving three or more misdemeanors, for prior violations of this chapter within a three hundred sixty five (365) day period shall be guilty of a gross misdemeanor upon a subsequent violation within said three hundred sixty five (365) day period.

20.08.100 Noises exempt—At all times.

A. The following noises are exempt at all times from this chapter:

1. Noise originating from aircraft in flight, and sounds which originate at airports and are directly related to flight operations;
2. Noise created by the operation of equipment or facilities of surface carriers engaged in commerce by railroad;
3. Noises created on property of federal military facilities;
4. Noise created by watercraft and float planes in operation;
5. Noise created by safety and protective devices, such as relief valves where noise suppression would defeat the safety release intent of the device;
6. Noise created by fire alarms being used for their intended purpose;
7. Noise created by emergency equipment, including, but not limited to, emergency standby or backup equipment, and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community; and including, but not limited to, any emergency work necessary to replace or repair essential utility services;
8. Noise created by auxiliary equipment on motor vehicles used for highway maintenance;
9. Noise originating from officially sanctioned events, parades, and sporting events ~~and other public events~~;
10. Noise created by motor vehicles when regulated by Sections 20.08.060 through 20.08.80;
11. Noise caused by natural phenomena;
12. Noise originating from motor vehicle racing events at existing authorized official sanctioned facilities;
13. Noise created by existing stationary equipment used in the conveyance of water by a utility and noise created by existing electrical substations;
14. Noises in compliance with a lawfully issued ~~conditional-use~~ noise variance permit or SEPA determination.

20.08.110 Noises exempt during daytime hours.

The following noises shall be exempt from the provisions of this chapter between the hours of seven a.m. and ten p.m. on weekdays and nine a.m. and ten p.m. on weekends and holidays:

- A. Noise created by powered equipment used in temporary or periodic maintenance or repair of residential property.
- B. Noise created by aircraft engine testing and maintenance not related to flight operations.
- C. Noise created by the discharge of firearms on authorized shooting ranges.

- D. Noise created by the installation or repair of essential utility services.
- E. Noise created by blasting [WAC 296-52-64005](#).
- F. Noise created by bells, chimes or carillons not operating for more than five minutes in any one hour.
- G. Noise originating from forest harvesting and silvicultural activity.
- H. Noise originating from temporary construction sites, excepting that noise from a temporary construction site that is received in a District I property is exempt between seven a.m. and ten p.m. on weekdays and between eight a.m. and six p.m. on weekends and holidays.
- I. Noise emanating from marine-oriented construction sites except between the hours of ten p.m. and seven a.m. on weekdays and weekends if the receiving property is located in District I of the city.

20.08.140 Measurement of sound.

A. If the measurements of sound are made with a sound level meter, it shall be either: (i) an instrument in good operating condition meeting the requirements for a Type I or Type II instrument, as delineated in American National Standards Institute Specifications (ANSI) Section 1.4-2014, as it now exists or is hereafter amended, or (2) other instruments, or assemblages of instruments, that result in an overall accuracy that meets the requirements in Section 1.4-1983 ANSI for Type II instruments.

B. Sound measurements shall be taken using the guidance of Chapter 175-58 WAC, Sound Level Measurement Procedures, and using any additional methods recognized as best practice by the noise industry.

C. Any sound measurements ~~performed by a third party may be considered by the noise administrator shall be considered definitive for purposes of establishing compliance or violation with this chapter,~~ provided they are taken in accordance with this section and performed by an individual trained to operate Type I and Type II sound level meters or other instruments or assemblages of instruments that meet the requirements for Section 1.4-1983 ANSI for Type II instruments.

