

Ordinance No. 122923

Council Bill No. 116204

An ordinance relating to noise control, amending various sections and adding new sections to Chapter 25.08 of the Seattle Municipal Code, to provide for a major public project construction variance for major public construction projects, to update various provisions to conform to new technology and changes in technology, to revise the enforcement procedures to provide for stop work orders, revocation of variances, citations and civil penalties, to revise various provisions to update and clarify references and correct grammar and other errors, and repealing Sections 25.08.130, 25.08.240, 25.08.535, 25.08.620, 25.08.750, 25.08.770, 25.08.780, 25.08.790 and 25.08.810.

CF No. 1

Date Introduced:	<u>5.5.08</u>	
Date 1st Referred:	Transportation	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
<u>3.2.09</u>	<u>9-0</u>	
Date Presented to Mayor:	Date Approved:	
<u>3.3.09</u>		
Date Returned to City Clerk:	Date Published:	T.O. _____ F.T. _____
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Jan Drago
Councilmember

Committee Action:

(E)
(LH)

3-0 Pass JP, RM, SC - AS Amended

1-12-09 hold 2 weeks

1-26-09 Hold to Feb 17, 2009

2/17/09 Held to February 23, 2009

2/23/09 Held to ~~Feb~~ March 2 2009

3/2/09 Passed as Amended (E) (LH) 9-0

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

Law Department

Law Dept. Review OMP Review City Clerk Review Electronic Copy Loaded Indexed

ORDINANCE 122923

1
2 **AN ORDINANCE** relating to noise control, amending various sections and adding new sections
3 to Chapter 25.08 of the Seattle Municipal Code, to provide for a major public project
4 construction variance for major public construction projects, to update various provisions
5 to conform to new technology and changes in technology, to revise the enforcement
6 procedures to provide for stop work orders, revocation of variances, citations and civil
7 penalties, to revise various provisions to update and clarify references and correct
8 grammar and other errors, and repealing Sections 25.08.130, 25.08.240, 25.08.535,
9 25.08.620, 25.08.750, 25.08.770, 25.08.780, 25.08.790 and 25.08.810.

10 WHEREAS, it is the policy of the City of Seattle to minimize the exposure of citizens to the
11 physiological and psychological dangers of excessive noise and to protect, promote and
12 preserve the public health, safety and welfare; and

13 WHEREAS, it is the express intent of the City to control the level of noise in a manner that
14 promotes commerce; the use, value and enjoyment of property; sleep and repose; and the
15 quality of the environment; and

16 WHEREAS, construction of major public infrastructure projects may result in noise impacts to
17 adjacent business and residential properties oftentimes along linear corridors and of
18 substantial duration; and

19 WHEREAS, several such major public infrastructure projects are either underway or are
20 proposed for construction in the near future, including Sound Transit's Link Light Rail
21 and the Alaskan Way Viaduct and Seawall Replacement Project; and

22 WHEREAS, the noise code does not clearly identify a process for qualifying for and obtaining
23 construction noise variances for major, public, more than six-month construction
24 projects; and

25 WHEREAS, the ability to work during nighttime hours is often essential to complete such
26 projects on a timely and financially feasible schedule; and

27 WHEREAS, the proposed changes in the noise ordinance do not increase the exterior sound
28 levels allowed during construction from what is allowed in the current ordinance, while
providing for a variance from these levels for major public construction projects; and

WHEREAS, the noise ordinance has not been amended in recent years to reflect technological
changes in how to measure noise impacts, changes in other codes and ordinances, or to
make grammar changes; NOW, THEREFORE,



BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Consistent with Section 25.08.020 of the Seattle Municipal Code, the City finds that it has continued to study the problem of noise since the previous finding in 1977. On the basis of this experience and knowledge of conditions within the City, the City Council finds that special conditions continue to exist in the City that make necessary the differences between this chapter 25.08 and the noise regulations adopted by the Department of Ecology.

Section 2. Section 25.08.040 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.040 Definitions generally – Gender((=))

All technical terminology used in this chapter, not defined in this subchapter, shall be interpreted in conformance with American National Standards Institute ("ANSI") Specifications, Section 1.1 ~~((1960))~~1994, as it now exists or as hereafter amended and Section 1.4-~~((1971))~~1983, as it now exists or as hereafter amended. Words used in the masculine gender include the feminine and words used in the feminine gender include the masculine. For the purposes of this chapter the words and phrases used herein shall have the meanings set forth in the following sections of this subchapter.

Section 3. Section 25.08.050 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.050 Administrative Code((=))

"Administrative Code" means the Administrative Code of The City of Seattle, SMC Chapter 3.02, ~~((Ordinance-102228))~~ as now or hereafter amended.



1 Section 4. Section 25.08.060 of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 121276, is amended as follows:

3 **25.08.060 Administrator((;))**

4 "Administrator" means the Director of the Department of Planning and Development or
5 ~~((his or her))~~ the Director's authorized representative ~~((, except that the Director of the Public~~
6 ~~Health—Seattle and King County or his or her authorized representative shall continue to be the~~
7 ~~"Administrator" of Subchapter VII Variances through December 31, 1993))~~.
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9 Section 5. A new Section 25.08.069 of the Seattle Municipal Code is adopted to read as
10 follows:

11
12 **25.08.069 City Holiday**

13 "City Holiday" means the days during which city offices are not open for transaction of
14 business as provided by SMC 3.102.010.

15 Section 6. Section 25.08.100 of the Seattle Municipal Code, which Section was last
16 amended by Ordinance 115041, is amended as follows:

17
18 **25.08.100 Districts((;))**

19 "District" means the land use zones to which the provisions of this chapter are applied.
20 For the purposes of this chapter:

21 A. ~~((("Rural District" includes zones designated in the King County Zoning Code as A, F-~~
22 ~~R, F-P, S-E, G, and S-R greater than thirty-five thousand (35,000) square feet.~~
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1 ~~B.)~~"Residential District" includes ~~((zones designated in the King County Zoning Code~~
2 ~~as R-S, R-D, R-M, B-N, and S-R less than thirty five thousand (35,000) square feet, and))~~ zones
3 defined as residential zones and NC1 zones in The Seattle Land Use Code, Title 23.

4 ~~((C.))~~ B. "Commercial District" includes zones designated ~~((in the King County Zoning~~
5 ~~Code as B-C, C-G, M-L, and M-P, and zones designated))~~ as NC2, NC3, SM, C1, C2, DOC1,
6 DOC2, DRC, DMC, PSM, IDM, DH1, DH2, PMM, and IB in the Seattle Land Use Code, Title
7 23.

8
9 ~~((D.))~~ C. "Industrial District" includes zones designated ~~((in the King County Zoning~~
10 ~~Code as M-H, Q-M, and unclassified uses and zones designated))~~ as IG1, IG2, and IC in the
11 Seattle Land Use Code, Title 23.

12
13 D. For any zone not listed in subsections A, B, or C of this section 25.08.100, the
14 Administrator may determine that the zone is substantially similar to a zone listed in subsections
15 25.08.100.A, B, or C and may classify it similarly for purposes of this chapter.

16 Section 7. A new Section 25.08.155 of the Seattle Municipal Code, is adopted to read as
17 follows:

18
19 **25.08.155 Legal Holiday~~((:))~~**

20 "Legal Holiday" means the following holidays: New Year's Day, Memorial Day,
21 Independence Day, Labor Day, Thanksgiving Day and the day after, and Christmas Day.

22 Section 8. Section 25.08.160 of the Seattle Municipal Code, which Section was last
23 amended by Ordinance 108552, is amended as follows:

24
25 **25.08.160 ~~((L-eq))~~ Leq.**



1 (~~"L_{eq}"~~) "Leq" means the equivalent sound level, which is the constant sound level
2 (~~that,~~) in a given (~~situation and~~) time period(~~,~~) that conveys the same sound energy as the
3 actual time-varying A-weighted sound. The applicable time period (~~applicable~~) for the Leq
4 must be specified.

5 Section 9. A new Section 25.08.165 of the Seattle Municipal Code, is adopted to read as
6 follows:
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8 **25.08.165 L_{max}(~~,~~)**

9 "L_{max}" means the maximum sound level over a measurement interval determined by
10 using a sound level meter set to "Fast" response time.

11 Section 10. A new Section 25.08.168 of the Seattle Municipal Code, is adopted to read as
12 follows:
13

14 **25.08.168 Major public project**

15 "Major public project" means a project for a public facility as defined in SMC Title 23,
16 the construction of which the Administrator determines is likely to be of at least six months
17 duration, and is likely to have a substantial impact on the public safety, health and welfare and
18 the provision of public services, including transportation services. In making this determination
19 the Administrator shall consider factors such as the expected size, complexity or cost of the
20 proposed construction or reconstruction; the expected duration of the proposed construction or
21 reconstruction; the magnitude of the expected impacts on traffic and transportation; and/or the
22 degree of impact on the provision of public services during the proposed construction or
23 reconstruction.
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1 Section 11. Section 25.08.180 of the Seattle Municipal Code, which Section was adopted
2 by Ordinance 106360, is amended as follows:

3 **25.08.180 Motor vehicle((:))**

4 "Motor vehicle" means any vehicle (~~which~~) that is self-propelled, used primarily for
5 transporting persons or property upon (~~public~~) highways and required to be licensed under
6 RCW 46.16.010. (~~(Aircraft, watercraft and vehicles used exclusively on stationary rails or~~
7 ~~tracks are not motor vehicles as that term is used in this chapter.))~~)

8
9 Section 12. Section 25.08.190 of the Seattle Municipal Code, which Section was adopted
10 by Ordinance 106360, is amended as follows:

11 **25.08.190 Motor vehicle racing event((:))**

12 "Motor vehicle racing event" means any competition between motor vehicles and/or off-
13 highway vehicles under the auspices of a sanctioning body recognized by the Administrator
14 under rules adopted in accordance with the Administrative Code, SMC Chapter 3.02.

15
16 Section 13. Section 25.08.230 of the Seattle Municipal Code, which Section was adopted
17 by Ordinance 106360, is amended as follows:

18 **25.08.230 Off-highway vehicle((:))**

19 "Off-highway vehicle" means any self-propelled motor-driven vehicle not used primarily
20 for transporting persons or property upon (~~public~~) highways nor required to be licensed under
21 RCW 46.16.010. The term "off-highway vehicle" (~~shall~~) does not include special construction
22 vehicles.
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1 Section 14. Section 25.08.270 of the Seattle Municipal Code, which Section was adopted
2 by Ordinance 106360, is amended as follows:

3 **25.08.270 ((Public highway)) Highway((:))**

4 ((“Public highway”)) “Highway” means the entire width between the boundary lines of
5 every way publicly maintained by the Washington State Department of ((Highways))
6 Transportation or any county or city when any part thereof is generally open to ((the use of)) the
7 public for purposes of vehicular travel ((as a matter of right)).
8

9 Section 15. Section 25.08.300 of the Seattle Municipal Code, which Section was adopted
10 by Ordinance 106360, is amended as follows:

11 **25.08.300 Real property((:))**

12 "Real property" means an interest or aggregate of rights in land ((which)) that is
13 guaranteed and protected by law; for purposes of this chapter, the term "real property" includes a
14 leasehold interest.
15

16 Section 16. Section 25.08.320 of the Seattle Municipal Code, which Section was adopted
17 by Ordinance 106360, is amended as follows:

18 **25.08.320 Sound level((:))**

19 "Sound level" means the weighted sound pressure level measured by the use of a
20 metering characteristic and weighted as specified in American National Standards Institute
21 Specifications, Section 1.4-((1971))1983, as it now exists or as hereafter amended. The sound
22 pressure level of a sound expressed in decibels is twenty (20) times the logarithm to the base ten
23 (10) of the ratio of the pressure of the sound to the reference sound pressure of twenty (20)
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1 micropascals. In the absence of any specific modifier, the level is understood to be that of a
2 mean-square pressure.

3 Section 17. Section 25.08.330 of the Seattle Municipal Code, which Section was adopted
4 by Ordinance 106360, is amended as follows:

5 **25.08.330 Sound level meter((;))**
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7 "Sound level meter" means a sound level measuring device, either Type I or Type II, as
8 defined by American National Standards Institute Specifications, Section 1.4 ((1971))1983, as it
9 now exists or as hereafter amended.

10 Section 18. Section 25.08.340 of the Seattle Municipal Code, which Section was adopted
11 by Ordinance 106360, is amended as follows:

12 **25.08.340 Special construction vehicle((;))**
13

14 "Special construction vehicle" means any vehicle ((which)) that is designed and used
15 primarily for grading, paving, earth moving, and other construction work((; and which-)), that is
16 not designed or used primarily for the transportation of persons or property on a ((public))
17 highway((;)), and ((which)) that is only incidentally operated or moved over the highway.
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19 Section 19. Section 25.08.380 of the Seattle Municipal Code, which Section was adopted
20 by Ordinance 106360, is amended as follows:

21 **25.08.380 Weekday((;))**
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23 "Weekday" means any day Monday through Friday ((which)) that is not a legal holiday.

24 Section 20. Section 25.08.390 of the Seattle Municipal Code, which Section was adopted
25 by Ordinance 106360, is amended as follows:
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1 **25.08.390 Weekend((:))**

2 "Weekend" means Saturday and Sunday ((or any legal holiday)).

3 Section 21. Section 25.08.400 of the Seattle Municipal Code, which Section was adopted
4 by Ordinance 106360, is amended as follows:

5 **25.08.400 Unlawful sounds((:))**

6 It is unlawful for any person to cause sound, or for any person in possession of property
7 to permit sound originating from such property, to intrude into the real property of another
8 person whenever such sound exceeds the ((maximum permissible))exterior sound level((s-))
9 limits established by this subchapter.
10

11 Section 22. Section 25.08.410 of the Seattle Municipal Code, which Section was adopted
12 by Ordinance 106360, is amended as follows:

13 **25.08.410 ((Maximum permissible))Exterior sound level((s)) limits((:))**

14 A. The exterior sound level limits are based on the Leq during the measurement interval,
15 using a minimum measurement interval of 1 minute for a constant sound source, or a one-hour
16 measurement for a non-continuous sound source. For sound sources located within the City ((or
17 King County)), the ((maximum permissible))exterior sound level((s)) limits are as follows:
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<u>Exterior sound level limits</u>			
District of Sound Source	District of Receiving Property (Within The City of Seattle)		
	Residential (dB(A)) <u>(Leq)</u>	Commercial ((dB(A))) (dB(A)) <u>(Leq)</u>	Industrial (dB(A)) <u>(Leq)</u>
(Rural)	(52)	(55)	(57)
Residential	55	57	60
Commercial	57	60	65
Industrial	60	65	70

B. During a measurement interval, Lmax may exceed the exterior sound level limits shown in subsection 25.08.410.A by no more than 15 dB(A).

Section 23. Section 25.08.420 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.420 Modifications to ~~(maximum permissible)~~ exterior sound level~~(s)~~ limits~~(s)~~

~~((The maximum permissible sound levels established by this subchapter shall be reduced or increased by the sum of the following:))~~

A. Between the hours of ~~((ten-))10((:00))~~ p.m. and ~~((seven-))7((:00))~~ a.m. during weekdays, and between the hours of ~~((ten-))10((:00))~~ p.m. and ~~((nine-))9((:00))~~ a.m. on weekends and legal holidays, the ~~((levels))~~ exterior sound level limits established by Section 25.08.410 are reduced by ~~((ten-))10((:))~~ dB(A) where the receiving property lies within a residential district of the City.

B. For any source of sound ~~((which))~~ that ~~((is periodic, which))~~ has a pure tone component~~((, or which is impulsive and is not measured with an impulse sound level meter)),~~ the ~~((levels))~~ exterior sound level limits established by this subchapter ~~((shall be))~~ are reduced by



1 ((five-))5((+)) ((Db(A)))dB(A); provided, however, ((that)) this ((five-))5((+)) dB(A) ((penalty
2 for the emission of sound having a pure tone component)) reduction shall not be imposed on any
3 electrical substation((, whether existing or new)).

4 C. For any source of sound that is impulsive and not measured with an impulse sound
5 level meter ((which is of short duration)), the ((levels))exterior sound level limits established by
6 this subchapter are ((increased by:)) reduced by ((five-))5((+)) dB(A).

7
8 ((1. Five (5) dB(A) for a total of fifteen (15) minutes in any one (1) hour period;

9 or

10 2. Ten (10) dB(A) for a total of five (5) minutes in any one (1) hour period; or

11 3. Fifteen (15) dB(A) for a total of 1.5 minutes in any one (1) hour period.))

12
13 Section 24. Section 25.08.425 of the Seattle Municipal Code, which Section was last
14 amended by Ordinance 115041, is amended as follows:

15 **25.08.425 Sounds created by ((€))construction and maintenance equipment ((operations.))**

16 A. The ((maximum permissible))exterior sound level((s)) limits established by Sections
17 25.08.410 and 25.08.420, as measured from the property line of the real property of another
18 person or at a distance of ((fifty-))50((+)) feet from the construction or maintenance equipment
19 making the sound, whichever is greater, may be exceeded during the following times by the
20 sound levels specified in subsection 25.08.425.B for the types of equipment listed in that
21 subsection.

22
23 1. Within Lowrise, Midrise, Highrise, Residential-Commercial and Neighborhood
24 Commercial zones, between 7 a.m. and 7 p.m. on weekdays and between 9 a.m. and 7 p.m. on



1 weekends and legal holidays, provided that if no property in residential use exists within 100 feet
2 of the property generating the sound, or if the equipment is being used for a public project, then
3 between 7 a.m. and 10 p.m. on weekdays and between the hours of 9 a.m. and 10 p.m. on
4 weekends and legal holidays.

