

Chapter 8.122

NOISE ENFORCEMENT

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8.122.005 Purpose.

The purpose of this chapter is to mitigate the adverse impact of noise so as to preserve, protect, and promote the public health, safety and welfare, and the peace and quiet for the citizens of the City, while recognizing the economic value of construction, industry and commercial enterprise. This chapter is further intended to prevent injury to life, and property, foster convenience and comfort for the City's citizens, and facilitate the enjoyment of the natural attractions of the City.

(Ord. 28293 Ex. A; passed Apr. 14, 2015)

8.122.010 General definitions.

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

- A. "Activity" means any act or combination of acts, which actually results in the production of sound.
- B. "Ambient" sound means the sound level at a given location that exists as a result of the combined contribution in that location of all sound sources, excluding the contribution of a source or sources under investigation for violation of this code and excluding the contribution of extraneous sound sources. For purposes of the enforcement of this code, the ambient sound level of a given location may be determined based upon measurements taken at a comparable site (which includes but is not limited to comparable physical locations and time of day) in the nearby area.
- C. "ANSI" means the American National Standards Institute, which serves as the administrator and coordinator of the United States private sector voluntary standardization system.
- D. "Apparatus" means any mechanism that prevents, controls, detects, measures or records the production of sound.
- E. "Building" means a structure as defined in Section 2.01.040 of the Tacoma Municipal Code.
- F. "Construction" or "construction work" means any or all activity necessary or incidental to the erection, demolition, assembling, altering, installing, or equipping of buildings, public or private highways, roads, premises, parks or utility lines, including land clearing, grading, excavating, and filling.
- G. "Construction device" means any device designed and intended for use in construction including, but not limited to any air compressor, pile driver, sledgehammer, bulldozer, pneumatic hammer, steam shovel, derrick, crane, steam or electric hoist, construction vehicle, or pneumatic or electric tool.
- H. "Continuous sound" is sound that is measured by the slow response of a sound level meter and which lasts one second or longer. Impulsive sounds that are rapidly repetitive and have a duration of one second or longer shall be measured as continuous sound.

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- I. “dB(A)” means the sound level as measured with a sound level meter using the “A” weighting network. This frequency-weighting network for the measurement of sound levels shall comply with standards established by the American National Standards Institute current S1.4 specifications for sound level meters .
- J. “dB(C)” level means the sound level as measured with a sound level meter using the “C” weighting network. This frequency-weighting network for the measurement of sound levels shall comply with standards established by the American National Standards Institute specifications for sound level meters S1.4-1971, as amended or S1.4-1983, as amended.
- K. “Decibel” means the practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure to the pressure of a reference sound (20 micropascals); abbreviated “dB.”
- L. “Device” means any mechanism that is intended to or that actually produces sound when operated or handled.
- M. “Department” means the Department of Neighborhood and Community Services.
- N. “Director” means Director of Neighborhood and Community Services Department, or authorized representative.
- O. “Dwelling” means any building lawfully occupied in whole or in part as the temporary or permanent residence of one or more natural persons.
- P. “Emergency” means a public calamity or an exposure of any person or property to imminent danger.
- Q. “Emergency energy release device” means a device used specifically to release excess energy on a nonscheduled basis as necessary for purposes of safety, and not as a part of routine process control.
- R. “Emergency signal device” means any gong, siren, whistle, air horn or any similar device used on authorized emergency vehicles.
- S. “Extraneous sound” means a sound that is relatively intense, intermittent, and of short duration and is neither part of the ambient sound, nor comes from the sound source under investigation. These sources of sound are noted but excluded from all measurements.
- T. “Frequency” means the time rate of repetition of sound waves in cycles per second, reported as Hertz (Hz). “Frequency” is sometimes colloquially referred to as “pitch.” Low frequency sounds can correspond to the bass notes in music. Low frequency sound waves travel farther and penetrate structures more efficiently than high frequency sound waves.
- U. “Impulsive sound” is sound that is of short duration where each peak of sound lasts one second or less. The sound is characterized by abrupt onset and rapid decay. As used in this code, the term impulsive sound shall not include music.
- V. “Lmax” means the maximum measured sound level at any instant in time.
- W. “Owner” means and includes the owner of the property or premises, or a lessee, tenant, or agent of any owner, a lessee of a device or his or her agent, a tenant, operator, or any other person who has regular control of a device or an apparatus.
- X. “Person” means any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration, or department, or any other group of individuals, or any officer or employee thereof.
- Y. “Plainly audible sound” 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 his or her unaided hearing faculties. For the purposes of the enforcement of this code, the detection of any component of sound, including, but not limited to, the rhythmic bass by a person using his or her 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.
- Z. “Public right-of-way” includes the area of land, the right of possession of which is secured by the City for right-of-way purposes, and includes the traveled portion of the public streets and alleys as well as the border area, which includes, but is not limited to, sidewalks, driveway approaches, planting strips, traffic circles, parkways or medians, or the area between the sidewalk and curb line.
- AA. “Receiving property” means real property, including, but not limited to, buildings, grounds, offices and dwelling units from which sound levels from sound sources outside such property may be measured. Individual offices or dwelling units within a building may constitute a receiving property.
- BB. “Sound” means an oscillation in pressure, stress, particle displacement, particle velocity, etc., in a medium with internal forces (e.g., elastic, viscous) or the superposition of such propagated oscillation that evokes an auditory sensation.
- CC. “Sound level meter” means any instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specified manner and that complies with standards

established by the American National Standards Institute specifications for sound level meters S1.4-1971, as amended, or S1.4-1983, as amended.