20.08.150 Variances.

A. The City, or other public agencies, or a private entity fulfilling a requirement imposed by the City or other public agencies ~~A person~~ may request a variance from compliance with this chapter by making an application with the ~~administrator~~ Planning Director at least thirty days before the



time period for the variance is to take effect. The application shall be in writing on a form as prescribed by the City, and shall be accompanied by a fee in the amount ~~of one hundred dollars established by the Planning Director~~ The variance may not be used for private activities (weddings, parties, etc.). The application ~~nt~~ shall ~~explain the~~ include the following information:

1. Nature of the noise.
2. Source of the noise.
3. Duration for which the noise will be created.
4. Time period for which the variance will be necessary.
5. Reason why the noise violation cannot be avoided, and
6. Mitigating conditions the applicant will implement to minimize the noise level violations.

7. The applicant shall list all property owners ~~who adjoin the subject property per county assessor records, except that (a) the administrator may waive this property owner list requirement if the administrator determines that the granting of the variance would have no significant effect on adjoining property owners, and (b) the administrator may increase the required property owner list to include all property owners~~ within five hundred feet of the subject property per county assessor records if the administrator determines that the granting of the variance would have a significant impact on such property owners.

B. The ~~administrator~~ Planning Director, after informing the affected city departments, and after considering the relative interests of the applicant, ~~of the other owners or possessors of property likely to be affected by the noise~~, and of the general public, may grant a variance if the Planning Director ~~administrator~~ determines that the noise level violations:

1. Cannot be avoided,
2. Will exist for a specific period of time not to exceed 5 occurrences within a 30 day period,
3. Will not endanger public health, safety or welfare, and
4. Have been mitigated to the greatest extent reasonably possible.

C. Variances granted pursuant to this chapter shall be in writing and must include the time period the variance will be in effect and the location of the variance.

D. The ~~administrator~~ Planning Director may deny a variance application if:

1. The ~~administrator~~ Planning Director determines that the applicant does not meet the criteria listed in subsection B of this section; or
2. The variance was obtained with false or misleading information.

E. The ~~administrator~~ Planning Director may revoke a variance if:

1. At any time during the variance the ~~administrator~~ Planning Director determines that the

variance holder no longer meets the criteria listed in subsection B of this section;

2. The variance holder causes or permits noise that fails to comply with the variance or other provisions of this chapter not affected by the variance and the issuance of a violation citation or stop work order has been or would be ineffective to secure compliance; or

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

F. The variance holder must post the variance in a viewable area at the location of the variance ~~site or keep it on their person~~ during the effective period of the variance.

G. If the ~~administrator~~ Planning Director grants a variance, notice shall be ~~delivered via mailed~~ by first class mail or hand delivered via a doorhanger to those property owners appearing on the list ~~provided by the applicant per the application requirement herein established pursuant to Section A(7) above~~. The applicant shall be responsible for paying all printing, mailing, and/or delivery costs, which shall be in addition to the variance application fee.

H. Any variance granted by the ~~administrator~~ Planning Director shall be restricted to no more than 5 occurrences in a 30 day period in duration and an implementation schedule for achieving compliance with this chapter shall be incorporated therein. ~~No variance shall exceed thirty days. Variances may be renewed, but no renewal shall be granted unless application is made at least sixty days prior to expiration of the issued variance and the applicant complies with all other requirements of this section.~~

~~I. Any person aggrieved by a variance decision may file an appeal in writing with the land use hearing examiner within ten days of issuance of the administrator's decision. The appeal shall be a proceeding pursuant to Title 15, Review Process IIIA. The appellant must prove by clear and convincing evidence that the administrator abused his or her discretion in a decision made pursuant to this section. Any appeal of a variance decision by the administrator may be affirmed, reversed, or modified by the hearing examiner. The decision of the hearing examiner shall be final. The applicable provisions of Title 15 shall govern procedure and process of any appeal of an administrator's decision, except that public notice requirements established in Section 15.24.110 do not apply to this appeal process. Further, where a provision of Title 15 conflicts with a provision of this section, this section controls.~~

20.08.210 Provisions not exclusive.

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

Section 3. The following is provided for reference and may not be complete:

