

## Chapter 20.08 NOISE CONTROL

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### **20.08.005 Purpose—Liability.**

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- 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. (Ord. 1556-89 § 3, 1989)

**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. (Ord. 3509-16 § 1, 2016; Ord. 534-78 § 1, 1978)

**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.

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

C. “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:

<b>Noise Control District</b>	<b>Land Use Zones</b>
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 and R-5.

2. District II All business and commercially zoned districts including but not limited to B-1, B-2, B-3, BMU, E1, E-1MUO, C-1, C-1R, C-2 and C-2ES.

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 nonresidential, nonbusiness and noncommercially zoned districts.

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. "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.

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

F. "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. "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. "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.

- I. "Noise" means the intensity, duration and character of sounds from any and all sources.
- J. "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.
- K. "Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.
- L. "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. "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. "Receiving property" means real property within which sound originating from sources outside the property boundary is received.
- P. "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. "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. "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.
- S. "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. "WAC" means the Washington Administrative Code as currently enacted or hereafter amended.

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

V. “Weekend” means Saturday and Sunday or any legal holiday observed by the state of Washington. (Ord. 3509-16 § 2, 2016; Ord. 3440-15 § 3, 2015; Ord. 1556-89 § 1, 1989; Ord. 690-80 § 2, 1980; Ord. 534-78 § 2, 1987)

**20.08.030 Environmental sound—Unlawful sounds designated.**

It is unlawful for any person to cause or permit noise to intrude into the real property of another person which noise exceeds the maximum permissible sound pressure levels set forth in this chapter. (Ord. 3509-16 § 3, 2016; Ord. 534-78 § 3(a), 1987)

**20.08.040 Environmental sound—Maximum permissible levels.**

For sound sources located within the city of Everett, the maximum permissible 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)
II	57 dB(A)	60 dB(A)	65 dB(A)
III	60 dB(A)	65 dB(A)	70 dB(A)

Where a receiving property lies within more than one district, the most restrictive maximum permissible noise level shall apply to the receiving property. (Ord. 3509-16 § 4, 2016; Ord. 534-78 § 3(b), 1978)

**20.08.050 Environmental sound—Modifications to maximum permissible noise levels.**

The maximum permissible sound levels established by this chapter shall be modified, reduced or increased as follows:

A. 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 [20.08.040](#) are reduced by ten dB(A) where the receiving property lies within District I of the city of Everett.

B. At any hour of the day or night, for any source of sound which is of short duration, the levels

established by this chapter are increased by:

1. Five dB(A) for a total of fifteen minutes in any one-hour period; or
2. Ten dB(A) for a total of five minutes in any one-hour period; or
3. Fifteen dB(A) for a total of one and one-half minutes in any one-hour period. (Ord. 3509-16 § 5, 2016; Ord. 534-78 § 3(c), 1978)

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

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:

<b>Vehicle Category Type</b>	<b>45 MPH or Less</b>	<b>Over 45 MPH</b>
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)

(Ord. 3509-16 § 6, 2016; Ord. 534-78 § 4(a), 1978)

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

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.

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

pounds GVWR excluding buses		
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

(Ord. 3509-16 § 7, 2016; Ord. 534-78 § 4(b), 1978)

**20.08.080 Motor vehicle noise—Specific prohibitions.**

- A. Mufflers and Exhaust Systems. 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 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 of this section is a misdemeanor. (Ord. 3509-16 § 8, 2016; Ord. 534-78 § 4(c), 1978)

**20.08.090 Public nuisance and disturbance noises.**

- A. Public Nuisance Noises. The administrator may determine that a sound constitutes a public nuisance noise as defined herein. It is unlawful for any person to cause or allow to be emitted a noise which has been determined a public nuisance noise.
- B. Public Disturbance Noises Originating from Real or Personal Property. 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 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 and/or social gatherings.
4. Violation of this section is a misdemeanor.

C. Public Disturbance Noises 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:

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. so as to be plainly audible one hundred feet or more from the source of the sound;
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. 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 section is a misdemeanor. (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)

**20.08.100 Noises exempt—At all times.**

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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 parades, sporting events and other public events;
10. Noise created by motor vehicles when regulated by Sections [20.08.060](#) through [20.08.080](#);
11. Noise caused by natural phenomena;
12. Noise originating from motor vehicle racing events at existing authorized 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 permit or SEPA determination. (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)

**20.08.110 Noises exempt during daytime hours.**

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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.
- 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. (Ord. 3509-16 § 11, 2016; Ord. 534-78 § 6(c), 1978)