5 2. Within all other zones, between 7 a.m. and 10 p.m. on weekdays and between
6 9 a.m. and 10 p.m. on weekends and legal holidays.

7 B. During the time periods specified in subsection 25.08.425.A, the exterior sound level
8 limits, as measured from the property line of the real property of another person or at a distance
9 of 50 feet from the construction or maintenance equipment making the sound, whichever is
10 greater, may be exceeded ((between the hours of seven (7:00) a.m. and ten (10:00) p.m. on
11 weekdays and between the hours of nine (9:00) a.m. and ten (10:00) p.m. on weekends)) by no
12 more than the following dB(A)'s for the following types of equipment:

13 1. Twenty-five ~~((25))~~dB(A) for equipment on construction sites, including but
14 not limited to crawlers, tractors, dozers, rotary drills and augers, loaders, power shovels, cranes,
15 derricks, graders, off-highway trucks, ditchers, trenchers, compactors, compressors, and
16 pneumatic-powered equipment;
17

18 2. Twenty ~~((20))~~dB(A) for portable powered equipment used in temporary
19 locations in support of construction activities or used in the maintenance of public facilities,
20 including but not limited to chainsaws, log chippers, lawn and garden maintenance equipment,
21 and powered hand tools; or
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1 3. Fifteen (~~((15))~~)dB(A) for powered equipment used in temporary or periodic
2 maintenance or repair of the grounds and appurtenances of residential property, including but not
3 limited to lawnmowers, powered hand tools, snow-removal equipment, and composters.

4 ~~((B.))~~C. Sounds created by impact types of (~~((construction))~~) equipment, including but not
5 limited to pavement breakers, piledrivers, jackhammers, sandblasting tools, or by other types of
6 equipment (~~((or devices which))~~)that create impulse (~~((noise))~~)sound or impact (~~((noise))~~)sound or are
7 used as impact equipment, as measured at the property line or (~~((fifty-))~~)50(~~(())~~) feet from the
8 equipment, whichever is greater, may exceed the (~~((maximum))~~) exterior sound level limits
9 established in subsection (~~((A))~~)25.08.425.B (~~((of this section))~~) in any one (~~((1))~~) hour period
10 between the hours of (~~((eight-))~~)8(~~((:00))~~) a.m. and (~~((five-))~~)5(~~((:00))~~) p.m. on weekdays and (~~((nine-))~~)
11 (~~((9))~~)9(~~((:00))~~) a.m. and (~~((five-))~~)5(~~((:00))~~) p.m. on weekends and legal holidays, but in no event
12 (~~((to))~~) may the sound level exceed the following:
13

- 14 1. (~~((Le-q))~~) Leq (~~((ninety-))~~)90(~~(())~~) dB(A) continuously;
- 15 2. (~~((Le-q))~~) Leq (~~((ninety-three-))~~)93(~~(())~~) dB(A) for (~~((thirty-))~~)30(~~(())~~) minutes;
- 16 3. (~~((Le-q))~~) Leq (~~((ninety-six-))~~)96(~~(())~~) dB(A) for (~~((fifteen-))~~)15(~~(())~~) minutes; or
- 17 4. (~~((Le-q))~~) Leq (~~((ninety-nine-))~~)99(~~(())~~) dB(A) for (~~((seven and one-half-))~~)7-
18 1/2(~~(())~~) minutes; provided that sound levels in excess of (~~((Le-q))~~)Leq (~~((ninety-nine-))~~)99(~~(())~~)
19 dB(A) are prohibited unless authorized by variance obtained from the Administrator; and
20 provided further that sources producing sound levels less than (~~((ninety-))~~)90(~~(())~~) dB(A) shall
21 comply with subsection 25.08.425.A and B of this section during those hours not covered by this
22 subsection (~~((B))~~)25.08.425.C.



1 ~~((a-))~~D. The standard of measurement shall be a one ~~((+))~~ hour ~~((L-eq))~~ Leq. ~~((L-eq))~~
2 Leq may be measured for times not less than one ~~((+))~~ minute to project an hourly ~~((L-eq))~~ Leq.
3 Reference to one ~~((+))~~ hour is for measurement purposes only and shall not be construed as
4 limiting construction or maintenance to a one ~~((+))~~ hour period.

5 ~~E.~~ ~~((b- These subsections A and B))~~ The exterior sound level limits established in this
6 section shall be reviewed periodically by the City to assure that the exterior sound level limits
7 are technically feasible.

8 ~~((C-))~~ F. Construction or maintenance equipment ~~((activity))~~ that exceeds the ~~((maximum~~
9 ~~permissible))~~exterior sound level~~((s))~~ limits established by Section 25.08.410, when measured
10 from the interior of buildings within a commercial district, is prohibited between the hours of
11 ~~((eight-))~~8~~((:00))~~ a.m. and ~~((five-))~~5~~((:00))~~ p.m. For purposes of this subsection~~((C))~~, interior
12 sound levels shall be measured only after every reasonable effort, including but not limited to
13 closing windows and doors, is taken to reduce the impact of the exterior construction noise.

14 Section 25. Section 25.08.430 of the Seattle Municipal Code, which Section was last
15 amended by Ordinance 120481, is amended as follows:

16 **25.08.430 Sounds created by operation of motor vehicles~~((:))~~**

17 It is unlawful for any person to operate upon any ~~((public))~~ highway any motor vehicle or
18 any combination of motor vehicles under any conditions of grade, load, acceleration or
19 deceleration in such a manner ~~((sø))~~ that the motor vehicle's exhaust noise exceeds ~~((ninety-five~~
20 ~~))~~95~~(())~~ decibels as measured by the Society of Automotive Engineers (SAE) test procedure
21 J1169 (May 1998).
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1 Section 26. Section 25.08.470 of the Seattle Municipal Code, which Section was adopted
2 by Ordinance 106360, is amended as follows:

3 **25.08.470 Sale of new motor vehicles (~~which~~) that exceed limits(~~(:)~~)**

4 It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-
5 highway vehicle, (~~which~~) that produces a (~~maximum~~) sound level exceeding the following
6 (~~maximum permissible~~) exterior sound level(~~(s)~~) limits at a distance of (~~fifty(=)~~)50(~~(=)~~) feet, by
7 acceleration test procedures established by the State Commission on Equipment:
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Vehicle Category	dB(A)
Motorcycles manufactured after 1975	83
Any motor vehicle over 10,000 pounds gross vehicle weight rating (GVWR) manufactured after 1975 and prior to 1978	86
Any motor vehicle over 10,000 pounds GVWR manufactured <u>during or</u> after 1978	83
All other motor vehicles	80

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17 Section 27. Section 25.08.480 of the Seattle Municipal Code, which Section was adopted
18 by Ordinance 106360, is amended as follows:

19 **25.08.480 Motor vehicle exemptions(~~(:)~~)**

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21 Sounds created by motor vehicles are exempt from the (~~maximum permissible~~) exterior
22 sound level(~~(s)~~) limits of Subchapter III, except that sounds created by any motor vehicle
23 operated off (~~public~~) highways shall be subject to the exterior sound level(~~(s)~~) limits of
24 Subchapter III when the sounds are received within a residential district of the City.
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1 Section 28. Section 25.08.485 of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 109099, is amended as follows:

3 **25.08.485 Watercraft(~~(=)~~)**

4 A. It is unlawful for any person to operate any watercraft in such a manner as to exceed
5 the following ~~((maximum noise limits))~~ exterior sound level limits when measured within ~~((fifty~~
6 ~~))50(~~(=)~~)~~ feet of the shoreline or anywhere within a receiving property:

7
8 1. At any hour of the day or night, the limit for any receiving property ~~((shall be))~~
9 is ~~((seventy-four(~~=~~))74(~~(=)~~)~~ dB(A), except that;

10 2. Between ~~((sunset and sunrise))~~ 10 p.m. and 7 a.m. the limit for any receiving
11 property within a residential ~~((or rural))~~ district ~~((shall be))~~ is ~~((sixty-four(~~=~~))64(~~(=)~~)~~ dB(A). ~~((For~~
12 ~~the purpose of administering and enforcing this section, sunset will be interpreted as ten (10:00)~~
13 ~~p.m. and sunrise will be interpreted as seven (7:00) a.m.))~~

14
15 B. It is unlawful for any person to operate any watercraft, except aircraft, ~~((which))~~ that is
16 not equipped with a functioning underwater exhaust or a properly installed and adequately
17 maintained muffler. Any of the following defects in the muffling system ~~((shall constitute))~~ is a
18 violation of this subsection:

19
20 1. The absence of a muffler;

21 2. The presence of a muffler cutout, bypass, or similar device ~~((which))~~ that is not
22 standard or normal equipment for the exhaust system being inspected;

23 3. Defects in the exhaust system including, but not limited to, pinched outlets,
24 holes, or rusted-through areas of the muffler or pipes; and
25

1 4. The presence of equipment (~~(which)~~) that will produce excessive or unusual
2 noise from the exhaust system. Dry stacks or water-injected stacks not containing a series of
3 chambers or mechanical designs effective in reducing sound shall not be considered as
4 adequately maintained mufflers.

5 C. The following exemptions (~~(shall)~~) apply to sounds created by watercraft or watercraft
6 operations:
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8 1. Normal docking, undocking, and water skier pick-up and drop-off operations of
9 all watercraft (~~(shall be)~~) are exempt from the provisions in subsection 25.08.485.A;

10 2. Sounds created by the operation of commercial, nonrecreational watercraft are
11 exempt at all times (~~(for)~~) from provisions of this chapter. These commercial activities include,
12 but are not limited to, tugboats, fishing boats, ferries, and vessels engaged in intrastate,
13 interstate, or international commerce;

14 3. Sounds created by boat races and regattas, and trials (~~(therefor as)~~) sanctioned
15 by the Chief of Police acting as Port Warden pursuant to (~~(Section 27 of Ordinance 879831)~~)
16 Section 16.20.160 as amended, are exempt from provisions in this section and in this chapter
17 between the hours of (~~(seven-)~~)7(~~(:00)~~) a.m. and (~~(ten-)~~)10(~~(:00)~~) p.m. on weekdays and
18 between the hours of (~~(nine-)~~)9(~~(:00)~~) a.m. and (~~(ten-)~~)10(~~(:00)~~) p.m. on weekends and legal
19 holidays.

20 D. Nothing in this section shall be construed to limit the powers of the Chief of Police
21 (~~(acting as Port Warden, as)~~) enumerated in Section 16.12.010 (~~(3 of Ordinance 879832 as~~
22 amended)).
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1 Section 29. Section 25.08.510 of the Seattle Municipal Code, which Section was adopted
2 by Ordinance 106360, is amended as follows:

3 **25.08.510 Exempted sources((;))**

4 No sound source specifically exempted from ~~((a maximum permissible))~~ exterior sound
5 level limits by this chapter ~~((shall be))~~ is a public nuisance noise or public disturbance noise ~~((;~~
6 ~~insofar as the particular source is exempted))~~.

7
8 Section 30. Section 25.08.530 of the Seattle Municipal Code, which Section was last
9 amended by Ordinance 112976, is amended as follows:

10 **25.08.530 Sounds exempt at all times((;))**

11 A. The following sounds are exempt from the provisions of this chapter at all times:

- 12 1. Sounds originating from aircraft in flight, and sounds ~~((which))~~ that originate at
13 airports and are directly related to flight operations;
- 14 2. Sounds created by safety and protective devices, such as relief valves, where
15 noise suppression would defeat the safety release intent of the device;
- 16 3. Sounds created by fire alarms;
- 17 4. Sounds created by emergency equipment and emergency work necessary in the
18 interests of law enforcement or of the health, safety or welfare of the community;
- 19 5. ~~((Sounds created by the discharge of firearms in the course of lawful hunting~~
20 ~~activities;~~
- 21 ~~-6.))~~ Sounds created by natural phenomena;
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1 ~~((7.))~~ 6. Sounds originating from forest harvesting and silviculture activity and
2 from commercial agriculture, if the receiving property is located in a commercial or industrial
3 district of the City;

4 ~~((8.))~~ 7. Sounds created by auxiliary equipment on motor vehicles while used for
5 highway surface maintenance; and

6 ~~((9.))~~ 8. Sounds created by warning devices or alarms not operated continuously
7 for more than ~~((thirty-))~~30~~((-))~~ minutes per incident.

8 Section 31. Section 25.08.540 of the Seattle Municipal Code, which Section was last
9 amended by Ordinance 112976, is amended as follows:

10 **25.08.540 Sounds exempt during daytime hours – Generally~~((-))~~**

11 A. The following sounds are exempt from the provisions of this chapter between the
12 hours of ~~((seven-))~~7~~((:00))~~ a.m. and ~~((ten-))~~10~~((:00))~~ p.m. on weekdays and between the hours
13 of ~~((nine-))~~9~~((:00))~~ a.m. and ~~((ten-))~~10~~((:00))~~ p.m. on weekends and legal holidays:

14 1. Sounds created by bells, chimes, or carillons not operating for more than ~~((five~~
15 ~~))~~5~~((-))~~ minutes in any one ~~((1-))~~ hour;

16 2. Unamplified sounds originating from officially sanctioned parades and other
17 public events;

18 3. Sounds created by the discharge of firearms on legally established shooting
19 ranges;

20 4. Sounds created by blasting; and
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1 5. Sounds originating from forest harvesting and silviculture activity and from
2 commercial agriculture, if the receiving property is located in a residential district of the City.
3 The Administrator is authorized to promulgate regulations (~~which~~) that extend the hours during
4 which this exemption (~~shall be~~) is in effect to conform with operating laws designated by the
5 Washington State Department of Natural Resources in directing an official fire closure.

6 Section 32. Section 25.08.545 of the Seattle Municipal Code, which Section was last
7 amended by Ordinance 108498, is amended as follows:

8 **25.08.545 Sounds exempt during daytime hours-Aircraft testing and maintenance(~~(:)~~)**

9 Sounds created by the testing or maintenance of aircraft, or of components of aircraft, are
10 exempt from the provisions of this chapter between the hours of (~~seven~~)7(~~(:00)~~) a.m. and
11 (~~ten~~)10(~~(:00)~~) p.m. on weekdays and between (~~nine~~)9(~~(:00)~~) a.m. and (~~ten~~)10(~~(:00)~~)
12 p.m. on weekends and legal holidays, when performed according to the following instructions:

13 A. Testing and maintenance for any aircraft or component not connected thereto shall be
14 performed at an airport designated as such by the Federal Aviation Administration prior to April
15 1, 1979, or designated as such by the Administrator at any time.

16 B. If the testing or maintenance is performed at the King County International Airport,
17 the aircraft or component shall be entirely within the ultimate airport property line as shown on
18 the map entitled "King County International Airport - Airport Layout Plan" (prepared December
19 1, 1976, revised October 10, 1978), and at areas designated by the Airport Manager(~~(:)~~). It is
20 intended that this map be the reference map regardless of any future changes, provided that the
21 Administrator may grant exceptions to this subsection for good cause shown. A copy of the King
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1 County International Airport Layout Plan Map is on file in the City Clerk's office (C.F. 288269),
2 at the office of the Airport Manager of the King County International Airport, and at the
3 Planning and Research Department of the Port of Seattle.

4 Section 33. Section 25.08.550 of the Seattle Municipal Code, which Section was adopted
5 by Ordinance 106360, is amended as follows:

6 **25.08.550 Sounds exempt from nighttime reduction((;))**
7

8 The following sounds are exempt from the provisions of Section 25.08.420.A:

9 A. Sounds created by existing stationary equipment used in the conveyance of water by a
10 utility; and

11 B. Sounds created by existing electrical substations. ((;))

12 C. ~~Sounds created by sources in industrial districts which, over the previous three (3)~~
13 ~~years, have consistently operated in excess of fifteen (15) hours per day as a demonstrated~~
14 ~~routine or as a consequence of process necessity; provided that such exemption shall only extend~~
15 ~~to five (5) years after the effective date of the ordinance codified in this chapter.<1> Changes in~~
16 ~~working hours or activity which would increase the noise emitted under this exemption require~~
17 ~~the approval of the Administrator, given under rules adopted in accordance with the~~
18 ~~Administrative Code.<2>))~~

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21 Section 34. Section 25.08.560 of the Seattle Municipal Code, which Section was last
22 amended by Ordinance 110047, is amended as follows:

23 **25.08.560 Application--Generally((;))**
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1 Any person who owns or is in possession of any property or use, or any process or
2 equipment, may apply to the Administrator for a variance granting relief from the requirements
3 of any provision of this chapter other than ~~((Section))~~ Sections 25.08.500 or 25.08.505, or from
4 the rules or regulations promulgated hereunder governing the quality, nature, duration or extent
5 of discharge of noise. In a proper case, ~~((the))~~a variance may apply to all sources of a particular
6 class or type. The application shall be accompanied by such information and data as the
7 Administrator may require. In accordance with the Administrative Code, SMC Chapter 3.02, the
8 Administrator shall promulgate rules and regulations governing application for and granting of
9 such variances ~~((, including hearings and notice))~~.

11 Section 35. Section 25.08.580 of the Seattle Municipal Code, which Section was last
12 amended by Ordinance 107377, is amended as follows:

13 **25.08.580 Discretion of Administrator~~((:))~~**

14 A variance or its ~~((renewal))~~extension shall not be a right of the applicant or holder
15 thereof but shall be at the reasonable discretion of the Administrator.

