

ORDINANCE No. 116621

COUNCIL BILL No. 109587

AN ORDINANCE relating to enforcement of noise control; amending sections 25.08.060 and 25.08.520 of the Seattle Municipal Code to transfer the responsibilities for administering Chapter 25.08 from the Director of the Seattle-King County Department of Public Health to the Director of the Department of Construction and Land Use, updating other references, and ratifying prior acts of the Administrator.

The City

Honorable President:

Your Committee on _____

to which was referred the within report that we have considered the

3-19-93

COMP

Introduced: <u>DEC 15 1992</u>	By: <u>DONALDSON</u>
Referred: <u>DEC 15 1992</u>	To: <u>LAND USE COMMITTEE</u>
Referred:	To:
Referred:	To:
Reported: <u>DEC 14 1992</u>	Second Reading: <u>DEC 23 1992</u>
Third Reading: <u>DEC 21 1992</u>	Signed: <u>DEC 21 1992</u>
Presented to Mayor: <u>DEC 21 1992</u>	Approved: <u>DEC 21 1992</u>
Returned to City Clerk: <u>DEC 21 1992</u>	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

109587

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

City President:

Committee on

which was referred the within Council Bill No.

that we have considered the same and respectfully recommend that the same:

3-19-93

3-0 Do Pass

Full Council vote 9-0

Committee Chair

ORDINANCE 116621

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AN ORDINANCE relating to enforcement of noise control; amending sections 25.08.060 and 25.08.520 of the Seattle Municipal Code to transfer the responsibilities for administering Chapter 25.08 from the Director of the Seattle-King County Department of Public Health to the Director of the Department of Construction and Land Use, updating other references, and ratifying prior acts of the Administrator.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 25.08.060 of the Seattle Municipal Code is hereby amended to read as follows:

25.08.060 Administrator

"Administrator" means the Director of the Department of Construction and Land Use or his or her authorized representative, except that the Director of the Seattle-King County Department of Public Health or his or her authorized representative shall continue to be the "Administrator" of Subchapter VII Variances through December 31, 1993. (~~the-Director-of-the-Seattle-King County-Department-of-Public-Health-or-his-authorized representative-~~)

Section 2. Section 25.08.520 of the Seattle Municipal Code is hereby amended to read as follows:

25.08.520 Noise in public parks and places

A. It is unlawful for any person to cause, or for any person in charge of a group of persons to allow sound from an officially sanctioned musical event to originate in a public park, public place, as defined in Street Use Ordinance No. 90047, public market or civic center which exceeds a L eq of ninety-five (95) dB(A) for one (1) minute as measured fifty feet (50') (approximately fifteen (15) meters) from the source or sources, whether or not the sounds are live or recorded. Provided, that this section shall not apply to indoor events.

B. Each violation of this section which occurs after notice to the person (designated on the permit as the agent to receive notices of violations in the case of events with permits) that he or she is in violation of this section shall constitute a separate offense. At the time of application the applicant shall designate an on-premises agent who will accept notices of violation of this chapter during the event. The absence of the designated on-premises agent from the event or the inability of the serving agency to locate the on-premises agent or the refusal of an on-premises agent or responsible official of a group to accept notice of a violation shall not affect the validity of the initial or successive violations.

1 C. The Administrator, the Director of Seattle
2 Center, the Superintendent of Parks, the Director of the
3 Seattle Engineering Department (Chairperson-of-Board-of
4 Public-Works), the Chief of Police, or an authorized
5 representative of any of them may terminate a performance
6 as a public nuisance after following the notice
7 requirements of subsection B if the decibel level exceeds
8 one hundred five (105) dB(A) for a total of five (5)
9 minutes in any thirty (30) minute period as measured
10 fifty feet (50') (approximately fifteen (15) meters) from
11 the source or sources.