EMC Repealed/Recodified by this Ordinance	Ordinance History of EMC Repealed/Recodified by this Ordinance
EMC 20.08.010	(Ord. 3509-16 § 1, 2016; Ord. 534-78 § 1, 1978.)
EMC 20.08.020	(Ord. 3617-18 § 73, 2018; Ord. 3509-16 § 2, 2016; Ord. 3440-15 § 3, 2015; Ord. 1556-89 § 1, 1989; Ord. 690-80 § 2, 1980; Ord. 534-78 § 2, 1978.)
EMC 20.08.030	(Ord. 3509-16 § 3, 2016; Ord. 534-78 § 3(a), 1978.)
EMC 20.08.040	(Ord. 3509-16 § 4, 2016; Ord. 534-78 § 3(b), 1978.)
EMC 20.08.050	(Ord. 3509-16 § 5, 2016; Ord. 534-78 § 3(c), 1978.)
EMC 20.08.060	(Ord. 3509-16 § 6, 2016; Ord. 534-78 § 4(a), 1978.)
EMC 20.08.070	(Ord. 3509-16 § 7, 2016; Ord. 534-78 § 4(b), 1978.)
EMC 20.08.080	(Ord. 3509-16 § 8, 2016; Ord. 534-78 § 4(c), 1978.)
EMC 20.08.090	(Ord. 3509-16 § 9, 2016; Ord. 2394-99 § 11, 1999; Ord. 1971-93 § 1, 1993; Ord. 690-80 § 2, 1980; Ord. 534-78 § 5, 1978.)
EMC 20.08.100	(Ord. 3509-16 § 10, 2016; Ord. 1971-93 § 2, 1993; Ord. 1556-89 § 2, 1989; Ord. 564-78 §§ 1—3, 1978; Ord. 534-78 § 6(a), (b), 1978.)
EMC 20.08.110	(Ord. 3509-16 § 11, 2016; Ord. 534-78 § 6(c), 1978.)
EMC 20.08.130	(Ord. 3509-16 § 12, 2016; Ord. 534-78 § 7, 1978.)
EMC 20.08.140	(Ord. 3509-16 § 13, 2016; Ord. 534-78 § 8, 1978.)
EMC 20.08.150	(Ord. 3509-16 § 14, 2016; Ord. 534-78 § 9, 1978.)
EMC 20.08.220	(Ord. 3509-16 § 15, 2016; Ord. 690-80 § 3, 1980; Ord. 534-78 § 12, 1978.)


Section 4. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 5. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 6. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 7. It is expressly the purpose of this Ordinance to provide for and promote the health, safety

and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.



Cassie Franklin, Mayor

ATTEST:



City Clerk

PASSED: 2/26/2025

VALID: 02/26/2025

PUBLISHED: 03/01/2025

EFFECTIVE DATE: 03/12/2025










ORD 4076-25_CB 2501-11 EMC 20.08 Noise Ordinance Final_SD

Final Audit Report

2025-02-27

Created:	2025-02-26
By:	Ashleigh Scott (AScott@everettwa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAfbszDz1YbM_RY2LEvMyS7aLEKNSldd

"ORD 4076-25_CB 2501-11 EMC 20.08 Noise Ordinance Final_SD" History

-  Document created by Ashleigh Scott (AScott@everettwa.gov)
2025-02-26 - 9:06:55 PM GMT
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2025-02-26 - 9:09:01 PM GMT
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Signature Date: 2025-02-26 - 9:09:12 PM GMT - Time Source: server
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Signature Date: 2025-02-26 - 9:10:38 PM GMT - Time Source: server
-  Document emailed to Ashleigh Scott (AScott@everettwa.gov) for approval
2025-02-26 - 9:10:40 PM GMT
-  Document approved by Ashleigh Scott (AScott@everettwa.gov)
Approval Date: 2025-02-27 - 6:00:30 PM GMT - Time Source: server
-  Agreement completed.
2025-02-27 - 6:00:30 PM GMT