16 Section 36. Section 25.08.590 of the Seattle Municipal Code, which Section was last
17 amended by Ordinance 107377, is amended as follows:

18 **25.08.590 Granting of variance~~((:))~~**

19 A. No variance shall be granted ~~((pursuant to Sections 25.08.560 through 25.08.620))~~
20 until the Administrator has considered the relative interests of the applicant, other owners or
21 possessors of property likely to be affected by the noise, and the general public.
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1 B. A technical, ~~((or))~~ economic, or major public project construction variance may be
2 granted only after notice and an opportunity for public comment. For technical or economic
3 variances proposed for more than two weeks and for major public project construction variances,
4 a public meeting is also required, in accordance with rules adopted by the Administrator ((a
5 public hearing on due notice)).

6 C. The Administrator may grant a variance((;)) if ~~((he))~~ the Administrator finds that:

7 ~~((A.))~~1. The noise occurring or proposed to occur does not endanger public health
8 or safety; and

9 ~~((B.))~~2. The applicant demonstrates that the criteria required for the ~~((temporary,~~
10 ~~technical or economic))~~ variance ~~((under Sections 25.08.610 through 25.08.630))~~ are
11 met~~((:))~~;and

12 3. For temporary variances, if the scale and duration of the requested relief is
13 more appropriate for a temporary variance than a technical, economic, or major public project
14 construction variance.

15 D. Noise Management and Mitigation Plan. As part of the application for a variance, an
16 applicant must submit a Noise Management and Mitigation Plan to be approved by the
17 Administrator. A Noise Management and Mitigation Plan must contain the following
18 components, except that the Administrator may modify the required components for a temporary
19 noise variance as the Administrator determines appropriate to fit the circumstances surrounding
20 the requested temporary variance:



1 1. A description of the exterior sound level limits of the chapter expected to be
2 exceeded, estimates of the amount(s) by which these levels are expected to be exceeded and by
3 what equipment, the exterior sound level limits that will be in effect during the variance, the time
4 periods during which the pre-variance exterior sound level limits may be exceeded, and the
5 expected sources of the sound during each of the time periods (e.g., types of equipment or
6 activity causing the exterior sound level limits to be exceeded);

8 2. Measures and provisions to be taken to avoid exceeding the exterior sound
9 level limits of this chapter;

10 3. Provisions to mitigate sounds that exceed the exterior sound level limits and
11 that cannot otherwise be avoided.

13 4. A process for informing the public in the affected areas about the provisions of
14 the variance.

15 E. The Administrator may impose conditions, including but not limited to conditions
16 relating to types of equipment, hours of use, and duration, to mitigate the adverse impacts of
17 granting the variance. The Administrator may also include conditions proposed by the applicant
18 as part of the variance application. Compliance with the Noise Management and Mitigation Plan
19 approved by the Administrator is a condition of every variance.

21 F. A temporary variance shall be effective on the effective date stated on the variance
22 form. Any other variance shall be effective 30 days following the mailing of the decision
23 granting the variance, unless it is appealed to the Hearing Examiner, in which case the effective
24 date is the date of the Hearing Examiner's written decision on the appeal.



1 Section 37. Section 25.08.600 of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 107377, is amended as follows:

3 **25.08.600 ((Renewal)) Extension of variances((=))**

4 A. Technical, economic and major public project construction variances((Variances,
5 ~~except temporary variances,~~) granted pursuant to this chapter may be((renewed)) extended on
6 terms and conditions and for periods((which)) that would be appropriate on the initial granting of
7 a variance. No((renewal)) extension of a technical, economic or major public project
8 construction variance shall be granted except on application made at least ((sixty(-))60((+)) days
9 prior to the expiration of the variance and after public notice in accordance with rules adopted by
10 the Administrator.

11
12 B. Temporary variances may not be extended, but more than one temporary variance
13 may be granted on a project.

14
15 Section 38. Section 25.08.610 of the Seattle Municipal Code, which Section was last
16 amended by Ordinance 107377, is amended as follows:

17 **25.08.610 Appeal procedure**((=))

18 A. Any person aggrieved by the denial, ((grant)) approval, or the terms and conditions
19 imposed on ((the grant of an application for)) a variance or ((renewal)) by the extension of a
20 variance by the Administrator, may appeal such decision ((to the Hearing Examiner under
21 procedures contained in Subchapter IX)) by filing an appeal in writing with the Hearing
22 Examiner by 5 p.m. of the tenth day following the date of the issuance of the decision on a
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1 variance application. When the last day of the appeal period is a Saturday, Sunday, or federal or
2 City holiday, the appeal may be filed until 5 p.m. on the next business day.

3 B. In form and content, the appeal shall conform to the rules of the Hearing Examiner.

4 C. The Hearing Examiner shall consider the appeal in accordance with the procedure
5 established for hearing contested cases under the Administrative Code, SMC Chapter 3.02.

6 D. Appeals shall be considered de novo, and the Administrator's decision on the
7 variance shall be given no deference.

8 E. The Hearing Examiner may affirm, reverse or modify the Administrator's decision or
9 remand to the Administrator for additional review and analysis.

10 F. The Hearing Examiner shall issue a written decision within 15 days of the conclusion
11 of the hearing.

12 G. The decision of the Hearing Examiner is the final decision of the City, and the
13 appellant and the Administrator are bound by the terms and conditions of the Hearing
14 Examiner's decision.

15 Section 39. A new Section 25.08.615 of the Seattle Municipal Code, is adopted to read
16 as follows:

17 **25.08.615 Revocation of Variance**

18 A. Standards for revocation. Any noise variance may be revoked if:

19 1. The noise code or the conditions of the variance have been, or are being
20 violated and issuance of a notice of violation or stop work order has been, or would be
21 ineffective to secure compliance because of circumstances related to the violation; or
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1 2. The variance was obtained with false or misleading information.

2 B. Notice of Revocation. Whenever the Administrator determines there are grounds for
3 revoking a variance, the Administrator may issue a Notice of Revocation.

4 1. The Notice of Revocation shall identify the reason for the proposed
5 revocation, including the violations, the conditions violated, and/or the alleged false or
6 misleading information provided.

7
8 2. The Notice of Revocation shall be served on the owner of the property on
9 which the work is occurring, the holder of the variance, and the person doing or causing the
10 work to be done.

11 3. The Notice of Revocation shall be served in the manner set forth in RCW
12 4.28.080 for service of a summons or sent by first class mail. The Notice of Revocation may also
13 be posted in a conspicuous place on the site. For purposes of this section, service is complete at
14 the time of personal service, or if mailed, three days after the date of mailing. When the last day
15 of the period so computed is a Saturday, Sunday or City holiday, the period runs until 5 p.m. on
16 the next business day.

17
18 4. The Administrator shall identify in the Notice of Revocation a date certain on
19 which the revocation will take effect unless review before the Administrator is requested and
20 pursued pursuant to subsection 25.08.615.C.

21 C. Review by the Administrator.
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1 1. Any person aggrieved by a Notice of Revocation of a noise variance may
2 obtain a review by making a request in writing to the Administrator within three business days of
3 the date of service of the Notice of Revocation.

4 2. The review shall occur within five business days after receipt by the
5 Administrator of the request for review.

6 3. Any person aggrieved by or interested in the Notice of Revocation may
7 submit additional information to the Administrator for consideration as part of the review at any
8 time prior to the review.
9

10 4. The review will be made by a representative of the Administrator who will
11 review all additional information received and may also request a site visit. After the review, the
12 Administrator may:

13 a. Sustain the Notice of Revocation and set or modify the date the
14 revocation will take effect;

15 b. Withdraw the Notice of Revocation;

16 c. Modify the Notice of Revocation and set or modify the date the
17 revocation will take effect; or
18

19 d. Continue the review to a date certain for receipt of additional
20 information.
21

22 D. Order of the Administrator.

23 1. The Administrator shall issue an Order of the Administrator containing the
24 decision within ten days after the review and shall cause the same to be sent by first class mail to
25



1 the person or persons requesting the review, any other person on whom the Notice of Revocation
2 was served, and any other person who requested a copy before issuance of the Order of the
3 Administrator.

4 2. The Order of the Administrator is the final order of the City and the City and
5 all parties shall be bound by the Order unless judicial review is sought pursuant to subsection
6 25.08.615.E.
7

8 E. Judicial Review. Any judicial review must be commenced pursuant to RCW 36.70C
9 within 21 days after issuance of the Order of the Administrator.

10 Section 40. Section 25.08.630 of the Seattle Municipal Code, which Section was adopted
11 by Ordinance 106360, is amended as follows:

12 **25.08.630 Temporary variance((=))**
13

14 The Administrator may grant a temporary variance, not to exceed ~~((fourteen-))~~14~~((=))~~
15 days, for any activity, use, process or equipment ~~((which))~~ that the Administrator determines, in
16 accordance with rules and regulations, does not annoy a substantial number of ~~((the))~~ people and
17 does not endanger public health or safety.
18

19 Section 41. Section 25.08.640 of the Seattle Municipal Code, which Section was adopted
20 by Ordinance 106360, is amended as follows:

21 **25.08.640 Technical variance((=))**
22

23 A technical variance may be granted by the Administrator on the ground that there is no
24 practical means known or available for the adequate prevention, abatement or control of the
25 noise involved. ~~((Any technical variance shall be subject to the holder's taking of any alternative~~
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1 ~~measures that the Administrator may prescribe.))~~ The Administrator shall determine the duration
2 of each technical variance ~~((shall be until such practical means for prevention, abatement or~~
3 ~~control become known or available))~~. The holder of a technical variance ~~((, as required by the~~
4 ~~Administrator,))~~ shall make reports to the Administrator, on a schedule prescribed by the
5 Administrator, detailing actions taken to develop a means of noise control or to reduce the noise
6 involved and ~~((must relate))~~ relating these actions to pertinent current technology.
7

8 Section 42. Section 25.08.650 of the Seattle Municipal Code, which Section was adopted
9 by Ordinance 106360, is amended as follows:

10 **25.08.650 Economic variance((+))**

11 An economic variance may be granted by the Administrator on the ground that
12 compliance with the particular requirement or requirements from which the variance is sought
13 will require the taking of measures ~~((which))~~ that, because of their extent or cost, must be spread
14 over a period of time. The duration of an economic variance shall be for a period not to exceed
15 such reasonable time as is required in the view of the Administrator for the taking of the
16 necessary measures. An economic variance shall contain a timetable for the taking of action in
17 an expeditious manner and shall be conditioned on adherence to the timetable.
18

19
20 Section 43. A new Section 25.08.655 of the Seattle Municipal Code, is adopted to read
21 as follows:

22 **25.08.655 Major Public Project Construction Variance**

23
24 A. The Administrator may grant a major public project construction variance to provide
25 relief from the exterior sound level limits established by this chapter during the construction
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1 periods of major public projects. A major public project construction variance shall provide
2 relief from the exterior sound level limits during the construction or reconstruction of a major
3 public project only to the extent the applicant demonstrates that compliance with the levels
4 would:

5 1. Be unreasonable in light of public or worker safety or cause the applicant to
6 violate other applicable regulations, including but not limited to regulations that reduce impacts
7 on transportation infrastructure or natural resources; or
8

9 2. Render the project economically or functionally unreasonable due to factors
10 such as the financial cost of compliance or the impact of complying for the duration of the
11 construction or reconstruction of the major public project.
12

13 B. A major public project construction variance shall set forth the period or periods
14 during which the variance is effective, which period or periods shall be the minimum reasonably
15 necessary in light of the standard set forth in subsection A, and the exterior sound level limits
16 that will be in effect during the period of the variance. Different major public project
17 construction variances may be issued for distinct phases of a construction project, or one major
18 public project construction variance may be issued for the entire major public project. The
19 period or periods during which a major public project construction variance is effective may be
20 stated in terms of calendar dates or in terms of the duration of a construction project or a phase
21 or phases of a construction project.
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1 C. The Administrator shall condition a major public project construction variance as
2 necessary to provide reasonable control or mitigation of the construction noise that may be
3 expected to occur pursuant to the variance.

4 D. One-year review and decision.

5 1. No later than one year after the start of construction to which a major public
6 project construction variance applies, the Administrator shall review, and provide opportunity
7 for public comment on, the operation of the variance during the first year, including the
8 provisions of the Noise Management and Mitigation Plan, and the conditions of the variance.
9 For purposes of determining the date of the start of the project's construction work, site
10 exploration work is excluded.
11

12 2. After considering the public comments received, the Administrator may
13 modify the terms and conditions of the variance or the Noise Management and Mitigation plan as
14 needed if the Administrator determines that the current variance, the conditions of the variance,
15 or the Noise Management and Mitigation Plan are not adequately protecting the public health
16 and safety or reasonably controlling or mitigating the construction noise, or that there are more
17 reasonable methods of doing so.
18

19 3. The Administrator shall make a decision whether to modify a variance
20 pursuant to this review within one-year and 90 days after the start of construction work as
21 provided in subsection 25.08.655.D.1.
22

23 4. Appeal. Any person aggrieved by the decision of the Administrator whether to
24 modify a variance pursuant to this subsection 25.08.655.D may appeal such decision by filing an
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1 appeal in writing with the Hearing Examiner by 5 p.m. of the tenth day following the date of the
2 issuance of the decision. When the last day of the appeal period is a Saturday, Sunday, or
3 federal or City holiday, the appeal may be filed until 5 p.m. on the next business day. The
4 Hearing Examiner appeal shall be conducted pursuant to section 25.08.610.

5 5. Effective date. The decision of the Administrator whether to modify a variance
6 pursuant to this subsection 25.08.655.D is effective 30 days following the decision unless it is
7 appealed to the Hearing Examiner. If the Administrator's decision is appealed to the Hearing
8 Examiner, the Administrator's decision does not take effect and the original terms and conditions
9 of the variance remain in effect until the effective date of the Hearing Examiner decision. The
10 Hearing Examiner decision is a final decision of the City for purposes of RCW 36.70C, and is
11 effective 30 days from the date of the decision, unless otherwise ordered by a court. If a court
12 stays the effective date of the decision, the original unmodified variance shall remain in effect
13 during the stay.
14
15

16 Section 44. Section 25.08.670 of the Seattle Municipal Code, which Section was adopted
17 by Ordinance 106360, is amended as follows:

18 **25.08.670 Duties of Administrator((~~r~~))**

19 The duties of the Administrator ((~~shall~~)) include, but are not limited to:

- 20 A. Obtaining assistance from other appropriate City departments and divisions;
21 B. Training field inspectors;
22 C. Purchasing measuring instruments and training inspectors in their calibration and use;
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1 D. Promulgating and publishing rules and procedures, in accordance with the
2 Administrative Code, SMC Chapter 3.02, to establish techniques for measuring or reducing
3 noise and to provide for clarification, interpretation, and implementation of this chapter;

4 E. Investigating ~~((citizens!))~~ noise complaints;

5 F. ~~((Issuing orders for the reduction or elimination of noise))~~ Enforcement of this chapter
6 in accordance with Subchapter IX;

7 G. Assisting ~~((citizens))~~ the public and City departments in evaluating and reducing the
8 noise impact of their activities;

9 H. Assisting City planning officials in evaluating the noise component in planning and
10 zoning actions;

11 I. Instituting a public education program on noise; and

12 J. Reviewing at least every three ~~((3))~~ years the provisions of this chapter and
13 recommending revisions consistent with technology to reduce noise.

14 Section 45. Section 25.08.680 of the Seattle Municipal Code, which Section was adopted
15 by Ordinance 106360, is amended as follows:

16 **25.08.680 Measurement of sound~~((:))~~**

17 If the measurements of sound are made with a sound level meter, it shall be an instrument
18 in good operating condition and shall meet the requirements for a Type I or Type II instrument,
19 as described in American National Standards Institute Specifications, Section 1.4-~~((1971))~~1983,
20 as it now exists or as hereafter amended. If the measurements are made with other instruments,
21 or assemblages of instruments, the procedure must be carried out in such manner that the overall
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1 accuracy shall be at least that called for in Section 1.4-~~((1971))~~1983, as it now exists or as
2 hereafter amended for Type II instruments.

3 Section 46. Section 25.08.700 of the Seattle Municipal Code, which Section was adopted
4 by Ordinance 106360, is amended as follows:

5 **25.08.700 Receiving properties within more than one district~~((:))~~**

6 Where a receiving property lies within more than one district, the ~~((maximum~~
7 ~~permissible))~~ exterior sound level~~((s))~~ limits shall be determined by the district within which the
8 measurement is made.
9

10 Section 47. Section 25.08.710 of the Seattle Municipal Code, which Section was last
11 amended by Ordinance 110047, is amended as follows:

12 **25.08.710 Right of entry ~~((--Administrator.))~~**

13 Upon presentation of proper credentials, and ~~((the Administrator.))~~ with the consent of
14 the occupant ~~((, or with))~~ or the consent of the owner of any unoccupied building, structure,
15 property or portion thereof, or pursuant to a lawfully issued warrant, the Administrator or the
16 Administrator's designee may enter at all reasonable times, any building, structure, property or
17 portion thereof ~~((to inspect the same))~~ whenever necessary to make an inspection to enforce or
18 determine compliance with the provisions of this chapter. ~~((over which he has enforcement~~
19 ~~responsibility or whenever he has cause to believe that a violation of any provision of this~~
20 ~~chapter other than Section 25.08.500 has been or is being committed; provided, if))~~ If the
21 building, structure, property or portion thereof is unoccupied, the Administrator shall, except in
22 case of emergency first ~~((make a reasonable effort to))~~ locate the owner or other persons having
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1 charge or control of the building, structure, property or portion thereof and ~~((demand))~~ request
2 entry. ~~((If the Administrator is unable to locate the owner or such other persons and he has~~
3 ~~reason to believe that conditions therein create an immediate and irreparable health hazard, then~~
4 ~~he shall make entry.))~~

5 Section 48. A new Section 25.08.720 of the Seattle Municipal Code, is adopted to read
6 as follows:
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8 **25.08.720 Stop Work Order**

9 A. Stop Work Order. A Stop Work Order may be issued whenever a violation of this
10 Code or a violation of the conditions of a variance threatens the health or safety of the public or
11 materially impairs the Administrator's ability to secure compliance with this Code.
12

13 1. The Stop Work Order must specify the violation and may prohibit all or any
14 work or other activity at the site that is a cause of the code violation or the violation of the
15 variance condition.
16

17 2. The Administrator may serve the Stop Work Order by posting it in a
18 conspicuous place at the site, if posting is physically possible. If posting is not physically
19 possible, then the Stop Work Order may be served in the manner set forth in RCW 4.28.080 for
20 service of a summons or by sending it by first class mail to the last known address of: the
21 property owner(s), the person(s) doing or causing the work to be done, and the holder of any
22 variance if work is being stopped on a variance. For purposes of this section, service is complete
23 at the time of posting or of personal service, or if mailed, three days after the date of mailing.
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1 When the last day of the period so computed is a Saturday, Sunday or City holiday, the period
2 runs until 5 p.m. on the next business day.