12 D. Before any permit or other authorizing document
13 is issued for any event which will produce sounds which
14 may violate this section, the application shall be
15 circulated to the Administrator. (Noise-Abatement
16 Section-of-the-Health-Department) The Department of
17 Construction and Land Use (The-Health-Department) is
18 authorized to attach any conditions consistent with this
19 chapter and reasonably calculated to prevent annoying
20 sounds.

21 E. 1. In any permit for use of a public park, public
22 market, civic center, or other public place, the
23 Superintendent of Parks and Recreation, the Director of
24 the Seattle Engineering Department (Chairperson-of-the
25 Board-of-Public-Works) or the Director of the Seattle
26 Center or the designee of any of them, respectively,
27 shall stipulate that the Department of Construction and
28 Land Use (Health-Department) provide sound-control
monitoring services whenever:

a. Amplified sound will be used at the proposed event; and

b. The Administrator or his designee finds that, unless monitored, the sound level originating at the proposed event may exceed the sound level in SMC Section 25.08.520 A. The Administrator shall be guided principally by the expected power and type of amplification and, for those with a record of prior usage, by past events held on City property within the last two (2) years.

2. The Administrator, in his or her discretion, may perform the service directly, delegate performance to the authority issuing the permit, or retain an acoustician.

F. This section does not limit or diminish the management authority of the Superintendent of Parks and Recreation, the Director of the Seattle Engineering Department (Chairperson-of-the-Board-of-Public-Works) or the Director of the Seattle Center to require a performance bond or cash deposit for the use and occupancy of a public park, a public place or public market, or the Seattle Center, respectively, as security for payment of costs and expenses related thereto, damages or cleanup costs that may arise from a proposed event, and/or taxes and other amounts that may become payable; nor does this section limit or diminish their management authority to grant or deny such permits for causes independent of the Noise Ordinance codified in this chapter.

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G. A copy or digest of this section on noise in public parks and public places shall be delivered to every person applying for a permit or other authorizing document which involves the production of sounds which may violate this section and the permittee shall sign a receipt signifying that he or she has received the same.

Section 3. Any act taken by the Director of the Department of Construction and Land Use pursuant to the authority of Chapter 25.08 and prior to the effective date of this ordinance is hereby ratified and confirmed.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its passage and approval if approved by the Mayor; otherwise it shall take effect at the time it shall become law under the provisions of the City Charter.

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PASSED by the City Council the 29th day of March, 1993 and signed by me in open session in authentication of its passage this 29th day of March 1993.

Geo. J. Benson
President of the City Council

Approved by me this 8th day of April, 1993.

Norman Blue
Mayor

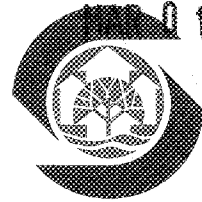
Filed by me this 8th day of April, 1993.

BY Margaret Carter
Deputy City Clerk

(SEAL)
Published _____

NOISE.1
03/04/93

MAR 1 1993



Seattle
Department of Construction and Land Use

R. F. Krochalis, Director
Norman B. Rice, Mayor

M E M O R A N D U M

TO: George Benson, President
Seattle City Council

VIA: Diana Gale, Director
Office of Management and Budget

FROM: R.F. Krochalis, Director *R.F. Krochalis*
Department of Construction and Land Use

DATE: March 1, 1993

SUBJECT: Proposed Noise Control Ordinance Amendment

Transmitted herewith for City Council consideration is a proposed ordinance amending Seattle Municipal Code **Chapter 25.08 Noise Control**.

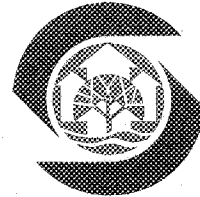
The proposed ordinance transfers responsibility for administration of **Chapter 25.08** from the Director of the Seattle-King County Department of Public Health to the Director of the Department of Construction and Land Use. The Director of the Seattle-King County Department of Public Health will continue to administer Subchapter VII through December 31, 1993.

Attached is a memorandum identifying the responsibilities to be assumed by the Department of Construction and Land Use and an outline of the effects of implementing the proposed ordinance.

