

**CITY OF SNOHOMISH
Snohomish, Washington**

ORDINANCE 2355

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SNOHOMISH, WASHINGTON, ADDING AMENDING CHAPTER 8.16 OF THE SNOHOMISH MUNICIPAL CODE ENTITLED “PUBLIC DISTURBANCE NOISE” REGULATING NOISE OCCURRING DURING NIGHTTIME HOURS

WHEREAS, the City of Snohomish has previously adopted regulations related to public disturbance noise as set forth in chapter 8.16 SMC; and

WHEREAS, pursuant to the authority granted under the Washington State Constitution Art. XI Sec. 11, the City of Snohomish “may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws;” and

WHEREAS, the Department of Ecology in adopting regulations related to maximum environment noise levels in chapter 173-60 WAC did not usurp local governments’ authority in “regulating noise from any source as a nuisance” and “that local resolutions, ordinances, rules or regulations regulating noise on such a basis shall not be deemed inconsistent with this chapter [WAC 173-60] by the department [of Ecology]” (WAC 173-60-060); and

WHEREAS, after discussion and review of the existing provisions, the City Council desires to add provisions that regulate noise occurring during nighttime hours; and

WHEREAS, pursuant to IRLJ 2.2 (Infraction Rules for Courts of Limited Jurisdiction); civil infractions need not have been committed in the citing officer’s presence, therefore, the City desires to have enforcement of the regulations related to nuisance noise during nighttime hours be established on a complaint-based system; and

WHEREAS, it is the City Council’s intent to regulate and control the level of noise in a manner which promotes commerce; the use, value, and enjoyment of property; sleep and repose; and the quality of the environment;

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

Section 1. Chapter 8.16 of the Snohomish Municipal Code titled “Public Disturbance Noise”, is hereby amended to read as follows:

8.16.010 Definitions. For the purposes of this chapter, the following definitions shall apply:

“Public Disturbance Noise” shall mean the following sources of sound unless exempted by the next section SMC 8.16.020:

- A. Frequent, repetitive or continuous sound from any horn or siren attached to a motor vehicle except as a warning of danger or specifically permitted or required by law;
- B. Frequent, repetitive or continuous sound in connection with the starting, operating, repairing, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine in any residential zone which unreasonably interferes with the peace, comfort and repose of owners or occupants of real property in the residential zone;
- C. Loud or raucous sound from any activity which unreasonably interferes with the operation of any school, church, hospital, sanitarium or nursing or convalescent facility;
- D. Frequent, repetitive or continuous sound which emanates from a building, structure or property, and created by musical instrument, whistle, sound amplifier, stereo, jukebox, radio, television or other device capable of reproducing or creating sound, such as sounds originating from a band session, tavern operation or commercial sales lot which unreasonably interferes with the peace, comfort and repose of owners or occupants of nearby property;
- E. Sound from a motor vehicle audio sound system, such as a radio, tape player or compact disc player, when the volume is such that the sound can be clearly heard by a person of normal hearing at a distance of more than fifty (50) feet from the vehicle itself;
- F. Sound from carried or transported portable audio sound equipment, such as a radio, tape player or compact disc player, when the volume is such that the sound can be clearly heard by a person of normal hearing at a distance of more than fifty (50) feet from the source of the sound;
- G. Frequent, repetitive or continuous sound which emanates from a residence structure or property, and created by audio sound equipment, musical instruments or social gatherings which unreasonably interferes with the peace, comfort and repose of owners or occupants of neighboring residential properties;
- H. Sound from squealing or screeching of motor vehicle tires in contact with the ground or other roadway surface because of rapid acceleration, braking or excessive speed around corners except such sounds which arise from actions to avoid danger;
- I. Sound originating from a motor vehicle on the public highway when the vehicle is operated without a muffler in good working order and in accordance with applicable laws and regulations;

- J. Sound from yelling, shouting, hooting, whistling or singing on or near the public streets occurring between the hours of 11:00 p.m. and 7:00 a.m. which unreasonably interferes with the peace, comfort and repose of owners or occupants of real property;
- K. Sound originating from residential real property relating to temporary projects for the maintenance or repair of homes, grounds or appurtenances, including sounds from hammering, power lawnmowers, power hand tools, snow removal equipment and the like when the same occurs between the hours of 9:00 p.m. and 7:00 a.m. weekdays and 9:00 p.m. and 9:00 a.m. on weekends and legal holidays;
- L. Sounds originating from construction sites and activities, including but not limited to sounds from staging (on and near the construction site) and the warming up and operation of heavy construction equipment, power tools and hammering between the hours of 9:00 p.m. and 7:00 a.m. weekdays and 9:00 p.m. and 9:00 a.m. on weekends and legal holidays, except such sounds which arise from emergency construction work to protect public or personal health and safety.
- M. Continuing and/or ongoing sounds from nonemergency motor vehicles or other motorized or non-motorized equipment such as leaf blowers, sweepers, or the like, audible more than 25 feet away from the vehicle or other noise emitting source located on or in the vicinity of residential property which occurs in the presence of a commissioned police officer or which sounds reasonably cause the annoyance or disturbance of two or more neighbors not residing at the same address, due to the ongoing or repetitive nature of the sounds, during the hours described below shall be presumed to be public disturbance noise. The two complaints must be received by the police department within 24 hours from the time the noise occurred in order for an enforcement action to proceed.