3 3. A Stop Work Order is effective when posted, or if posting is not physically
4 possible, when one of the persons identified in subsection 25.08.720.A.2 is served.

5 B. Review by the Administrator.

6 1. Any person aggrieved by a Stop Work Order may obtain a review of the Stop
7 Work Order by delivering to the Department a request in writing within two business days of the
8 date of service of the Stop Work Order.

9 2. The review shall occur within two business days after receipt by the
10 Administrator of the request for review unless the requestor requests or agrees to a longer time.

11 3. Any person aggrieved by or interested in the Stop Work Order may submit
12 additional information to the Administrator for consideration as part of the review at any time
13 prior to the review.

14 4. The review will be made by a representative of the Administrator who will
15 review all additional information received and may also request a site visit. After the review, the
16 Administrator may:

- 17 a. Sustain the Stop Work Order;
18 b. Withdraw the Stop Work Order;
19 c. Modify the Stop Work Order; or
20 d. Continue the review to a date certain for receipt of additional
21 information.
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1 C. Order of the Administrator. The Administrator shall issue an Order of the
2 Administrator containing the decision within two business days after the review and shall cause
3 the same to be sent by first class mail to the person or persons requesting the review, any person
4 on whom the stop work order was served, and any other person who requested a copy before
5 issuance of the Order. The City and all parties shall be bound by the Order.
6

7 Section 49. Section 25.08.730 of the Seattle Municipal Code, which Section was last
8 amended by Ordinance 110047, is amended as follows:

9 **25.08.730 Notice of Violation~~((and order.))~~**

10 A. ~~((Unless provided otherwise))~~ In addition to other remedies provided by this chapter
11 or by law, whenever the Administrator has reason to believe that an~~((maximum~~
12 ~~permissible))~~exterior sound level~~((of Subchapter III))~~ limit established by this chapter is being or
13 has been exceeded, that a public nuisance noise is being emitted, ~~((or))~~ that the terms of a
14 variance have not been met or are being violated, or that any other provision of this chapter that
15 the Administrator is authorized to enforce is being violated, ~~((he))~~ the Administrator may
16 ~~((initiate an administrative proceeding as provided by Subchapter IX, and serve))~~ issue a written
17 notice of violation ~~((and order directed))~~ to the owner or operator of the source, or to the holder
18 of ~~((the))~~ a variance. ~~((One (1) copy shall also be posted on the property or source, if reasonably~~
19 possible, and another copy shall be mailed to each complainant (if any) about the noise;
20 additional copies may be mailed by the Administrator to such other interested or affected persons
21 as the Administrator deems appropriate.))
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1 B. The notice of violation shall contain a brief and concise description of the conditions
2 alleged to be in violation (~~((or to be a public nuisance noise))~~), the provision(s) of this Chapter
3 alleged to have been violated, the sound level readings, if taken, including the time and place of
4 their recording, (~~((C. The order shall contain))~~) a statement of the corrective action required, and
5 if applicable, ((shall specify)) a reasonable time for correction ((within which the action must be
6 accomplished)).

7
8 C. Nothing in this section shall be deemed to limit or preclude any action or proceeding
9 to enforce this chapter, and nothing shall be deemed to obligate or require the Administrator to
10 issue a notice of violation prior to the imposition of civil or criminal penalties.

11 Section 50. Section 25.08.740 of the Seattle Municipal Code, which Section was adopted
12 by Ordinance 106360, is amended as follows:

13 **25.08.740 ((Method of service)) Service, Mailing and Posting of Notice.**

14 ((Service of the)) The notice of violation((and order)) shall be served ((made)) upon the
15 persons responsible for the condition or violation by personal service ((named in the notice and
16 order, either personally)) or by ((mailing a copy of the notice and order by certified mail, postage
17 prepaid, return receipt requested)) first class mail, to ((each person at his)) the person's last
18 known address. If the ((whereabouts of the persons)) address of the responsible person is
19 unknown and cannot be found after a reasonable search, ((ascertained by the Administrator in
20 the exercise of reasonable diligence, and the Administrator shall make affidavit to that effect,
21 then the service of)) the notice ((and order upon the persons)) may be ((made)) served by posting
22 a copy of the notice of violation at a conspicuous place on the property where the violation
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1 occurred. ((by publishing them once each week for two (2) consecutive weeks in the City official
2 newspaper. The failure of any such person to receive the notice and order shall not affect the
3 validity of any proceedings taken under this chapter. Service by certified mail in the manner
4 provided in this section shall be effective on the date of mailing.)) If a notice of violation is
5 directed to a person responsible for the violation who is not the owner of the property where the
6 violation is occurring, a copy of the notice of violation may be sent to the owner of the property.

8 Section 51. Section 25.08.760 of the Seattle Municipal Code, which Section was adopted
9 by Ordinance 106360, is amended as follows:

10 **25.08.760 Review by the Administrator ((Administrative conferences.))**

11 A. Any person significantly affected by or interested in a notice of violation issued by the
12 Administrator pursuant to this chapter may obtain a review of the notice by requesting such
13 review within ten days after service of the notice. When the last day of the period so computed
14 is a Saturday, Sunday or federal or City holiday, the period shall run until 5 p.m. on the next
15 business day. The request shall be in writing, and upon receipt of the request, the Administrator
16 shall notify any persons served the notice and the complainant, if any, of the request for review
17 and the deadline for submitting additional information for the review. Additional information
18 shall be submitted to the Administrator no later than 15 days after the notice of a request for a
19 review is mailed, unless otherwise agreed by all persons served with the notice. Before the
20 deadline for submission of additional information, any person significantly affected by or
21 interested in the notice (including any persons served the notice and the complainant) may



1 submit any additional information in the form of written material or oral comments to the
2 Administrator for consideration as part of the review.

3 B. The review will be made by a representative of the Administrator who is familiar with
4 the case and the applicable ordinances. The Administrator's representative will review all
5 additional information received by the deadline for submission of additional information. The
6 reviewer may also request clarification of information received and a site visit. After review of
7 the additional information, the Administrator may:

- 9 1. Sustain the notice;
- 10 2. Withdraw the notice;
- 11 3. Continue the review to a date certain for receipt of additional information; or
- 12 4. Modify the notice, which may include an extension of any compliance date.

13
14 ~~((An informal administrative conference may be conducted at any time by the~~
15 ~~Administrator for the purpose of bringing out all the facts and circumstances relating to an~~
16 ~~alleged violation, promoting communication between concerned parties, and providing a forum~~
17 ~~for efficient resolution of a violation. The Administrator may call a conference in response to a~~
18 ~~request from any person aggrieved by an order of the Administrator or the Administrator may~~
19 ~~call a conference on his own motion. Attendance at the conference shall be determined by the~~
20 ~~Administrator and need not be limited to those named in a notice and order. As a result of~~
21 ~~information developed at the conference, the Administrator may affirm, modify or revoke his~~
22 ~~order. The holding of an administrative conference shall not be a prerequisite to use of any other~~
23 ~~enforcement provisions contained in this chapter.))~~
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1 Section 52. A new Section 25.08.765 to the Seattle Municipal Code, is adopted to read as
2 follows:

3 **25.08.765 Order of the Administrator**

4 A. Where review by the Administrator has been conducted pursuant to Section
5 25.08.760, the Administrator shall issue an order of the Administrator containing the decision
6 within fifteen days of the date the review is completed and shall cause the same to be mailed by
7 regular first class mail to the person or persons named in the notice of violation and mailed to the
8 complainant, if any.

9
10 B. Unless a request for review before the Administrator is made pursuant to Section
11 25.08.760, the notice of violation shall become the order of the Administrator.

12
13 C. Civil actions to enforce orders of the Administrator are brought in Seattle Municipal
14 Court and are not subject to judicial review pursuant to chapter 36.70C RCW.

15 Section 53. Section 25.08.800 of the Seattle Municipal Code, which Section was last
16 amended by Ordinance 114656, is amended as follows:

17 **25.08.800 ((Punishment.)) Civil Enforcement and Criminal Penalties**

18
19 A. ((Conduct made unlawful by Subchapter IV, Section 25.08.515 and Section
20 25.08.520 of this chapter shall constitute a violation subject to the provisions of Chapters 12A.02
21 and 12A.04 of this Code (Seattle Criminal Code) and any person convicted of a violation of
22 Subchapter IV or Section 25.08.520 shall be punished by a civil fine or forfeiture not to exceed
23 Five Hundred Dollars (\$500); conduct made unlawful by Section 25.08.515 shall be punished
24 by a civil fine or forfeiture not to exceed Fifty Dollars (\$50).))



1 ~~((B-))~~ Civil Penalties. In addition to any other remedy authorized by law or equity, and
2 except for violations of Sections 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, any
3 person violating or failing to comply with any requirement of this chapter or order issued by the
4 Administrator shall be subject to a cumulative civil penalty of up to \$1,300 per day for each day
5 that the violation or failure to comply continues. Alternatively, for violations of Sections
6 25.08.410, 25.08.420, and 25.08.425, the Administrator may follow the citation process in
7 Sections 25.08.900-25.08.970.

9 B. Crime. Conduct made unlawful by Section 25.08.500 of this chapter ~~((shall~~
10 ~~constitute))~~ constitutes a crime subject to the provisions of Chapters 12A.02 and 12A.04 of this
11 Code (Seattle Criminal Code), except that absolute liability shall be imposed for such a violation,
12 and none of the mental states described in Section 12A.04.030 need be proved, and any person
13 convicted thereof shall be punished by a fine not to exceed ~~((Five Hundred Dollars-))~~\$500~~(())~~,
14 or by imprisonment in the City Jail for a term not to exceed six ~~((6))~~ months, or by both such
15 fine and imprisonment.

16 C. Penalties for other violations.

17 1. Conduct made unlawful by Section 25.08.515 shall be punished by a civil fine
18 or forfeiture not to exceed \$50.

19 2. Conduct in violation of Subchapter IV of this chapter shall be punished by a
20 civil fine or forfeiture not to exceed \$500.

21 D. Alternative criminal penalty. As an alternative to the civil penalties provided in this
22 section the Administrator may request that violations of or failure to comply with this chapter or
23



1 orders issued by the Administrator be prosecuted criminally. In such case, any person who
2 violates or fails to comply with an order issued by the Administrator or any of the provisions of
3 this chapter except for Sections 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, shall be
4 guilty of a gross misdemeanor subject to the provisions of Chapter 12A.02 and 12A.04, except
5 that absolute liability shall be imposed for such a violation or failure to comply, and none of the
6 mental states described in Section 12A.04.030 need be proved. Any person convicted thereof
7 shall be punished by a fine not to exceed \$5,000 or by imprisonment in the City Jail for a term
8 not to exceed one year, or by both such fine and imprisonment.

10 E. Each day a violation continues and each occurrence of a prohibited activity shall be
11 deemed a separate offense.

13 Section 54. Section 25.08.820 of the Seattle Municipal Code, which Section was last
14 amended by Ordinance 121192, is amended as follows:

15 **25.08.820 Penalties cumulative((=))**

16 The penalties imposed by Sections 25.08.800, 25.08.805, and 25.08.960 ~~((and 25.08.810~~
17 ~~shall be))~~ are in addition to any other sanction or remedial ~~((injunctive))~~ procedure ~~((which))~~ that
18 may be available at law or equity.

20 Section 55. Section 25.08.960 of the Seattle Municipal Code, adopted by Ordinance
21 122614, is amended as follows:

22 **25.08.960 Citation Penalties((=))**



1 A person or entity found to have violated Sections 25.08.410, 25.08.420, 25.08.425 or
2 25.08.501 and to whom a citation was issued, is subject to a penalty according to the following
3 schedule.

Citation Penalty Schedule			
Section or Subsection Violated	First Violation	Second Violation ((and Subsequent Violations))	Third and Subsequent Violations
<u>25.08.410,</u> <u>25.08.420,</u> <u>25.08.425 B, or</u> <u>25.08.425 F</u>	<u>\$150</u>	<u>\$300</u>	<u>\$600</u>
<u>25.08.425 C</u>	<u>\$325</u>	<u>\$650</u>	<u>\$1,300</u>
<u>25.08.501</u>	<u>\$1,000</u>	<u>\$2,000</u>	<u>\$2,000</u>

13 Section 56. The enforcement provisions contained in this ordinance apply to all
14 enforcement actions commenced on or after the effective date of this ordinance, regardless of
15 when the violation occurred. To this extent, this ordinance applies retroactively, but in all other
16 respects it applies prospectively.

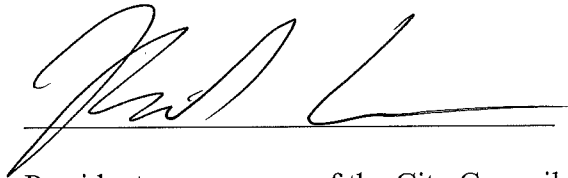
18 Section 57. Sections 25.08.130, 25.08.240, 25.08.535, 25.08.620, 25.08.750, 25.08.770,
19 25.08.780, 25.08.790, and 25.08.810 of the Seattle Municipal Code are hereby repealed.

21 Section 58. The provisions of this ordinance are declared to be separate and severable.
22 The invalidity of any particular provision shall not affect the validity of any other provision.



1
2 Section 59. This ordinance shall take effect and be in force on whichever is the later of:
3 (a) the effective date of approval of the amendments in this ordinance by the Washington State
4 Department of Ecology, which date is no later than ninety days after submittal to the Department
5 of Ecology; or (b)(i) thirty (30) days from and after approval by the Mayor or, (ii) if not
6 approved and returned by the Mayor within (10) days after presentation, then as provided by
7 Municipal Code Section 1.04.020.
8

9 Passed by the City Council the 2nd day of March, 2009, and signed by me in
10 open session in authentication of its passage this 2nd day of March, 2009.

11
12 

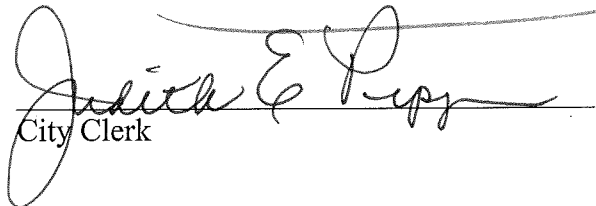
13
14 President _____ of the City Council

15 Approved by me this 10th day of March 2009.

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17 

18 Gregory J. Nickels, Mayor

19 Filed by me this 11th day of March, 2009.

20
21 

22 City Clerk

23 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Planning and Development	Gordon Clowers/684-8375	Karen Grove/684-5805

Legislation Title:

An ordinance relating to noise control, amending various sections and adding new sections to Chapter 25.08 of the Seattle Municipal Code, to provide for a major public project construction variance for major public construction projects, to update various provisions to conform to new technology and changes in technology, to revise the enforcement procedures to provide for stop work orders, revocation of variances, citations and civil penalties, to revise various provisions to update and clarify references and correct grammar and other errors, and repealing Sections 25.08.130, 25.08.240, 25.08.535, 25.08.620, 25.08.750, 25.08.770, 25.08.780, 25.08.790 and 25.08.810.

- **Summary of the Legislation:** The proposed amendments would accomplish the following:
 - Update the code to acknowledge current sound measuring methods and devices;
 - Allow the DPD Director to grant noise variances for “major public project” construction—when noise impacts can be mitigated—including projects such as Sound Transit Link Light Rail, SR 520, and future SR99/Alaskan Way improvements;
 - Allow the DPD Director to grant noise variance extensions for previously granted variances (with public notice) except for temporary variances;
 - Update and strengthen enforcement procedures to provide for stop work orders, revocation of variances, citations and civil penalties;
 - Modify the time limits on noisy construction operations that would affect residents in higher density areas such as Lowrise, Midrise, Highrise and Neighborhood Commercial zones; and
 - Correct references and update inaccurate or outdated language.
- **Background:** The amendments are intended to define effective noise controls for anticipated major public transportation and infrastructure construction projects, improve enforcement procedures, and otherwise update the City’s noise code. The amendments will clarify the City’s regulatory authority and processes as well as the responsibilities of parties engaging in construction activities or other actions generating noise, and improve the effectiveness of the City’s deterrence and enforcement process related to noise violators.