If you have any questions about the proposed ordinance, please call Joe Garcia, Director of Housing and Zoning Enforcement Division, at 684-7845.

Thank you.

Seattle
Department of Construction and Land Use



R. F. Krochalis, Director
Norman B. Rice, Mayor

M E M O R A N D U M

TO: George Benson, President
Seattle City Council

VIA: Diana Gale, Director
Office of Management and Budget

FROM: R.F. Krochalis, Director *R.F. Krochalis*
Department of Construction and Land Use

DATE: March 1, 1993

SUBJECT: Impacts of Proposed Noise Control Amendment

INTRODUCTION

That noise creates environmental health impacts is unquestioned. The Revised Code of Washington **Chapter 70.107 Noise Control** authorizes city governments to enact noise control regulations. In 1977, Ordinance 106360 created Seattle Municipal Code **Chapter 25.08 Noise Control**.

Chapter 25.08 has been amended seven times since 1977. A 1979 amendment added regulations covering noise in public parks and places. In 1980, the chapter was amended to include regulations governing watercraft. A 1981 amendment redefined public nuisance noises and public disturbance noises and clarified the administrator's authority. In 1983 and 1986, the ordinance was amended to add regulations covering noise caused by construction and equipment operation. A 1989 amendment increased the application fees for temporary variances and established a fee for environmental plan reviews with respect to noise impact. Finally, a 1990 amendment corrected district designations to conform with Title 23 definitions.

As this brief chronology indicates, the responsibilities of the administrator of Chapter 25.08 have increased several times during the 17 year history of the ordinance.

Chapter 25.08 is currently administered by the Director of the Seattle-King County Department of Public Health (SKCDPH). The proposed ordinance will transfer responsibility for administration of Chapter 25.08 to the Director of the Department of Construction and Land Use (DCLU).

An equal employment opportunity - affirmative action employer.

Seattle Department of Construction and Land Use, 710 - 2nd Avenue, Ste 700, Seattle, WA 98104-1703
DCLU complies with the Americans with Disabilities Act. Accommodations for people with disabilities provided on request.

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The following issues are raised by the transfer of authority.

- * Responsibilities assumed by DCLU
 - * Staff impacts
- * Equipment, expertise, and training
 - * Service delivery impacts
 - * Costs and fees

RESPONSIBILITIES ASSUMED BY DCLU

Subchapter VIII of Chapter 25.08 establishes the Administrator's duties. The duties include, but are not limited to: training field inspectors; purchasing measuring instruments and training inspectors in their calibration and use; promulgating and publishing rules; investigating citizen noise complaints; assisting citizens and City departments in reducing the noise impact of their activities; assisting City officials in evaluating the noise component in planning and zoning actions; instituting a public education program on noise; commencing enforcement actions against violators; reviewing variance applications; and reviewing at least every three (3) years the provisions of Chapter 25.08 and recommending revisions consistent with technology to reduce noise.

The Administrator's responsibilities reside in four general areas: to serve as an expert noise resource to assist City departments and citizens in complying with the ordinance; to respond to citizen requests for investigation and enforcement; to review projects and variance applications to determine when compliance with the ordinance will not be required; and to be responsible for the general administration of the ordinance. (General administration includes: public information, staff training, rule and procedure development, and code review every third year.)

STAFF IMPACTS

The area where staff impacts are most clearly documented is investigation and enforcement. SKCDPH records indicate that DCLU can expect to respond to at least 870 phone calls, commence 134 investigations, and conduct 255 followups on investigations commenced. This work will be performed by Inspectors in the Housing and Zoning Enforcement Division.

The Administrator of Chapter 25.08 is responsible for reviewing applications for variances from the Chapter's provisions. SKCDPH has agreed to continue to perform this

function through December 31, 1993 in order to allow DCLU time to develop the expertise necessary to make variance decisions. Variance applications will probably be reviewed either in the Land Use Division or the Permits and Plans Division when DCLU assumes responsibility for administering the variance provisions. This work will be added to existing plan review responsibilities of Land Use Specialists and Plans Examiners and Engineers.