For the purposes hereof, the sounds generally described above occurring after 10:00 p.m. at night or before 7:00 a.m. on any day of the week shall be presumed to be a public disturbance except for noises that occur between the hours of 6:00 a.m. and 7:00 a.m., if the business is open to the public during that time, and it occurs in the course of normal, reasonable, and essential business activities to service retail customers present during that time. Further provided, that the presumption of a public disturbance noise occurring between the hours of 10:00 p.m. at night or before 7:00 a.m. shall only be rebutted upon a showing before the adjudicatory body that the noise was caused by circumstances of an unforeseen and emergency nature.

8.16.020 Exemptions.

Though the following sources of sound may fall within the definitions of a “public disturbance noise” as defined in the previous section, the following sounds shall be exempt and shall not be public disturbance noise:

- A. Noise originating from aircraft in flight, and sounds which originate in airports and are directly related to flight operations;

- B. Noise created by safety and protective devices, such as relief valves where noise suppression would defeat the safety relief intent of the device;
- C. Noise created by fire or security alarms, or noise created by emergency equipment;
- D. Noise created by auxiliary equipment on motor vehicles used for highway maintenance;
- E. Noise created by a special event as defined in and regulated by Chapter 5.10 Snohomish Municipal Code so long as the event is in compliance with the terms and conditions of its special event permit;
- F. Noise created by natural phenomenon;
- G. Noise created by public utility facilities including electrical substations;
- H. Noise created from school marching bands while practicing;
- I. Noise created by bells, chimes or carillon not operated for more than five minutes in any one hour from the hours of 7:00 a.m. to 10:00 p.m., but not including such noise as is artificially created and amplified and broadcast via loud speaker;
- J. Noise created by the operation of equipment or facilities of surface carriers engaged in commerce by railroad; and
- K. Noise originating from construction sites and activities for a City, State, or Federal public works or emergency repair project.

8.16.030 Infraction. Section 8.16.030 is hereby repealed in its entirety and replaced with the following:

It is unlawful and a civil infraction for:

- (1) Any person to cause a nonexempt public disturbance noise as defined by this chapter; or
- (2) Any person who allows to be emitted a nonexempt public disturbance noise as defined by this chapter from a property, facility, business, or building managed or controlled by such person.

The Public Disturbance Noise prohibitions as defined in 18.16.010 constitute a civil infraction and need not occur in the citing officers presence to be enforced pursuant to IRLJ 2.2, as hereby adopted by reference as currently enacted, or as hereafter amended, and shall be given the same force and effect as if set forth herein in full.

8.16.040 Enforcement.

Where this chapter defines “public disturbance noise” as sound unreasonably interfering with the peace, comfort and repose of owners or possessors of real property or neighboring property, only after a complaint has been made by such a person, except for public disturbance noise as defined by SMC 8.16.010(M) which requires two complaints to be made, may the Police Department issue a civil infraction notice. However, nothing herein precludes the Police Department from issuing a civil infraction notice should the “public disturbance noise” occur in the presence of a commissioned police officer.

In all other instances of a “public disturbance noise” a civil infraction notice may be issued without a complaint.

8.16.050 Separate Offenses.

For enforcement purposes, sound emitted during separate days shall be deemed a separate violation. A day is a 24-hour period beginning at 12:01 a.m.

8.16.060 Punishment.

A. Violations related to SMC 8.16.010(A)-(L)

A first violation and infraction of SMC sections 8.16.010(A)-(L) shall be punished with a penalty of \$100. A second violation and infraction of SMC sections 8.16.010(A)-(L) shall be punished with a penalty of \$200. A third and/or subsequent violation and infraction of SMC sections 8.16.010(A)-(L) shall be punished with a fine of \$500.

B. Violations related to SMC 8.16.010(M)

A first violation and infraction of SMC section 8.16.010(M) shall be punished with a penalty of \$250. The penalty for a second or subsequent violation within a two-year period shall be a civil penalty of up to \$500.00; provided, however, that if the same violator is found, in any forums, to have committed violations hereof three or more separate times occurring at the same location within the same 12-month period, any further violation shall be punishable by a civil monetary penalty of \$750.

8.16.070 Evidence in Proceedings.

In any proceeding under this chapter, evidence of sound level through the use of sound level meter readings shall not be necessary to establish the commission of the violation.

8.16.080 Severability.

Should any provision of this chapter, or of any section of this chapter be held invalid, the remainder of the section and/or this chapter shall not be affected.

Section 2. Severability – Construction. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this

ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Snohomish Municipal Code, the provisions of this ordinance shall control.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 4. Effective Date. This ordinance shall take effect five days after its publication, or publication of a summary thereof, in the City's official newspaper, or as otherwise provided by law.

ADOPTED by the City Council and **APPROVED** by the Mayor this 14 day of September, 2018.

John T. Kartak

John T. Kartak, Mayor

APPROVED AS TO FORM:

Grant K. Weed

Grant K. Weed, City Attorney

ATTEST:

Pat Adams

Pat Adams, City Clerk