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

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

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

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015: Ord. 28255 Ex. B; passed Nov. 4, 2014: Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.020 General powers of the Director.

A. Subject to the provisions of this code, the Director may take such action as may be necessary to abate a sound source that causes or may cause, by itself or in combination with any other sound source or sources, an unreasonable or prohibited noise.

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

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

D. The Police Department, as well as other agencies of the City designated by the Director, shall have the authority to enforce the provisions of this code.

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015: Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.030 Testing by order of the Director.

A. If the Director has reasonable cause to believe that any device is in violation of this code, the Director may order the owner of the device to conduct such tests as are necessary in the opinion of the Director to determine whether the device or its operation is in violation of this code and to submit the test results to the Director within 30 calendar days after the tests are ordered.

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

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

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015: Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.040 Inspection.

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

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

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015: Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.050 Procedures for the determination of sound levels.

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

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

B. Total and ambient sound level measurements shall be conducted in accordance with procedures for training approved by the Director. Calculation of source sound levels shall conform to accepted practice.

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C. Ambient sound level measurements shall be conducted on the A-weighting network or the C-weighting network, as appropriate.

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

E. All sound level measurements under this code shall be taken in LMax, as equipment allows.

F. Total sound level measurements shall be conducted for a minimum of three 30-second intervals within a 30-minute period, unless the duty cycle of the sound source precludes multiple measurements.

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015; Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.060 General provisions.

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

Table 1. Maximum permissible sound level in excess of the ambient sound level:

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

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

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

D. Construction activities shall be governed under Section 8.122.070.

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015; Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.070 Construction.

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

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

C. After hours work on weekdays and weekends shall be allowed, provided that no sound created by the work exceeds the limits in Section 8.122.060(a).

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015; Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.080 Music.

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

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

B. No person shall make or cause or permit to be made or caused any music originating from or in connection with the operation of any commercial establishment or enterprise when the level of sound attributable to such music is plainly audible from a distance of at least 100 feet in any direction from the property line of the commercial establishment.

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015: Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.090 Variances.

A. Any person who owns or operates a sound source may apply for a variance of limited duration from the Director.

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

1. The nature and location of the noise source for which such application is made;
2. The reason for which the variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the permit of 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 and the impacts occurring therefrom;
5. The name, address, and means of contacting a responsible party during the hours of operation for which the permit of variance is issued.

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

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

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

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

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

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

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

1. Violation of one or more conditions of the variance;
2. Material misrepresentation of fact in the variance application; or,
3. Material change in any of the circumstances relied upon by the Director in granting the variance.

H. Any person applying for a variance may appeal the Director's decision pursuant to Section 8.122.130.

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015: Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.100 Penalty for violation.

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

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

law. (Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015: Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.110 Notice of Violation and civil penalty.

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

B. The Notice of Violation will be either:

1. Prepared and sent by first class mail to the owner of the property. Notice may also be sent to the person in control of the property, if different; or

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2. Personally served upon the Owner of the property. Notice may also be personally served on the person in control of the property, if different; or

3. Posted on the Property in a prominent location on the premises in a conspicuous manner that is reasonably likely to be discovered.

C. The Notice of Violation shall contain the following:

1. The address of the site and specific details of the condition that is to be corrected;

2. The penalties that may be imposed in the event that the condition is not corrected within 18 calendar days, or as approved by the Director in a noise control plan timeline.

3. If required by the Director, a statement that a noise control plan must be submitted within 18 calendar days.

4. The appropriate department and/or division investigating the case and the contact person.

5. A statement that the person to whom a Notice of Violation is directed may request a hearing by the Hearing Officer. Such notice must be in writing and must be received by the City Clerk no later than 10 calendar days after the Notice of Violation has been issued.

D. At the end of the specified timeframe, the site will be reinspected to see if the condition has been corrected and an acceptable noise control plan submitted.

E. A person who receives a Notice of Violation may request an extension of the compliance deadline. The Director shall have the discretion to grant any reasonable request for an extension, if it can be demonstrated that an ongoing good-faith effort is being made to achieve compliance.