DCLU will assume responsibility for developing rules and procedures; conducting a public information program; providing staff training; establishing and collecting fees; and performing code maintenance every third year. These functions will be performed by the Code Development and Community Relations Division and the Administration Division. Again, this work will be added to the code maintenance work performed by the Code Development and Community Relations Division on the Land Use Code, the Housing and Building Maintenance Code, the Building Code and the other technical codes.

DCLU will also assume new responsibilities as a City resource on issues related to noise mitigation and noise impacts of planning and zoning decisions. DCLU will also be expanding its responsibilities in the area of plan review relating to noise impacts. Currently the SKCDPH reviews EISs or mitigated DNSs concerning noise impacts. This responsibility will be added to DCLU's normal project review functions. Both of these new areas of responsibility require a high level of knowledge and expertise on noise impacts and control. DCLU must either develop or obtain the experience and expertise necessary to discharge these responsibilities.

EQUIPMENT, EXPERTISE, and TRAINING

Obtaining the equipment, training, and expertise necessary to administer the ordinance will be one of the most significant challenges facing DCLU. SKCDPH has agreed to lease noise monitors to DCLU for One Dollar (\$1.00) per year; however, questions of equipment purchase and maintenance costs have not yet been addressed.

Administration of the ordinance requires scientific expertise and training that DCLU does not currently possess. SKCDPH has agreed to train some DCLU staff prior to the proposed April 1, 1993 transfer of responsibilities. Training notwithstanding, it will take some time for DCLU to develop or obtain the expertise concerning noise control that currently exists in the SKCDPH.

SERVICE DELIVERY IMPACTS

Comparison of service delivery between DCLU and SKCDPH cannot be performed at this time as DCLU has no record of performing this type of service. However, the impacts on service delivery by DCLU in general seem inevitable and unescapable. As outlined above, all of the responsibilities assumed by DCLU will be added to work programs of existing units.

It is likely that responses to Housing and Zoning complaints will be less timely if they must compete with noise complaints. Timeframes for Land Use review and Building Code review will be affected to some extent by the new responsibilities. DCLU's code development and maintenance resources and the public information resources will be spread thinner to include yet another code.

At the present time, it is difficult to measure any of these impacts in terms of staff-hours spent. However, it seems that at least initially, DCLU will require more staff time to deliver the same amount of service, since DCLU will be in a learning stage relating to noise control.

COSTS AND FEES

Chapter 25.08 provides fees for variance reviews and plan review related to environmental effects of noise. Collection of these fees will be the responsibility of DCLU. At this time, DCLU does not have information concerning past revenues collected. It is not expected that these fees will cover DCLU's costs in administering the ordinance.

At this time, DCLU also does not have cost estimates relating to administration of Chapter 25.08. Pursuant to DCLU procedure we have begun assessing the training, equipment, public information, staffing, plan review, and procedural implications of the transfer of responsibilities. Following this assessment, DCLU can make an estimate of the projected costs of administering the ordinance.

George Benson
March 1, 1993
Page Five

CONCLUSION

The proposal to transfer responsibility for administration of SMC Chapter 25.08 from SKCDPH to DCLU requires DCLU to respond quickly and creatively to meet the challenges posed. Impacts on DCLU's finances and staffing are unclear but must be assessed to the extent possible to ensure that service delivery remains as effective as possible. Cooperation between SKCDPH and DCLU may be the deciding factor in providing a smooth transition. Finally all efforts should be made to ensure that the public is aware of the transfer of responsibility.

If you have questions concerning the amendment or this memo, please call Joe Garcia, Director of Housing and Zoning Enforcement Division at 684-7845.

STATE OF WASHINGTON - KING COUNTY

29043

City of Seattle

-ss.