**20.08.120 Noises exempt from nighttime reduction.**

*Repealed by Ord. 3509-16. (Ord. 564-78 § 4, 1978; Ord. 534-78 § 6(d), 1978)*

**20.08.130 Administrator established—Qualifications, powers and duties.**

- A. Establishment. The position of administrator is hereby established. The administrator or her designee is authorized to administer and enforce the provisions of this chapter.
- B. Qualifications of Administrator. The administrator shall be qualified to perform and interpret sound level measurements consistent with guidance provided by the State Department of Ecology or other recognized institution to operate Type I and Type II sound level meters, and make all computations and calculations necessary to enforce this chapter.
- C. Authority of Administrator. The authority of the administrator shall include but is not limited to:
  - 1. Promulgate rules and regulations consistent with the terms of this chapter and reasonably necessary to implement the provisions of this chapter;

2. Obtaining assistance from other appropriate city departments and officials to effectively administer this noise chapter;
3. Training police officers and staff in noise ordinance enforcement;
4. Purchasing and maintaining sound measuring equipment and training city staff in their calibration and use;
5. Investigating citizens' noise complaints;
6. Granting or denying variances according to procedures set forth in this chapter;
7. Assisting city departments in evaluating and reducing the noise impact of their activities;
8. Providing public education and information regarding noise, this noise chapter and city of Everett noise control districts. (Ord. 3509-16 § 12, 2016: Ord. 534-78 § 7, 1978)

#### **20.08.140 Measurement of sound.**

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- A. If the measurements of sound are made with a sound level meter, it shall be 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.
- B. Sound measurements shall be taken using the guidance of Chapter 173-58 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, provided they are in accordance with this section and performed by an individual trained to operate Type I and Type II sound level meters. (Ord. 3509-16 § 13, 2016: Ord. 534-78 § 8, 1978)

#### **20.08.150 Variances.**

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- A. A person may request a variance from compliance with this chapter by making an application with the administrator at least thirty days before the time period for the variance is to take effect. The application shall be in writing and shall be accompanied by a fee in the amount of one hundred dollars. The variance may not be used for private activities (weddings, parties, etc.). The applicant shall explain the:
  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, 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 administrator determines that the noise level violations:

1. Cannot be avoided,
2. Will exist for a specific period of time,
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 may deny a variance application if:

1. The administrator 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 may revoke a variance if:

1. At any time during the variance the administrator 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 or keep it on their person during the effective period of the variance.

G. If the administrator grants a variance, notice shall be mailed by first class mail to those property owners appearing on the list provided by the applicant per the application requirement herein. The applicant shall be responsible for paying all mailing costs, which shall be in addition to the variance application fee.

H. Any variance granted by the administrator shall be restricted 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. (Ord. 3509-16 § 14, 2016; Ord. 534-78 § 9, 1978)

**20.08.160 Right to appeal.**

*Repealed by Ord. 3509-16. (Ord. 2975-07 § 19, 2007; Ord. 534-78 § 10(a), 1978)*

**20.08.170 Appeal procedure.**

*Repealed by Ord. 3509-16. (Ord. 2975-07 § 20, 2007; Ord. 534-78 § 10(b), 1978)*

**20.08.180 Variance procedure.**

*Repealed by Ord. 3509-16. (Ord. 2975-07 § 21, 2007; Ord. 534-78 § 10(c), (d), 1978)*

**20.08.190 Hearing officer.**

*Repealed by Ord. 3509-16. (Ord. 534-78 § 10(e), 1978)*

**20.08.200 Enforcement—Complaints.**

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*Repealed by Ord. 3509-16. (Ord. 534-78 § 11, 1978)*

**20.08.210 Provisions not exclusive.**

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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. (Ord. 534-78 § 13(a), 1978)

**20.08.220 Enforcement—Violation—Penalty.**

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- A. It shall be unlawful to violate or be in conflict with this chapter. Each day, defined as the twenty-four-hour period beginning at 12:01 a.m., in which violation of this chapter occurs, shall constitute a separate violation.
- B. Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this chapter shall be subject to the provisions of Chapter 1.20. In the event an appeal of an order issued pursuant to Chapter 1.20 is not subject to Chapter 36.70C RCW (the Land Use Petition Act), appeal shall be by writ of certiorari.
- C. A violation of Section [20.08.080](#) or of Section [20.08.090](#)(B), (C), or (D) is a criminal misdemeanor punishable in accordance with Section 10.04.080.
- D. Evidence in Criminal Proceedings. In any criminal prosecution under Section [20.08.080](#) or of Section [20.08.090](#)(B), (C), or (D), evidence of sound level through the use of a sound level meter reading shall not be necessary to establish the commission of the offense. (Ord. 3509-16 § 15, 2016; Ord. 690-80 § 3, 1980; Ord. 534-78 § 12, 1978)