F. Penalties.

1. If a person fails to correct the violation, submit an acceptable noise control plan, violates the plan or, otherwise violates the provisions of this chapter within 12 calendar months of a previous Notice of Violation, then the City may issue penalties in the following amounts:

a. The first civil penalty shall be \$250.

b. The second civil penalty within 12 months of the Notice of Violation shall be \$500.

c. The third civil penalty within 12 months of the Notice of Violation shall be \$1,000.

d. The fourth and subsequent civil penalties within 12 months of the Notice of Violation shall be \$2,000.

2. At such time that two civil penalties have been assessed within a one-year period, any City-issued permits and/or licenses for the site or site activity may be suspended until such time that an approved noise control plan has been submitted and fully complied with, as deemed by the Director.

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

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

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

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015; Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.120 Noise control plan.

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

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

1. A description of noise control measures to be taken to ensure compliance with this code, addressing the specific device(s) and/or operation(s) which are the source(s) of the noise;

2. A timeline, subject to approval to the Director, for implementation of the noise control plan, including the date when compliance will be achieved with the limits set forth in Section 8.122.060, or the provisions applicable to the particular sound source or device;

3. Sound level limits or hours of operation not to be exceeded at the nearest affected residential property during implementation of the noise control plan and hours of operation, if applicable;
4. Information on the ability of the applicant to apply best practical noise control measures; and
5. The name, address, and means of contacting a responsible party for the noise control plan.

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015: Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.130 Hearing by the Hearing Examiner.

- A. A person to whom a Notice of Violation or civil penalty is issued may request a hearing by filing the request with the City Clerk no later than ten calendar days after said Notice of Violation or civil penalty is issued.
- B. If a hearing is requested, the Hearing Examiner, or designee, will conduct the hearing required by this chapter no more than 18 calendar days after the Director issues the Notice of Hearing.
- C. If a request for a hearing is received, the Director shall mail a notice giving the time, location, and date of the hearing, by first-class mail to person or persons to whom the Notice of Violation or civil penalty was directed.
- D. The Hearing Examiner, or designee, shall conduct a hearing on the Notice of Violation or civil penalty. The Director, as well as the person to whom the Notice of Violation or civil penalty was directed, may participate as parties in the hearing, and each party may call witnesses. The City shall have the burden of proof to establish, by a preponderance of the evidence, that a violation has occurred and that the required corrective action is reasonable.
- E. The Hearing Officer shall determine whether the City has established that a violation has occurred and that the required corrective action is reasonable and shall affirm, modify, or vacate the Director's decisions regarding the alleged violation, civil penalty, and/or the required corrective action, with or without written conditions.
- F. The Hearing Examiner shall issue a final Order that contains the following information:
 1. The decision regarding the alleged violation including findings of facts and conclusion based thereon;
 2. The required corrective action, if any;
 3. The date and time by which the correction must be completed;
 4. A statement of any appeal remedies.
- G. If the person to whom the Notice of Violation or civil penalty was directed fails to appear at the scheduled hearing, the Hearing Examiner will enter an Order finding that the violation has occurred.
- H. The Order shall be served on the person in the same manner as a Notice of Violation as provided for in Section 8.122.110. A final Order of the Hearing Examiner may be appealed to a court of competent jurisdiction no more than 21 calendar days of its issuance.

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015: Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.140 Exemptions.

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

- A. Agricultural activities.
- B. Unamplified bells, chimes, or carillons while being used in conjunction with ongoing religious or school activities, or as a function of a City landmark.
- C. Emergency energy release and signal devices.
- D. Emergency work conducted at the site of the emergency.
- E. National Warning System ("NAWAS"): systems used to warn the community of an attack or imminent public danger, such as flooding, explosion, or hurricane.
- F. Noise of aircraft operations.
- G. Sounds originating from officially sanctioned parades and other public events when properly permitted under Chapter 11.15 of the Tacoma Municipal Code ("TMC").
- H. Sounds created by animals, which sounds shall be regulated under the provisions of Title 17 TMC.
- I. Sounds created by motor vehicles, which sounds shall be regulated under the provisions of Chapter 8.12 TMC.

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

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

L. Sounds generated by trains.

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

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

O. Sounds created by portable or stand-by generators during periods when there is no electrical service available from the primary supplier due to natural disaster or power outage.

P. Sounds created by the operation of commercial, non-recreational watercraft engaged in intrastate, interstate, or international commerce, to include all associated loading and unloading activities.

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015: Ord. 27939 Ex. A; passed Nov. 2, 2010: Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.150 Nuisance Regulations not prohibited.

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

(Repealed and reenacted by Ord. 28293 Ex. A; passed Apr. 14, 2015: Ord. 28272 Ex. E; passed Dec. 16, 2014: Ord. 27939 Ex. A; passed Nov. 2, 2010: Ord. 27673 Ex. A; passed Feb. 19, 2008)

8.122.160 Severability.

If any section, subsection, subdivision, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of this chapter.

(Ord. 28293 Ex. A; passed Apr. 14, 2015)