The fiscal implications of the amendments are minor for DPD, but considerably more important to the public agency applicants (and public as a whole) that will benefit from a more comprehensive approach to major construction noise controls:

1. *Processing/Permitting*: DPD will not incur additional costs. DPD noise fee to applicants is \$150 per hour for time spent in permitting/processing activities, and rarely exceed two hours per case. There is also a fee of \$150 for site inspections related to variances.
2. *Increase in fees and/or penalties collected*: The amendments might result in additional collection of penalties. However, because DPD noise enforcement staff work to gain voluntary compliance in most cases, collection of penalties would likely be infrequent. Also, the amendments include a greater array of enforcement mechanisms, which could increase the efficiency of gaining compliance without levying penalties.
3. *Benefit to public agencies and citizenry due to increased predictability and efficiency of major public projects*: By ensuring a comprehensive approach to construction noise controls for major public projects, the public will benefit from more thorough noise mitigation plans and public agencies will benefit from a more predictable process for setting construction noise controls. This should provide significant fiscal benefits to agencies by avoiding overly constraining restrictions on construction activities that might otherwise threaten the financial feasibility of major projects.

✓ **This legislation does not have any financial implications.**

Attachment 1: Director's Report and Recommendation

DIRECTOR'S REPORT AND RECOMMENDATION

Noise Ordinance Update

Introduction

As part of its regulatory responsibilities, the Department of Planning and Development (DPD) administers and enforces provisions of Chapter 25.08, Noise Control, of the Seattle Municipal Code. DPD's role is largely to regulate noise related to construction activity and land use. The Noise Control Code (or "noise ordinance" as it is commonly called) has not been substantially amended since the mid-1980s and is in need of updating.

The proposed amendments would accomplish the following:

- Update the code to acknowledge current sound measuring methods and devices;
- Allow the DPD Director* to grant noise variances for "major public project" construction—when noise impacts can be mitigated—including projects such as Sound Transit Link Light Rail, SR 520, and future SR 99/Alaskan Way improvements;
- Allow the DPD Director to grant noise variance extensions for previously granted variances (with public notice) except for temporary variances;
- Update and strengthen enforcement procedures to provide for stop work orders, revocation of variances, citations, and civil penalties;
- Modify the time limits on noisy construction operations that would affect residents in higher density areas such as Lowrise, Midrise, Highrise and Neighborhood Commercial zones; and
- Correct references and update inaccurate or outdated language.

* The noise ordinance uses the term "administrator," which is defined to mean the DPD Director or the Director's designee.

Analysis

Sound Measuring Methods and Devices

Proposed changes to the noise ordinance have been made in consultation with local sound engineers and are consistent with American National Standards Institute (ANSI) definitions and specifications.

Existing technical terms are proposed to be amended or new technical terms are added. These proposals are intended to update the noise ordinance to reflect current methods for measuring sound. More specifically, "Leq" and "Lmax" are sound measurements. Leq is an average sound level over a specified time period. During such a time period, there may be decibel spikes and sags. The Leq is an average of those spikes and sags, expressed in a single decibel rating. Lmax is the maximum spike, or maximum sound level, during a specified time period, expressed in a



single decibel rating. Both Leq and Lmax are typically measured by using a sound level meter, which is a sound measuring device that meets ANSI specifications.

While the definition for Leq has been updated and the definition for Lmax has been added to the noise ordinance, the existing sound level limits in the code would not be changed by this proposal. The proposed amendments acknowledge the increased capabilities of new sound level meters. In doing so, the proposal ensures more accurate sound readings and more accurate enforcement of noise violations.

Major Public Project Construction Variance

The noise ordinance was originally written largely with standard construction projects in mind. These include building construction or demolition on private property. The needs of large scale, public construction projects are harder to predict. This is due to the large geographic area that can be covered by a major public project and the length of time involved in constructing these projects. The large amount of public investment, as well as the fact that these projects are intended to serve broad public interests, are also factors to consider. A variance process is included in the proposed noise ordinance amendments to allow the Director to take the unique needs of major public construction projects into account, and to require mitigation specific to the impacts of these projects as well.

The existing noise ordinance allows for three types of variances – temporary, technical and economic. These variances allow the Director to vary the strict application of the provisions of the noise ordinance and in doing so, allow projects to proceed while requiring that steps be taken to minimize or eliminate noise impacts. The noise ordinance includes provisions meant to be used to mitigate noise impacts, such as the level of public annoyance or the endangerment of public health or safety¹. However, current variance provisions do not include good options to address construction noise management/mitigation plans for major public projects, particularly linear transportation systems or other infrastructure projects. The long linear or networked form of such projects and inclusion of several phases (such as utility relocation, demolition, and construction) varies from the single locations and relatively simple construction processes assumed in the existing noise ordinance. There are currently three types of variances:

- The **temporary variance** applies to activities limited to a time period of two weeks, which is different from the extended timeframe of major public projects. The temporary variance typically applies to specific construction activities, which may not effectively address the full range of activities planned for a major project.
- The **technical variance** requires a high level of justification—that there is no “practical means known or available for the adequate prevention, abatement or control of the noise involved.” While this type of variance could apply to activities at particular locations, it is not applicable to noise control planning for a range of construction activities occurring along a linear or networked major project corridor.

¹ Existing temporary, technical and economic noise variance provisions are contained in 25.08.630, 25.08.640 and 25.08.650.

- The **economic variance**, which is oriented toward activities and noise remediation at commercial or industrial businesses (e.g. contributors to the local economy), is not applicable to major public construction projects. The difference in legal intent and in the scale of a major public project discourages use of the economic variance.

Proposed amendments would create an option for major public project construction variances, meant to be tailored to allow for efficient schedules and methods for major public project construction. Such a variance would authorize the Director to allow noise variances when strict compliance with the noise ordinance would unreasonably delay major public construction projects, thereby threatening their financial feasibility. Examples of major public projects include the Downtown Bus Tunnel, Sound Transit Link Light Rail, SR 520, and future SR 99/Alaskan Way improvements.

There is currently no definition of “major public project” in the noise ordinance. The following definition is proposed:

“Major public project” means a project for a public facility as defined in SMC Title 23, the construction of which the Administrator determines is likely to have a substantial impact on the public safety, health and welfare and the provision of public services, including transportation services. In making this determination the Administrator shall consider factors such as the expected size, complexity or cost of the proposed construction or reconstruction; the expected duration of the proposed construction or reconstruction, which must be a minimum of six months; the magnitude of the expected impacts on traffic and transportation; and/or the degree of impact on the provision of public services during the proposed construction or reconstruction.

Noise Management and Mitigation Plans

For noise variances, the Director will have the authority to mitigate noise impacts by requiring a Noise Management and Mitigation Plan (NMMP). This would require the applicant to document the following:

- Techniques and devices to be used and their sound characteristics (such as episodic or impulsive sounds, high-frequency backup alarms, etc.);
- A description of the permissible exterior sound levels expected to be exceeded, the sources of the sound, and the amount and duration by which those levels are expected to be exceeded;
- Measures and provisions to be taken in order to avoid exceeding the permissible exterior sound levels;
- Provisions to mitigate sounds that unavoidably would exceed permissible exterior sound levels; and
- A process for informing the public about the provisions of the variance.



Enforcement

For the sections enforced by DPD, the existing noise ordinance currently offers a rudimentary enforcement option involving a written order, a 10-day appeal period, a hearing at the Hearing Examiner with a decision within 30 days of the appeal, and a criminal court action, with a maximum \$500 fine or imprisonment for up to 6 months. The existing enforcement process, the goal of which is to gain regulatory compliance, is slow and ineffective. Some contractors consider the potential \$500 fine to be merely a cost of doing business.

The proposed amendments would add additional enforcement options to the code that will strengthen the City’s ability to effectively and efficiently gain regulatory compliance. Specifically, it would add citation and civil penalties to the already existing criminal penalties for violations of the noise ordinance; it would allow the Director to issue stop work orders and to revoke variances, and it would allow the City to choose more aggressive legal action. The proposal would also raise penalties to a level that would provide a strong financial disincentive to violate the noise ordinance. The civil penalty could be as much as \$1,300 per day for each day that the violation or failure to comply continues. The alternative criminal penalty is a maximum fine of \$5,000 and/or imprisonment for a term of up to one year. The following Citation Penalty Schedule is also proposed for certain violations:

Citation Penalty Schedule			
Section or Subsection Violated (examples of topics addressed)	First Violation	Second Violation	Third and Subsequent Violations
25.08.410 or 25.08.420 (for violations of permissible exterior sound levels, generally)	\$150	\$300	\$600
25.08.425 B (for violations during the day by “non-impulse” sound-generating construction equipment, such as dozers, cranes, trucks, ditchers and pneumatic tools)	\$150	\$300	\$600
25.08.425 F (for violations of permissible exterior sound levels when measured from the interior of buildings within a commercial district)	\$150	\$300	\$600
25.08.425 C (for violations caused during the day by “impulse” sound-generating equipment, such as piledrivers, jackhammers, and sandblasting tools)	\$325	\$650	\$1300

Evening Limits on Noisy Construction Activities in Selected Zones

The noise ordinance currently allows certain kinds of noisy construction activity (for example, earthmoving and use of log chippers and portable hand tools) to exceed noise limits by 15-25 dBA from 7 a.m. until 10 p.m. on weekdays depending on the type of equipment and from 9 a.m. to 10 p.m. on weekends and holidays. Currently, when DPD conducts environmental review of permit applications, it uses SEPA authority to further limit the construction time period for these types of activities when residential uses are near a construction site. Consistent with this practice, the proposed ordinance would adopt a shorter timeframe of 7 a.m. to 7 p.m. (9 a.m. to 7 p.m. on weekends and legal holidays), for construction or maintenance activities to exceed otherwise applicable noise limits in Lowrise, Midrise, Highrise, Residential-Commercial and Neighborhood Commercial zones when a lot with residential uses is within 100 feet of the site. If no residential uses are within 100 feet of the property under construction, and for public projects, the applicable timeframes for construction activities to exceed noise limits would remain from 7 a.m. to 10 p.m. on weekdays and 9 a.m. to 10 p.m. on weekends and legal holidays. (Major public projects that receive construction variances could vary from such limits according to the terms of their variances and noise management and mitigation plans.)

Applicable Comprehensive Plan Goals and Policies

Seattle's Comprehensive Plan outlines general goals for capital facilities, such as major public projects, and regulations that affect all properties, as well as specific policies for appropriate noise levels. According to the plan, "Policies should be read as if preceded by the words 'it is the City's general policy to'..." The following policies are applicable to the proposed Noise Control Code amendments.

- Policy LU44 Establish maximum permitted noise levels to reduce health hazards and nuisance factors associated with noise generated by some uses. Set maximum permitted noise levels that take into account both the function of the area from which the noise emanates and the function of areas where the noise may be heard.
- Policy LU45 Require uses identified as major noise generators, due to the type of equipment used or the nature of the activity, to take additional measures to reduce noise so that they can meet permitted noise levels.
- Policy E7 Control the impacts of noise, odor, and light, litter, graffiti, junk cars, trash, and refuse in order to protect human health and the livability of the urban environment.

Other policies broadly address the intent to efficiently provide transportation systems and public facilities of all kinds that will support the comprehensive plan's growth strategies. These assume the ability to construct improvements to street and utility systems in the places where they are needed within the city. For example:



Capital Facilities Goal G1: Provide capital facilities that will serve the most pressing needs of the greatest number of Seattle citizens, and that will enable the City to deliver services efficiently to its constituents.

The proposal would be consistent with the applicable goals and policies of the comprehensive plan, recognizing there is a balance between the need to efficiently achieve construction of public projects and the need to protect citizens from impacts such as noise.

Recommendation

The proposed amendments are consistent with the City's policy of managing the impacts of large public infrastructure projects as well as recognizing the important role these projects play in serving the infrastructure needs of the city and region and the wise use of the public resources used to construct these projects. The amendments support the City's goals for a fair and effective enforcement process for the City's noise regulations. By responsibly allowing noise variances for major public project construction, the City will appropriately balance the needs of a growing city with the needs and expectations of affected businesses and residents. Updating the City's regulations to make them current with current noise measurement technology, and improving code enforcement, will help to more effectively manage noise and its impacts on Seattle's citizens.



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

April 29, 2008

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

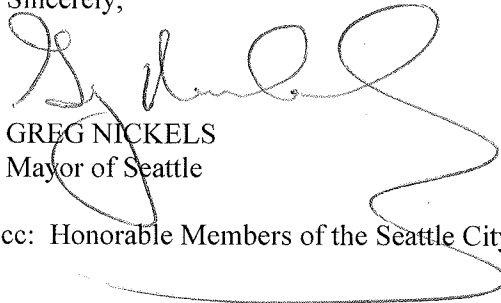
Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that updates Seattle Municipal Code (SMC) Section 25.08 to define effective noise controls for anticipated major public transportation and infrastructure construction projects, improve enforcement procedures, and otherwise update the City's Noise Code.

The City of Seattle and state and regional agencies are planning several critical capital projects such as the Sound Transit Link Light Rail, Alaskan Way Viaduct and Seawall Replacement, and SR520 projects. To provide for up-to-date, effective, and reasonable regulation of noise impacts from these projects, we need to update our noise codes. Specifically, the attached proposed Bill will update these codes to acknowledge current sound measuring methods and devices; allow noise variances for "major public project" construction when a noise management and mitigation plan is prepared; allow extensions for certain previously granted noise variances; update and strengthen enforcement procedures to provide for stop work orders, revocation of variances, citations, and civil penalties; modify the time limits on noisy construction operations that would affect residents in higher density areas; and, make other technical adjustments. The changes are intended to aid in the efficient use of public investments in major projects and to more effectively manage the impact noise has on Seattle's residents and visitors.

Please join me in support of these amendments to appropriately balance the needs of a growing city with the needs and expectations of affected businesses and residents. Thank you for your consideration of this legislation. Should you have questions, please contact Gordon Clowers at 684-8375.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

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ORDINANCE _____

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AN ORDINANCE relating to noise control, amending various sections and adding new sections to Chapter 25.08 of the Seattle Municipal Code, to provide for a major public project construction variance for major public construction projects, to update various provisions to conform to new technology and changes in technology, to revise the enforcement procedures to provide for stop work orders, revocation of variances, citations and civil penalties, to revise various provisions to update and clarify references and correct grammar and other errors, and repealing Sections 25.08.130, 25.08.240, 25.08.535, 25.08.620, 25.08.750, 25.08.770, 25.08.780, 25.08.790 and 25.08.810.

WHEREAS, it is the policy of the City of Seattle to minimize the exposure of citizens to the physiological and psychological dangers of excessive noise and to protect, promote and preserve the public health, safety and welfare; and

WHEREAS, it is the express intent of the City to control the level of noise in a manner that promotes commerce; the use, value and enjoyment of property; sleep and repose; and the quality of the environment; and

WHEREAS, construction of major public infrastructure projects may result in noise impacts to adjacent business and residential properties oftentimes along linear corridors and of substantial duration; and

WHEREAS, several such major public infrastructure projects are either underway or are proposed for construction in the near future, including Sound Transit's Link Light Rail and the Alaskan Way Viaduct and Seawall Replacement Project; and

WHEREAS, the noise code does not clearly identify a process for qualifying for and obtaining construction noise variances for major, public, more than six-month construction projects; and

WHEREAS, the ability to work during nighttime hours is often essential to complete such projects on a timely and financially feasible schedule; and

WHEREAS, the proposed changes in the noise ordinance do not increase the exterior sound levels allowed during construction from what is allowed in the current ordinance, while providing for a variance from these levels for major public construction projects; and

WHEREAS, the noise ordinance has not been amended in recent years to reflect technological changes in how to measure noise impacts, changes in other codes and ordinances, or to make grammar changes; NOW, THEREFORE,



1 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

2 Section 1. Consistent with Section 25.08.020 of the Seattle Municipal Code, the City
3 finds that it has continued to study the problem of noise since the previous finding in 1977. On
4 the basis of this experience and knowledge of conditions within the City, the City Council finds
5 that special conditions continue to exist in the City that make necessary the differences between
6 this chapter 25.08 and the noise regulations adopted by the Department of Ecology.
7

8 Section 2. Section 25.08.040 of the Seattle Municipal Code, which Section was adopted
9 by Ordinance 106360, is amended as follows:
10

11 **25.08.040 Definitions generally – Gender.**

12 All technical terminology used in this chapter, not defined in this subchapter, shall be
13 interpreted in conformance with American National Standards Institute (“ANSI”) Specifications,
14 Section 1.1 ~~((1960))~~1994, as it now exists or as hereafter amended and Section 1.4-~~((1971))~~1983,
15 as it now exists or as hereafter amended. Words used in the masculine gender include the
16 feminine and words used in the feminine gender include the masculine. For the purposes of this
17 chapter the words and phrases used herein shall have the meanings set forth in the following
18 sections of this subchapter.
19

20
21 Section 3. Section 25.08.050 of the Seattle Municipal Code, which Section was adopted
22 by Ordinance 106360, is amended as follows:

23 **25.08.050 Administrative Code.**

24 "Administrative Code" means the Administrative Code of The City of Seattle, SMC
25 Chapter 3.02, (((Ordinance 102228))) as now or hereafter amended.
26



1 Section 4. Section 25.08.060 of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 121276, is amended as follows:

3 **25.08.060 Administrator.**

4 "Administrator" means the Director of the Department of Planning and Development or
5 ((his or her)) the Director's authorized representative ((, except that the Director of the Public
6 Health Seattle and King County or his or her authorized representative shall continue to be the
7 "Administrator" of Subchapter VII Variances through December 31, 1993)).

8
9 Section 5. A new Section 25.08.069 of the Seattle Municipal Code is adopted to read as
10 follows:

11
12 **25.08.069 City Holiday**

13 "City Holiday" means the days during which city offices are not open for transaction of
14 business as provided by SMC 3.102.010.