No. ORD IN FULL

City of Seattle

ORDINANCE 116621

AN ORDINANCE relating to enforcement of noise control, amending sections 25.08.060 and 25.08.520 of the Seattle Municipal Code to transfer the responsibilities for administering Chapter 25.08 from the Director of the Seattle-King County Department of Public Health to the Director of the Department of Construction and Land Use, updating other references, and ratifying prior acts of the Administrator.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 25.08.060 of the Seattle Municipal Code is hereby amended to read as follows:

25.08.060 ADMINISTRATOR

"Administrator" means THE DIRECTOR OF THE DEPARTMENT OF CONSTRUCTION AND LAND USE OR HIS OR HER AUTHORIZED REPRESENTATIVE, EXCEPT THAT THE DIRECTOR OF THE SEATTLE-KING COUNTY DEPARTMENT OF PUBLIC HEALTH OR HIS OR HER AUTHORIZED REPRESENTATIVE SHALL CONTINUE TO BE THE "ADMINISTRATOR" OF SUBCHAPTER VII VARIANCES THROUGH DECEMBER 31, 1993. ((the Director of the Seattle King County Department of Public Health or his authorized representative.))

Section 2. Section 25.08.520 of the Seattle Municipal Code is hereby amended to read as follows:

25.08.520 NOISE IN PUBLIC PARKS AND PLACES

A. It is unlawful for any person to cause, or for any person in charge of a group of persons to allow sound from an officially sanctioned musical event to originate in a public park, public place, as defined in Street Use Ordinance No. 90047, public market or civic center which exceeds a L eq of ninety-five (95) dB(A) for one (1) minute as measured fifty feet (50') (approximately fifteen (15) meters) from the source or sources, whether or not the sounds are live or recorded. Provided, that this section shall not apply to indoor events.

B. Each violation of this section which occurs after notice to the person (designated on the permit as the agent to receive notices of violations in the case of events with permits) that he or she is in violation of this section shall constitute a separate offense. At the time of application the applicant shall designate an on-premises agent who will accept notices of violation of this chapter during the event. The absence of the designated on-premises agent from the event or the inability of the serving agency to locate the on-premises agent or the refusal of an on-premises agent or responsible official of a group to accept notice of a violation shall not affect the validity of the initial or successive violations.

C. The Administrator, the Director of Seattle Center, the Superintendent of Parks, the DIRECTOR OF THE SEATTLE ENGINEERING DEPARTMENT ((Chairperson of Board of Public Works)), the Chief of Police, or an authorized representative of any of them may terminate a performance as a public nuisance after following the notice requirements of subsection B if the decibel level exceeds one hundred five (105) dB(A) for a total of five (5) minutes in any thirty (30) minute period as measured fifty feet (50') (approximately 15-

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

ORD:116621

was published on

04/20/93

The amount of the fee charged for the foregoing publication is the sum of \$

J Ross

Subscribed and sworn to before me on

04/20/93 *W. M. ...*

Notary Public for the State of Washington, residing in Seattle

93-57

City of Seattle

Executive Department—Office of Management and Budget

Diana Gale, Director
Norman B. Rice, Mayor



March 9, 1993

*OK
slc
3/9/93*

The Honorable Mark Sidran
City Attorney
City of Seattle

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

**REQUESTING
DEPARTMENT**

Department of Construction and Land Use

SUBJECT:

AN ORDINANCE relating to enforcement of noise control; amending sections 25.08.060 and 25.08.520 of the Seattle Municipal Code to transfer the responsibilities for administering Chapter 25.08 from the Director of the Seattle-King County Department of Public Health to the Director of the Department of Construction and Land Use, updating other references, and ratifying prior acts of the Administrator.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMB. Any specific questions regarding the legislation can be directed to Celia Grether at 684-8048.

Sincerely,

Norman B. Rice
Mayor

by *[Signature]*

DIANA GALE
Budget Director

DG/cg/rsp

Enclosure

cc: Director, Department of Construction and Land Use