15
16 Section 6. Section 25.08.100 of the Seattle Municipal Code, which Section was last
17 amended by Ordinance 115041, is amended as follows:

18 **25.08.100 Districts.**

19 "District" means the land use zones to which the provisions of this chapter are applied.
20 For the purposes of this chapter:

21
22 A. ((("Rural District" includes zones designated in the King County Zoning Code as A, F,
23 R, F-P, S-E, G, and S-R greater than thirty-five thousand (35,000) square feet.



1 ~~B.)~~ "Residential District" includes ~~((zones designated in the King County Zoning Code~~
2 ~~as R-S, R-D, R-M, B-N, and S-R less than thirty five thousand (35,000) square feet, and))~~ zones
3 defined as residential zones and NC1 zones in The Seattle Land Use Code, Title 23.

4 ~~((C.))~~ B. "Commercial District" includes zones designated ~~((in the King County Zoning~~
5 ~~Code as B-C, C-G, M-L, and M-P, and zones designated))~~ as NC2, NC3, SM, C1, C2, DOC1,
6 DOC2, DRC, DMC, PSM, IDM, DH1, DH2, PMM, and IB in the Seattle Land Use Code, Title
7 23.

8
9 ~~((D.))~~ C. "Industrial District" includes zones designated ~~((in the King County Zoning~~
10 ~~Code as M-H, Q-M, and unclassified uses and zones designated))~~ as IG1, IG2, and IC in the
11 Seattle Land Use Code, Title 23.

12
13 D. For any zone not listed in subsections A, B, or C of this section the Administrator may
14 determine that the zone is substantially similar to a zone listed in subsections A, B, or C and may
15 classify it similarly for purposes of this chapter.

16
17 Section 7. A new Section 25.08.155 of the Seattle Municipal Code, is adopted to read as
18 follows:

19 **25.08.155 Legal Holiday.**

20 "Legal Holiday" means the following holidays: New Year's Day, Memorial Day,
21 Independence Day, Labor Day, Thanksgiving Day and the day after, and Christmas Day.

22
23 Section 8. Section 25.08.160 of the Seattle Municipal Code, which Section was last
24 amended by Ordinance 108552, is amended as follows:

25 **25.08.160 ~~((L- eq))~~ Leq.**

1 ~~("L_{eq}")~~ "L_{eq}" means the equivalent sound level, which is the constant sound level
2 ~~((that,))~~ in a given ~~((situation and))~~ time period~~((;))~~ that conveys the same sound energy as the
3 actual time-varying A-weighted sound. The applicable time period ~~((applicable))~~ for the L_{eq}
4 must be specified.

5 Section 9. A new Section 25.08.165 of the Seattle Municipal Code, is adopted to read as
6 follows:
7

8 **25.08.165 L_{max}.**

9 "L_{max}" means the maximum sound level over a measurement interval determined by
10 using a sound level meter set to "Fast" response time.
11

12 Section 10. A new Section 25.08.168 of the Seattle Municipal Code, is adopted to read as
13 follows:
14

15 **25.08.168 Major public project.**

16 "Major public project" means a project for a public facility as defined in SMC Title 23,
17 the construction of which the Administrator determines is likely to be of at least six months
18 duration, and is likely to have a substantial impact on the public safety, health and welfare and
19 the provision of public services, including transportation services. In making this determination
20 the Administrator shall consider factors such as the expected size, complexity or cost of the
21 proposed construction or reconstruction; the expected duration of the proposed construction or
22 reconstruction; the magnitude of the expected impacts on traffic and transportation; and/or the
23 degree of impact on the provision of public services during the proposed construction or
24 reconstruction.
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1 Section 11. Section 25.08.180 of the Seattle Municipal Code, which Section was adopted
2 by Ordinance 106360, is amended as follows:

3 **25.08.180 Motor vehicle.**

4 "Motor vehicle" means any vehicle ~~((which))~~ that is self-propelled, used primarily for
5 transporting persons or property upon ~~((public))~~ highways and required to be licensed under
6 RCW 46.16.010. ~~(((Aircraft, watercraft and vehicles used exclusively on stationary rails or tracks
7 are not motor vehicles as that term is used in this chapter.)))~~

8
9 Section 12. Section 25.08.190 of the Seattle Municipal Code, which Section was adopted
10 by Ordinance 106360, is amended as follows:

11 **25.08.190 Motor vehicle racing event.**

12
13 "Motor vehicle racing event" means any competition between motor vehicles and/or off-
14 highway vehicles under the auspices of a sanctioning body recognized by the Administrator
15 under rules adopted in accordance with the Administrative Code, SMC Chapter 3.02.

16
17 Section 13. Section 25.08.230 of the Seattle Municipal Code, which Section was adopted
18 by Ordinance 106360, is amended as follows:

19 **25.08.230 Off-highway vehicle.**

20 "Off-highway vehicle" means any self-propelled motor-driven vehicle not used primarily
21 for transporting persons or property upon ~~((public))~~ highways nor required to be licensed under
22 RCW 46.16.010. The term "off-highway vehicle" ~~((shall))~~ does not include special construction
23 vehicles.
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1 Section 14. Section 25.08.270 of the Seattle Municipal Code, which Section was adopted
2 by Ordinance 106360, is amended as follows:

3 **25.08.270 ((Public highway)) Highway.**

4 ((“Public highway”)) “Highway” means the entire width between the boundary lines of
5 every way publicly maintained by the Washington State Department of ((Highways))
6 Transportation or any county or city when any part thereof is generally open to ((the use of)) the
7 public for purposes of vehicular travel ((as a matter of right)).

8
9 Section 15. Section 25.08.300 of the Seattle Municipal Code, which Section was adopted
10 by Ordinance 106360, is amended as follows:

11 **25.08.300 Real property.**

12
13 "Real property" means an interest or aggregate of rights in land ((which)) that is
14 guaranteed and protected by law; for purposes of this chapter, the term "real property" includes a
15 leasehold interest.

16
17 Section 16. Section 25.08.320 of the Seattle Municipal Code, which Section was adopted
18 by Ordinance 106360, is amended as follows:

19 **25.08.320 Sound level.**

20 "Sound level" means the weighted sound pressure level measured by the use of a
21 metering characteristic and weighted as specified in American National Standards Institute
22 Specifications, Section 1.4-((1971))1983, as it now exists or as hereafter amended. The sound
23 pressure level of a sound expressed in decibels is twenty (20) times the logarithm to the base ten
24 (10) of the ratio of the pressure of the sound to the reference sound pressure of twenty (20)



1 micropascals. In the absence of any specific modifier, the level is understood to be that of a
2 mean-square pressure.

3 Section 17. Section 25.08.330 of the Seattle Municipal Code, which Section was adopted
4 by Ordinance 106360, is amended as follows:

5 **25.08.330 Sound level meter.**

6 "Sound level meter" means a sound level measuring device, either Type I or Type II, as
7 defined by American National Standards Institute Specifications, Section 1.4 ~~((1971))~~1983, as it
8 now exists or as hereafter amended.
9

10 Section 18. Section 25.08.340 of the Seattle Municipal Code, which Section was adopted
11 by Ordinance 106360, is amended as follows:

12 **25.08.340 Special construction vehicle.**

13 "Special construction vehicle" means any vehicle ~~((which))~~ that is designed and used
14 primarily for grading, paving, earth moving, and other construction work~~((; and which-))~~, that is
15 not designed or used primarily for the transportation of persons or property on a ~~((public))~~
16 highway~~((;))~~, and ~~((which))~~ that is only incidentally operated or moved over the highway.
17

18 Section 19. Section ~~25.08.380~~ of the Seattle Municipal Code, which Section was adopted
19 by Ordinance 106360, is amended as follows:

20 **25.08.380 Weekday.**

21 "Weekday" means any day Monday through Friday ~~((which))~~ that is not a legal holiday.
22

23 Section 20. Section 25.08.390 of the Seattle Municipal Code, which Section was adopted
24 by Ordinance 106360, is amended as follows:
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25.08.390 Weekend.

"Weekend" means Saturday and Sunday ~~((or any legal holiday)).~~

Section 21. Section 25.08.400 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.400 Unlawful sounds.

It is unlawful for any person to cause sound, or for any person in possession of property to permit sound originating from such property, to intrude into the real property of another person whenever such sound exceeds the ~~((maximum))~~ exterior sound level limits established by this subchapter.

Section 22. Section 25.08.410 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.410 ~~((Maximum permissible))~~ Exterior sound level limits.

A. The exterior sound level limits are based on the Leq during the measurement interval, using a minimum measurement interval of 1 minute for a constant sound source, or a one-hour measurement for a non-continuous sound source. For sound sources located within the City ~~((or King County))~~, the ~~((maximum))~~ exterior sound level limits are as follows:

<u>Exterior sound level limits</u>			
<u>District of Sound Source</u>	<u>District of Receiving Property ((Within The City of Seattle))</u>		
	<u>Residential (dB(A)) (Leq)</u>	<u>Commercial ((Db(A))) (dB(A)) (Leq)</u>	<u>Industrial (dB(A)) (Leq)</u>
((Rural))	((52))	((55))	((57))
Residential	55	57	60
Commercial	57	60	65



Industrial	60	65	70
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B. During a measurement interval, Lmax may exceed the exterior sound level limits shown in subsection A of this Section by no more than 15 dB(A).

Section 23. Section 25.08.420 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.420 Modifications to ~~((maximum))~~ exterior sound level limits.

~~((The maximum permissible sound levels established by this subchapter shall be reduced or increased by the sum of the following:))~~

A. Between the hours of ten (10:00) p.m. and seven (7:00) a.m. during weekdays, and between the hours of ten (10:00) p.m. and nine (9:00) a.m. on weekends and legal holidays, the ~~(())~~ exterior sound level limits established by Section 25.08.410 are reduced by ten (10) dB(A) where the receiving property lies within a residential district of the City.

B. For any source of sound ~~((which))~~ that ~~((is periodic, which))~~ has a pure tone component ~~((, or which is impulsive and is not measured with an impulse sound level meter))~~, the ~~(())~~ exterior sound level limits established by this subchapter ~~((shall be))~~ are reduced by five (5) ~~((Db(A)))~~ dB(A); provided, however, ~~((that))~~ this five (5) dB(A) ~~((penalty for the emission of sound having a pure tone component))~~ reduction shall not be imposed on any electrical substation ~~((, whether existing or new))~~.

C. For any source of sound that is impulsive and not measured with an impulse sound level meter ~~((which is of short duration))~~, the ~~(())~~ exterior sound level limits established by this subchapter are ~~((increased by:))~~ reduced by five (5) dB(A).



1 ~~((1. Five (5) dB(A) for a total of fifteen (15) minutes in any one (1) hour period;~~

2 or

3 ~~2. Ten (10) dB(A) for a total of five (5) minutes in any one (1) hour period; or~~

4 ~~3. Fifteen (15) dB(A) for a total of 1.5 minutes in any one (1) hour period.))~~

5
6 Section 24. Section 25.08.425 of the Seattle Municipal Code, which Section was last
7 amended by Ordinance 115041, is amended as follows:

8 **25.08.425 Sounds created by ((€))construction and maintenance equipment ((operations)).**

9 A. The ~~((maximum))~~ exterior sound level limits established by Sections 25.08.410 and
10 25.08.420, as measured from the property line of the real property of another person or at a
11 distance of fifty (50) feet from the construction or maintenance equipment making the sound,
12 whichever is greater, may be exceeded during the following times by the sound levels specified
13 in subsection B for the types of equipment listed in that subsection.

14
15 1. Within Lowrise, Midrise, Highrise, Residential-Commercial and Neighborhood
16 Commercial zones, between seven (7:00) a.m. and seven (7:00) p.m. on weekdays and between
17 nine (9:00) a.m. and seven (7:00) p.m. on weekends and legal holidays, provided that if no
18 property in residential use exists within 100 feet of the property generating the sound, or if the
19 equipment is being used for a public project, then between seven (7:00) a.m. and ten (10:00) p.m.
20 on weekdays and between the hours of nine (9:00) a.m. and ten (10:00) p.m. on weekends and
21 legal holidays.

22
23
24 2. Within all other zones, between seven (7:00) a.m. and ten (10:00) p.m. on
25 weekdays and between nine (9:00) a.m. and ten (10:00) p.m. on weekends and legal holidays.

1 B. During the time periods specified in subsection A, the exterior sound level limits as
2 measured from the property line of the real property of another person or at a distance of fifty
3 (50) feet from the construction or maintenance equipment making the sound, whichever is
4 greater, may be exceeded ((between the hours of seven (7:00) a.m. and ten (10:00) p.m. on
5 weekdays and between the hours of nine (9:00) a.m. and ten (10:00) p.m. on weekends)) by no
6 more than the following dB(A)'s for the following types of equipment.

7
8 1. Twenty-five (25) dB(A) for equipment on construction sites, including but not
9 limited to crawlers, tractors, dozers, rotary drills and augers, loaders, power shovels, cranes,
10 derricks, graders, off-highway trucks, ditchers, trenchers, compactors, compressors, and
11 pneumatic-powered equipment;

12
13 2. Twenty (20) dB(A) for portable powered equipment used in temporary
14 locations in support of construction activities or used in the maintenance of public facilities,
15 including but not limited to chainsaws, log chippers, lawn and garden maintenance equipment,
16 and powered hand tools; or

17
18 3. Fifteen (15) dB(A) for powered equipment used in temporary or periodic
19 maintenance or repair of the grounds and appurtenances of residential property, including but not
20 limited to lawnmowers, powered hand tools, snow-removal equipment, and composters.

21 ~~((B-))~~C. Sounds created by impact types of ~~((construction))~~ equipment, including but not
22 limited to pavement breakers, piledrivers, jackhammers, sandblasting tools, or by other types of
23 equipment ~~((or devices which))~~ that create impulse ~~((noise))~~ sound or impact ~~((noise))~~ sound or are
24 used as impact equipment, as measured at the property line or fifty (50) feet from the equipment,
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1 whichever is greater, may exceed the ~~((maximum))~~ exterior sound level limits established in
2 subsection ~~((A))~~B of this section in any one (1) hour period between the hours of eight (8:00)
3 a.m. and five (5:00) p.m. on weekdays and nine (9:00) a.m. and five (5:00) p.m. on weekends
4 and legal holidays, but in no event ~~((to))~~ may the sound level exceed the following:

- 5 1. ~~((Le-q))~~ Leq ninety (90) dB(A) continuously;
- 6 2. ~~((Le-q))~~ Leq ninety-three (93) dB(A) for thirty ~~(30)~~ minutes;
- 7 3. ~~((Le-q))~~ Leq ninety-six (96) dB(A) for fifteen (15) minutes; or
- 8 4. ~~((Le-q))~~ Leq ninety-nine (99) dB(A) for seven and one-half (7-1/2) minutes;

9 provided that sound levels in excess of ~~((Le-q))~~Leq ninety-nine (99) dB(A) are prohibited unless
10 authorized by variance obtained from the Administrator; and provided further that sources
11 producing sound levels less than ninety (90) dB(A) shall comply with subsections A and B of this
12 section during those hours not covered by this subsection ~~((B))~~C.

13 ~~((a.))~~D. The standard of measurement shall be a one (1) hour ~~((Le-q))~~ Leq. ~~((Le-q))~~ Leq
14 may be measured for times not less than one (1) minute to project an hourly ~~((Le-q))~~ Leq.
15 Reference to one (1) hour is for measurement purposes only and shall not be construed as
16 limiting construction or maintenance to a one (1) hour period.

17 ~~((b. These subsections A and B))~~ E. The (()) exterior sound level limits established in this
18 section shall be reviewed periodically by the City to assure that the (()) exterior sound level limits
19 ((level limits)) are technically feasible.

20 ~~((C.))~~ F. Construction or maintenance equipment ((activity)) that exceeds the
21 ((maximum)) exterior sound level limits established by Section 25.08.410, when measured from
22

1 the interior of buildings within a commercial district, is prohibited between the hours of eight
2 (8:00) a.m. and five (5:00) p.m. For purposes of this subsection((€)), interior sound levels shall
3 be measured only after every reasonable effort, including but not limited to closing windows and
4 doors, is taken to reduce the impact of the exterior construction noise.

5
6 Section 25. Section 25.08.430 of the Seattle Municipal Code, which Section was last
7 amended by Ordinance 120481, is amended as follows:

8 **25.08.430 Sounds created by operation of motor vehicles.**

9 It is unlawful for any person to operate upon any ((public)) highway any motor vehicle or
10 any combination of motor vehicles under any conditions of grade, load, acceleration or
11 deceleration in such a manner ((sø)) that the motor vehicle's exhaust noise exceeds ninety-five
12 (95) decibels as measured by the Society of Automotive Engineers (SAE) test procedure J1169
13 (May 1998).

14
15 Section 26. Section 25.08.470 of the Seattle Municipal Code, which Section was adopted
16 by Ordinance 106360, is amended as follows:

17
18 **25.08.470 Sale of new motor vehicles ((which)) that exceed limits.**

19 It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-
20 highway vehicle, ((which)) that produces a ((maximum)) sound level exceeding the following
21 ((maximum)) exterior sound level limits at a distance of fifty (50) feet, by acceleration test
22 procedures established by the State Commission on Equipment:
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Vehicle Category	dB(A)
Motorcycles manufactured after 1975	83
Any motor vehicle over 10,000 pounds GVWR manufactured after 1975 and prior to 1978	86
Any motor vehicle over 10,000 pounds GVWR manufactured <u>during or after</u> 1978	83
All other motor vehicles	80

Section 27. Section 25.08.480 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.480 Motor vehicle exemptions.

Sounds created by motor vehicles are exempt from the ~~((maximum))~~ exterior sound level limits of Subchapter III, except that sounds created by any motor vehicle operated off ~~((public))~~ highways shall be subject to the ~~(())~~ exterior sound level limits of Subchapter III when the sounds are received within a residential district of the City.

Section 28. Section 25.08.485 of the Seattle Municipal Code, which Section was last amended by Ordinance 109099, is amended as follows:

25.08.485 Watercraft.

A. It is unlawful for any person to operate any watercraft in such a manner as to exceed the following ~~((maximum noise limits))~~ exterior sound level limits when measured within fifty (50) feet of the shoreline or anywhere within a receiving property:

1. At any hour of the day or night, the limit for any receiving property ~~((shall be))~~ is seventy-four (74) dB(A), except that;

1 2. Between ~~((sunset and sunrise))~~ ten (10:00) p.m. and seven (7:00) a.m. the limit
2 for any receiving property within a residential ~~((or rural))~~ district ~~((shall be))~~ is sixty-four (64)
3 dB(A). ~~((For the purpose of administering and enforcing this section, sunset will be interpreted as~~
4 ~~ten (10:00) p.m. and sunrise will be interpreted as seven (7:00) a.m.))~~

5 B. It is unlawful for any person to operate any watercraft, except aircraft, ~~((which))~~ that is
6 not equipped with a functioning underwater exhaust or a properly installed and adequately
7 maintained muffler. Any of the following defects in the muffling system ~~((shall constitute))~~ is a
8 violation of this subsection:
9

10 1. The absence of a muffler;

11 2. The presence of a muffler cutout, bypass, or similar device ~~((which))~~ that is not
12 standard or normal equipment for the exhaust system being inspected;

13 3. Defects in the exhaust system including, but not limited to, pinched outlets,
14 holes, or rusted-through areas of the muffler or pipes; and

15 4. The presence of equipment ~~((which))~~ that will produce excessive or unusual
16 noise from the exhaust system. Dry stacks or water-injected stacks not containing a series of
17 chambers or mechanical designs effective in reducing sound shall not be considered as
18 adequately maintained mufflers.
19

20 C. The following exemptions ~~((shall))~~ apply to sounds created by watercraft or watercraft
21 operations:
22

23 1. Normal docking, undocking, and water skier pick-up and drop-off operations of
24 all watercraft ~~((shall be))~~ are exempt from the provisions in subsection A;
25
26

1 2. Sounds created by the operation of commercial, nonrecreational watercraft are
2 exempt at all times ~~((for))~~ from provisions of this chapter. These commercial activities include,
3 but are not limited to, tugboats, fishing boats, ferries, and vessels engaged in intrastate, interstate,
4 or international commerce;

5 3. Sounds created by boat races and regattas, and trials ~~((therefor as-))~~ sanctioned
6 by the Chief of Police acting as Port Warden pursuant to ~~((Section 27 of Ordinance 879831))~~
7 Section 16.20.160 as amended, are exempt from provisions in this section and in this chapter
8 between the hours of seven (7:00) a.m. and ten (10:00) p.m. on weekdays and between the hours
9 of nine (9:00) a.m. and ten (10:00) p.m. on weekends and legal holidays.

10 D. Nothing in this section shall be construed to limit the powers of the Chief of Police
11 ~~((acting as Port Warden, as))~~ enumerated in Section 16.12.010 ~~((3 of Ordinance 879832 as~~
12 amended)).

13 Section 29. Section 25.08.510 of the Seattle Municipal Code, which Section was adopted
14 by Ordinance 106360, is amended as follows:

15 **25.08.510 Exempted sources.**

16 No sound source specifically exempted from ~~((a maximum))~~ permissible exterior sound
17 ~~((level))~~ level limits by this chapter ~~((shall be))~~ is a public nuisance noise or public disturbance
18 noise ~~((, insofar as the particular source is exempted))~~.

19 Section 30. Section 25.08.530 of the Seattle Municipal Code, which Section was last
20 amended by Ordinance 112976, is amended as follows:

21 **25.08.530 Sounds exempt at all times.**

1 A. The following sounds are exempt from the provisions of this chapter at all times:

2 1. Sounds originating from aircraft in flight, and sounds ~~((which))~~ that originate at
3 airports and are directly related to flight operations;

4 2. Sounds created by safety and protective devices, such as relief valves, where
5 noise suppression would defeat the safety release intent of the device;

6 3. Sounds created by fire alarms;

7 4. Sounds created by emergency equipment and emergency work necessary in the
8 interests of law enforcement or of the health, safety or welfare of the community;

9 5. ~~((Sounds created by the discharge of firearms in the course of lawful hunting
10 activities;~~

11 ~~activities;~~
12 ~~6.))~~ Sounds created by natural phenomena;

13 ~~((7.))~~ 6. Sounds originating from forest harvesting and silviculture activity and
14 from commercial agriculture, if the receiving property is located in a commercial or industrial
15 district of the City;

16 ~~((8.))~~ 7. Sounds created by auxiliary equipment on motor vehicles while used for
17 highway surface maintenance; and

18 ~~((9.))~~ 8. Sounds created by warning devices or alarms not operated continuously
19 for more than thirty (30) minutes per incident.

20 Section 31. Section 25.08.540 of the Seattle Municipal Code, which Section was last
21 amended by Ordinance 112976, is amended as follows:

22 **25.08.540 Sounds exempt during daytime hours – Generally.**

1 A. The following sounds are exempt from the provisions of this chapter between the
2 hours of seven (7:00) a.m. and ten (10:00) p.m. on weekdays and between the hours of nine
3 (9:00) a.m. and ten (10:00) p.m. on weekends and legal holidays:

4 1. Sounds created by bells, chimes, or carillons not operating for more than five
5 (5) minutes in any one (1) hour;

6 2. Unamplified sounds originating from officially sanctioned parades and other
7 public events;

8 3. Sounds created by the discharge of firearms on legally established shooting
9 ranges;

10 4. Sounds created by blasting; and

11 5. Sounds originating from forest harvesting and silviculture activity and from
12 commercial agriculture, if the receiving property is located in a residential district of the City.

13 The Administrator is authorized to promulgate regulations ((which)) that extend the hours during
14 which this exemption ((shall be)) is in effect to conform with operating laws designated by the
15 Washington State Department of Natural Resources in directing an official fire closure.

16 Section 32. Section 25.08.545 of the Seattle Municipal Code, which Section was last
17 amended by Ordinance 108498, is amended as follows:

18 **25.08.545 Sounds exempt during daytime hours-Aircraft testing and maintenance.**

19 Sounds created by the testing or maintenance of aircraft, or of components of aircraft, are
20 exempt from the provisions of this chapter between the hours of seven (7:00) a.m. and ten
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1 (10:00) p.m. on weekdays and between nine (9:00) a.m. and ten (10:00) p.m. on weekends and
2 legal holidays, when performed according to the following instructions:

3 A. Testing and maintenance for any aircraft or component not connected thereto shall be
4 performed at an airport designated as such by the Federal Aviation Administration prior to April
5 1, 1979, or designated as such by the Administrator at any time.

6
7 B. If the testing or maintenance is performed at the King County International Airport, the
8 aircraft or component shall be entirely within the ultimate airport property line as shown on the
9 map entitled "King County International Airport - Airport Layout Plan" (prepared December 1,
10 1976, revised October 10, 1978), and at areas designated by the Airport Manager((;)). It is
11 intended that this map be the reference map regardless of any future changes, provided that the
12 Administrator may grant exceptions to this subsection for good cause shown. A copy of the King
13 County International Airport Layout Plan Map is on file in the City Clerk's office (C.F. 288269),
14 at the office of the Airport Manager of the King County International Airport, and at the Planning
15 and Research Department of the Port of Seattle.

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17
18 Section 33. Section 25.08.550 of the Seattle Municipal Code, which Section was adopted
19 by Ordinance 106360, is amended as follows:

20 **25.08.550 Sounds exempt from nighttime reduction.**

21 The following sounds are exempt from the provisions of Section 25.08.420 A:

22 A. Sounds created by existing stationary equipment used in the conveyance of water by a
23 utility; and

24 B. Sounds created by existing electrical substations. ((;

1 C. ~~Sounds created by sources in industrial districts which, over the previous three (3)~~
2 ~~years, have consistently operated in excess of fifteen (15) hours per day as a demonstrated routine~~
3 ~~or as a consequence of process necessity; provided that such exemption shall only extend to five~~
4 ~~(5) years after the effective date of the ordinance codified in this chapter.~~<1> ~~Changes in working~~
5 ~~hours or activity which would increase the noise emitted under this exemption require the~~
6 ~~approval of the Administrator, given under rules adopted in accordance with the Administrative~~
7 ~~Code.~~<2>))

9 Section 34. Section 25.08.560 of the Seattle Municipal Code, which Section was last
10 amended by Ordinance 110047, is amended as follows:

11 **25.08.560 Application--Generally.**

12 Any person who owns or is in possession of any property or use, or any process or
13 equipment, may apply to the Administrator for a variance granting relief from the requirements
14 of any provision of this chapter other than ((Section)) Sections 25.08.500 or 25.08.505, or from
15 the rules or regulations promulgated hereunder governing the quality, nature, duration or extent
16 of discharge of noise. In a proper case, ((the))a variance may apply to all sources of a particular
17 class or type. The application shall be accompanied by such information and data as the
18 Administrator may require. In accordance with the Administrative Code, SMC Chapter 3.02, the
19 Administrator shall promulgate rules and regulations governing application for and granting of
20 such variances ((, including hearings and notice)).

21 Section 35. Section 25.08.590 of the Seattle Municipal Code, which Section was last
22 amended by Ordinance 107377, is amended as follows:
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1 **25.08.590 Granting of variance.**

2 A. No variance shall be granted ((pursuant to Sections 25.08.560 through 25.08.620))
3 until the Administrator has considered the relative interests of the applicant, other owners or
4 possessors of property likely to be affected by the noise, and the general public.

5 B. A technical, ((or)) economic, or major public project construction variance may be
6 granted only after notice and an opportunity for public comment in accordance with rules
7 adopted by the Administrator ((a public hearing on due notice)).

8 C. The Administrator may grant a variance((,)) if ((he)) the Administrator finds that:

9 ((A-))1. The noise occurring or proposed to occur does not endanger public health
10 or safety; and

11 ((B-))2. The applicant demonstrates that the criteria required for the ((temporary,
12 technical or economic)) variance ((under Sections 25.08.610 through 25.08.630)) are met.

13 D. Noise Management and Mitigation Plan. As part of the application for a variance, an
14 applicant must submit a Noise Management and Mitigation Plan to be approved by the
15 Administrator. A Noise Management and Mitigation Plan must contain the following
16 components, except that the Administrator may modify the required components for a temporary
17 noise variance as the Administrator determines appropriate to fit the circumstances surrounding
18 the requested temporary variance:

19 1. A description of the exterior sound level limits of the chapter expected to be
20 exceeded, estimates of the amount(s) by which these levels are expected to be exceeded and by
21 what equipment, the exterior sound level limits that will be in effect during the variance, the time
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1 periods during which the pre-variance exterior sound level limits may be exceeded, and the
2 expected sources of the sound during each of the time periods (e.g., types of equipment or
3 activity causing the exterior sound level limits to be exceeded);

4 2. Measures and provisions to be taken to avoid exceeding the exterior sound
5 level limits of this chapter;

6 3. Provisions to mitigate sounds that exceed the exterior sound level limits and
7 that cannot otherwise be avoided.

8 4. A process for informing the public in the affected areas about the provisions of
9 the variance.

10 E. The Administrator may impose conditions, including but not limited to conditions
11 relating to types of equipment, hours of use, and duration, to mitigate the adverse impacts of
12 granting the variance. The Administrator may also include conditions proposed by the applicant
13 as part of the variance application. Compliance with the Noise Management and Mitigation Plan
14 approved by the Administrator is a condition of every variance.

15 F. A temporary variance shall be effective on the effective date stated on the variance
16 form. Any other variance shall be effective 30 days following the mailing of the decision granting
17 the variance, unless it is appealed to the Hearing Examiner, in which case the effective date is the
18 date of the Hearing Examiner's written decision on the appeal.

19 Section 36. Section 25.08.600 of the Seattle Municipal Code, which Section was last
20 amended by Ordinance 107377, is amended as follows:

21 **25.08.600 ((Renewal)) Extension of ((variance)) variances.**

1 A. Technical, economic and major public project construction variances~~((Variances,~~
2 ~~except temporary variances,))~~ granted pursuant to this chapter may be~~((renewed))~~ extended on
3 terms and conditions and for periods~~((which))~~ that would be appropriate on the initial granting of
4 a variance. No~~((renewal))~~ extension of a technical, economic or major public project construction
5 variance shall be granted except on application made at least sixty (60) days prior to the
6 expiration of the variance and after public notice in accordance with rules adopted by the
7 Administrator.

8
9 B. Temporary variances may not be extended, but more than one temporary variance may
10 be granted on a project.

11 Section 37. Section 25.08.610 of the Seattle Municipal Code, which Section was last
12 amended by Ordinance 107377, is amended as follows:

13
14 **25.08.610 Appeal procedure.**

15 A. Any person aggrieved by the denial, ~~((grant))~~ approval, or the terms and conditions
16 imposed on ~~((the grant of an application for))~~ a variance, except a temporary variance, or
17 ~~((renewal))~~ by the extension of a variance by the Administrator, may appeal such decision ~~((to~~
18 ~~the Hearing Examiner under procedures contained in Subchapter IX))~~ by filing an appeal in
19 writing with the Hearing Examiner by five (5:00) p.m. of the tenth day following the date of the
20 issuance of the decision on a variance application. When the last day of the appeal period is a
21 Saturday, Sunday, or federal or City holiday, the appeal may be filed until five (5:00) p.m. on the
22 next business day.

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25 B. In form and content, the appeal shall conform to the rules of the Hearing Examiner.
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1 C. The Hearing Examiner shall consider the appeal in accordance with the procedure
2 established for hearing contested cases under the Administrative Code, SMC Chapter 3.02.

3 D. Appeals shall be considered de novo, and the Administrator's decision on the variance
4 shall be given no deference.

5 E. The Hearing Examiner may affirm, reverse or modify the Administrator's decision or
6 remand to the Administrator for additional review and analysis.

7 F. The Hearing Examiner shall issue a written decision within fifteen (15) days of the
8 conclusion of the hearing.

9 G. The decision of the Hearing Examiner is the final decision of the City, and the
10 appellant and the Administrator are bound by the terms and conditions of the Hearing
11 Examiner's decision.

12 Section 38. A new Section 25.08.615 of the Seattle Municipal Code, is adopted to read
13 as follows:

14 **25.08.615 Revocation of Variance.**

15 A. Standards for revocation. Any noise variance other than a temporary variance may be
16 revoked if:

17 1. The noise code or the conditions of the variance have been, or are being
18 violated and issuance of a notice of violation or stop work order has been, or would be ineffective
19 to secure compliance because of circumstances related to the violation; or

20 2. The variance was obtained with false or misleading information.
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1 B. Notice of Revocation. Whenever the Administrator determines there are grounds for
2 revoking a variance, the Administrator may issue a Notice of Revocation.

3 1. The Notice of Revocation shall identify the reason for the proposed revocation,
4 including the violations, the conditions violated, and/or the alleged false or misleading
5 information provided.

6 2. The Notice of Revocation shall be served on the owner of the property on
7 which the work is occurring, the holder of the variance, and the person doing or causing the work
8 to be done.

9 3. The Notice of Revocation shall be served in the manner set forth in RCW
10 4.28.080 for service of a summons or sent by first class mail. The Notice of Revocation may also
11 be posted in a conspicuous place on the site. For purposes of this section, service is complete at
12 the time of personal service, or if mailed, three (3) days after the date of mailing. When the last
13 day of the period so computed is a Saturday, Sunday or City holiday, the period runs until five
14 (5:00) p.m. on the next business day.

15 4. The Administrator shall identify in the Notice of Revocation a date certain on
16 which the revocation will take effect unless review before the Administrator is requested and
17 pursued pursuant to subsection C of this section.

18 C. Review by the Administrator.

19 1. Any person aggrieved by a Notice of Revocation of a noise variance may
20 obtain a review by making a request in writing to the Administrator within three (3) business
21 days of the date of service of the Notice of Revocation.
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1 2. The review shall occur within five (5) business days after receipt by the
2 Administrator of the request for review.

3 3. Any person aggrieved by or interested in the Notice of Revocation may submit
4 additional information to the Administrator for consideration as part of the review at any time
5 prior to the review.

6 4. The review will be made by a representative of the Administrator who will
7 review all additional information received and may also request a site visit. After the review, the
8 Administrator may:
9

10 a. Sustain the Notice of Revocation and set or modify the date the
11 revocation will take effect;

12 b. Withdraw the Notice of Revocation;

13 c. Modify the Notice of Revocation and set or modify the date the
14 revocation will take effect; or
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16 d. Continue the review to a date certain for receipt of additional
17 information.
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19 D. Order of the Administrator.

20 1. The Administrator shall issue an Order of the Administrator containing the
21 decision within ten (10) days after the review and shall cause the same to be sent by first class
22 mail to the person or persons requesting the review, any other person on whom the Notice of
23 Revocation was served, and any other person who requested a copy before issuance of the Order
24 of the Administrator.
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1 2. The Order of the Administrator is the final order of the City and the City and all
2 parties shall be bound by the Order unless judicial review is sought pursuant to subsection E.

3 E. Judicial Review. Any judicial review must be commenced pursuant to RCW 36.70C
4 within twenty-one (21) days after issuance of the Order of the Administrator.

5 Section 39. Section 25.08.630 of the Seattle Municipal Code, which Section was adopted
6 by Ordinance 106360, is amended as follows:

7 **25.08.630 Temporary variance.**

8 The Administrator may grant a temporary variance, not to exceed fourteen (14) days, for
9 any activity, use, process or equipment ((which)) that the Administrator determines, in
10 accordance with rules and regulations, does not annoy a substantial number of ((the)) people and
11 does not endanger public health or safety.

12 Section 40. Section 25.08.640 of the Seattle Municipal Code, which Section was adopted
13 by Ordinance 106360, is amended as follows:

14 **25.08.640 Technical variance.**

15 A technical variance may be granted by the Administrator on the ground that there is no
16 practical means known or available for the adequate prevention, abatement or control of the noise
17 involved. ((Any technical variance shall be subject to the holder's taking of any alternative
18 measures that the Administrator may prescribe.)) The Administrator shall determine the duration
19 of each technical variance ((shall be until such practical means for prevention, abatement or
20 control become known or available)). The holder of a technical variance ((, as required by the
21 Administrator,)) shall make reports to the Administrator, on a schedule prescribed by the
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1 Administrator, detailing actions taken to develop a means of noise control or to reduce the noise
2 involved and ~~((must relate))~~ relating these actions to pertinent current technology.

3 Section 41. Section 25.08.650 of the Seattle Municipal Code, which Section was adopted
4 by Ordinance 106360, is amended as follows:

5 **25.08.650 Economic variance.**

6 An economic variance may be granted by the Administrator on the ground that
7 compliance with the particular requirement or requirements from which the variance is sought
8 will require the taking of measures ~~((which))~~ that, because of their extent or cost, must be spread
9 over a period of time. The duration of an economic variance shall be for a period not to exceed
10 such reasonable time as is required in the view of the Administrator for the taking of the
11 necessary measures. An economic variance shall contain a timetable for the taking of action in
12 an expeditious manner and shall be conditioned on adherence to the timetable.

13 Section 42. A new Section 25.08.655 of the Seattle Municipal Code, is adopted to read
14 as follows:

15 **25.08.655 Major Public Project Construction Variance.**

16 A. The Administrator may grant a major public project construction variance to provide
17 relief from the exterior sound level limits established by this chapter during the construction
18 periods of major public projects. A major public project construction variance shall provide
19 relief from the exterior sound level limits during the construction or reconstruction of a major
20 public project only to the extent the applicant demonstrates that compliance with the levels
21 would:
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1 comment on, the operation of the variance during the first year, including the provisions of the
2 Noise Management and Mitigation Plan, and the conditions of the variance. For purposes of
3 determining the date of the start of the project's construction work, site exploration work is
4 excluded.

5
6 2. After considering the public comments received, the Administrator may modify the
7 terms and conditions of the variance or the Noise Management and Mitigation plan as needed if
8 the Administrator determines that the current variance, the conditions of the variance, or the
9 Noise Management and Mitigation Plan are not adequately protecting the public health and safety
10 or reasonably controlling or mitigating the construction noise, or that there are more reasonable
11 methods of doing so.

12
13 3. The Administrator shall make a decision either to modify or not modify a variance
14 pursuant to this review within one-year and 90 days after the start of construction work as
15 provided in subsection 25.08.655.D.1.

16
17 4. The decision of the Administrator to modify or not modify a variance pursuant to this
18 subsection 25.08.655.D is a final decision of the City for purposes of RCW chapter 36.70C, and
19 is effective 30 days from the date of the decision, unless otherwise ordered by a court. If a court
20 stays the effective date of the decision, the original unmodified variance shall remain in effect
21 during the stay.

22
23 Section 43. Section 25.08.670 of the Seattle Municipal Code, which Section was adopted
24 by Ordinance 106360, is amended as follows:

25 **25.08.670 Duties of Administrator.**
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1 The duties of the Administrator (~~shall~~) include, but are not limited to:

2 A. Obtaining assistance from other appropriate City departments and divisions;

3 B. Training field inspectors;

4 C. Purchasing measuring instruments and training inspectors in their calibration and use;

5 D. Promulgating and publishing rules and procedures, in accordance with the

6 Administrative Code, SMC Chapter 3.02, to establish techniques for measuring or reducing noise

7 and to provide for clarification, interpretation, and implementation of this chapter;

8 E. Investigating (~~citizens'~~) noise complaints;

9 F. (~~Issuing orders for the reduction or elimination of noise~~) Enforcement of this chapter

10 in accordance with Subchapter IX;

11 G. Assisting (~~citizens~~) the public and City departments in evaluating and reducing the
12 noise impact of their activities;

13 H. Assisting City planning officials in evaluating the noise component in planning and
14 zoning actions;

15 I. Instituting a public education program on noise; and

16 J. Reviewing at least every three (3) years the provisions of this chapter and
17 recommending revisions consistent with technology to reduce noise.

18 Section 44. Section 25.08.680 of the Seattle Municipal Code, which Section was adopted
19 by Ordinance 106360, is amended as follows:

20 **25.08.680 Measurement of sound.**

1 If the measurements of sound are made with a sound level meter, it shall be an instrument
2 in good operating condition and shall meet the requirements for a Type I or Type II instrument,
3 as described in American National Standards Institute Specifications, Section 1.4-~~((1971))~~1983,
4 as it now exists or as hereafter amended. If the measurements are made with other instruments,
5 or assemblages of instruments, the procedure must be carried out in such manner that the overall
6 accuracy shall be at least that called for in Section 1.4-~~((1971))~~1983 as it now exists or as
7 hereafter amended for Type II instruments.

9 Section 45. Section 25.08.700 of the Seattle Municipal Code, which Section was adopted
10 by Ordinance 106360, is amended as follows:

11 **25.08.700 Receiving properties within more than one district.**

12 Where a receiving property lies within more than one district, the ~~((maximum))~~ exterior
13 sound~~((level))~~ level limits shall be determined by the district within which the measurement is
14 made.

15
16 Section 46. Section 25.08.710 of the Seattle Municipal Code, which Section was last
17 amended by Ordinance 110047, is amended as follows:

18 **25.08.710 Right of entry ~~((Administrator))~~.**

19 Upon presentation of proper credentials, and ~~((the Administrator,))~~ with the consent of
20 the occupant ~~((, or with))~~ or the consent of the owner of any unoccupied building, structure,
21 property or portion thereof, or pursuant to a lawfully issued warrant, the Administrator or the
22 Administrator's designee may enter at all reasonable times, any building, structure, property or
23 portion thereof ~~((to inspect the same))~~ whenever necessary to make an inspection to enforce or
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1 determine compliance with the provisions of this chapter. ~~((over which he has enforcement~~
2 ~~responsibility or whenever he has cause to believe that a violation of any provision of this chapter~~
3 ~~other than Section 25.08.500 has been or is being committed; provided, if)) If the building,
4 structure, property or portion thereof is unoccupied, the Administrator shall, except in case of
5 emergency first ~~((make a reasonable effort to))~~ locate the owner or other persons having charge
6 or control of the building, structure, property or portion thereof and ~~((demand))~~ request entry. ~~((If~~
7 ~~the Administrator is unable to locate the owner or such other persons and he has reason to~~
8 ~~believe that conditions therein create an immediate and irreparable health hazard, then he shall~~
9 ~~make entry.))~~~~

10
11 Section 47. A new Section 25.08.720 of the Seattle Municipal Code, is adopted to read
12 as follows:

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14 **25.08.720 Stop Work Order.**

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16 A. Stop Work Order. A Stop Work Order may be issued whenever a violation of this
17 Code or a violation of the conditions of a variance threatens the health or safety of the public or
18 materially impairs the Administrator's ability to secure compliance with this Code.

19 1. The Stop Work Order must specify the violation and may prohibit all or any
20 work or other activity at the site that is a cause of the code violation or the violation of the
21 variance condition.

22
23 2. The Administrator may serve the Stop Work Order by posting it in a
24 conspicuous place at the site, if posting is physically possible. If posting is not physically
25 possible, then the Stop Work Order may be served in the manner set forth in RCW 4.28.080 for
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1 service of a summons or by sending it by first class mail to the last known address of: the
2 property owner(s), the person(s) doing or causing the work to be done, and the holder of any
3 variance if work is being stopped on a variance. For purposes of this section, service is complete
4 at the time of posting or of personal service, or if mailed, three (3) days after the date of mailing.
5 When the last day of the period so computed is a Saturday, Sunday or City holiday, the period
6 runs until five (5:00) p.m. on the next business day.

7
8 3. A Stop Work Order is effective when posted, or if posting is not physically
9 possible, when one of the persons identified in subsection A2 is served.

10 B. Review by the Administrator.

11 1. Any person aggrieved by a Stop Work Order may obtain a review of the Stop
12 Work Order by delivering to the Department a request in writing within two (2) business days of
13 the date of service of the Stop Work Order.

14 2. The review shall occur within two (2) business days after receipt by the
15 Administrator of the request for review unless the requestor requests or agrees to a longer time.

16 3. Any person aggrieved by or interested in the Stop Work Order may submit
17 additional information to the Administrator for consideration as part of the review at any time
18 prior to the review.

19 4. The review will be made by a representative of the Administrator who will
20 review all additional information received and may also request a site visit. After the review, the
21 Administrator may:

- 22 a. Sustain the Stop Work Order;

- b. Withdraw the Stop Work Order;
- c. Modify the Stop Work Order; or
- d. Continue the review to a date certain for receipt of additional

information.

C. Order of the Administrator. The Administrator shall issue an Order of the Administrator containing the decision within two (2) business days after the review and shall cause the same to be sent by first class mail to the person or persons requesting the review, any person on whom the stop work order was served, and any other person who requested a copy before issuance of the Order. The City and all parties shall be bound by the Order.

Section 48. Section 25.08.730 of the Seattle Municipal Code, which Section was last amended by Ordinance 110047, is amended as follows:

25.08.730 Notice of Violation~~((and order))~~.

A. ~~((Unless provided otherwise))~~ In addition to other remedies provided by this chapter or by law, whenever the Administrator has reason to believe that an~~((maximum))~~ exterior sound level~~((of Subchapter III))~~ limit established by this chapter is being or has been exceeded, that a public nuisance noise is being emitted, ~~((or))~~ that the terms of a variance have not been met or are being violated, or that any other provision of this chapter that the Administrator is authorized to enforce is being violated, ~~((he))~~ the Administrator may ~~((initiate an administrative proceeding as provided by Subchapter IX, and serve))~~ issue a written notice of violation ~~((and order directed))~~ to the owner or operator of the source, or to the holder of ~~((the))~~ a variance. ~~((One (1) copy shall also be posted on the property or source, if reasonably possible, and another copy shall~~



1 ~~be mailed to each complainant (if any) about the noise; additional copies may be mailed by the~~
2 ~~Administrator to such other interested or affected persons as the Administrator deems~~
3 ~~appropriate.))B. The notice of violation shall contain a brief and concise description of the~~
4 ~~conditions alleged to be in violation ((or to be a public nuisance noise)), the provision(s) of this~~
5 ~~Chapter alleged to have been violated, the sound level readings, if taken, including the time and~~
6 ~~place of their recording, ((-C. The order shall contain)) a statement of the corrective action~~
7 ~~required, and if applicable, ((shall specify)) a reasonable time for correction ((within which the~~
8 ~~action must be accomplished)).~~

9
10 C. Nothing in this section shall be deemed to limit or preclude any action or proceeding
11 to enforce this chapter, and nothing shall be deemed to obligate or require the Administrator to
12 issue a notice of violation prior to the imposition of civil or criminal penalties.

13
14 Section 49. Section 25.08.740 of the Seattle Municipal Code, which Section was adopted
15 by Ordinance 106360, is amended as follows:

16 **25.08.740 ((Method of service)) Service, Mailing and Posting of Notice.**

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18 ((Service of the)) The notice of violation((and order)) shall be served ((made)) upon the
19 persons responsible for the condition or violation by personal service ((named in the notice and
20 order, either personally)) or by ((mailing a copy of the notice and order by certified mail, postage
21 prepaid, return receipt requested)) first class mail, to ((each person at his)) the person's last
22 known address. If the ((whereabouts of the persons)) address of the responsible person is
23 unknown and cannot be found after a reasonable search, ((ascertained by the Administrator in the
24 exercise of reasonable diligence, and the Administrator shall make affidavit to that effect, then
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1 ~~the service of) the notice ((and order upon the persons)) may be ((made)) served by posting a~~
2 ~~copy of the notice of violation at a conspicuous place on the property where the violation~~
3 ~~occurred. ((by publishing them once each week for two (2) consecutive weeks in the City official~~
4 ~~newspaper. The failure of any such person to receive the notice and order shall not affect the~~
5 ~~validity of any proceedings taken under this chapter. Service by certified mail in the manner~~
6 ~~provided in this section shall be effective on the date of mailing.)) If a notice of violation is~~
7 ~~directed to a person responsible for the violation who is not the owner of the property where the~~
8 ~~violation is occurring, a copy of the notice of violation may be sent to the owner of the property.~~

10 Section 50. Section 25.08.760 of the Seattle Municipal Code, which Section was adopted
11 by Ordinance 106360, is amended as follows:

12 **25.08.760 Review by the Administrator ((Administrative conferences)).**

14 A. Any person significantly affected by or interested in a notice of violation issued by the
15 Administrator pursuant to this chapter may obtain a review of the notice by requesting such
16 review within ten (10) days after service of the notice. When the last day of the period so
17 computed is a Saturday, Sunday or federal or City holiday, the period shall run until five (5:00)
18 p.m. on the next business day. The request shall be in writing, and upon receipt of the request, the
19 Administrator shall notify any persons served the notice and the complainant, if any, of the
20 request for review and the deadline for submitting additional information for the review.
21 Additional information shall be submitted to the Administrator no later than fifteen (15) days
22 after the notice of a request for a review is mailed, unless otherwise agreed by all persons served
23 with the notice. Before the deadline for submission of additional information, any person



1 significantly affected by or interested in the notice (including any persons served the notice and
2 the complainant) may submit any additional information in the form of written material or oral
3 comments to the Administrator for consideration as part of the review.

4 B. The review will be made by a representative of the Administrator who is familiar with
5 the case and the applicable ordinances. The Administrator's representative will review all
6 additional information received by the deadline for submission of additional information. The
7 reviewer may also request clarification of information received and a site visit. After review of
8 the additional information, the Administrator may:

- 10 1. Sustain the notice;
- 11 2. Withdraw the notice;
- 12 3. Continue the review to a date certain for receipt of additional information; or
- 13 4. Modify the notice, which may include an extension of any compliance date.

15 ~~((An informal administrative conference may be conducted at any time by the~~
16 ~~Administrator for the purpose of bringing out all the facts and circumstances relating to an~~
17 ~~alleged violation, promoting communication between concerned parties, and providing a forum~~
18 ~~for efficient resolution of a violation. The Administrator may call a conference in response to a~~
19 ~~request from any person aggrieved by an order of the Administrator or the Administrator may~~
20 ~~call a conference on his own motion. Attendance at the conference shall be determined by the~~
21 ~~Administrator and need not be limited to those named in a notice and order. As a result of~~
22 ~~information developed at the conference, the Administrator may affirm, modify or revoke his~~
23 ~~information developed at the conference, the Administrator may affirm, modify or revoke his~~
24 ~~information developed at the conference, the Administrator may affirm, modify or revoke his~~
25 ~~information developed at the conference, the Administrator may affirm, modify or revoke his~~
26 ~~information developed at the conference, the Administrator may affirm, modify or revoke his~~
27 ~~information developed at the conference, the Administrator may affirm, modify or revoke his~~
28 ~~information developed at the conference, the Administrator may affirm, modify or revoke his~~

1 ~~order. The holding of an administrative conference shall not be a prerequisite to use of any other~~
2 ~~enforcement provisions contained in this chapter.))~~

3 Section 51. A new Section 25.08.765 to the Seattle Municipal Code, is adopted to read as
4 follows:

5 **25.08.765 Order of the Administrator.**

6
7 A. Where review by the Administrator has been conducted pursuant to Section 25.08.760,
8 the Administrator shall issue an order of the Administrator containing the decision within fifteen
9 (15) days of the date the review is completed and shall cause the same to be mailed by regular
10 first class mail to the person or persons named in the notice of violation and mailed to the
11 complainant, if any.

12
13 B. Unless a request for review before the Administrator is made pursuant to Section
14 25.08.760, the notice of violation shall become the order of the Administrator.

15
16 C. Civil actions to enforce orders of the Administrator are brought in Seattle Municipal
17 Court and are not subject to judicial review pursuant to chapter 36.70C RCW.

18 Section 52. Section 25.08.800 of the Seattle Municipal Code, which Section was last
19 amended by Ordinance 114656, is amended as follows:

20 **25.08.800 ((Punishment)) Civil Enforcement and Criminal Penalties.**

21 A. ~~((Conduct made unlawful by Subchapter IV, Section 25.08.515 and Section~~
22 ~~25.08.520 of this chapter shall constitute a violation subject to the provisions of Chapters 12A.02~~
23 ~~and 12A.04 of this Code (Seattle Criminal Code) and any person convicted of a violation of~~
24 ~~Subchapter IV or Section 25.08.520 shall be punished by a civil fine or forfeiture not to exceed~~
25

1 ~~Five Hundred Dollars (\$500); conduct made unlawful by Section 25.08.515 shall be punished by~~
2 ~~a civil fine or forfeiture not to exceed Fifty Dollars (\$50).~~

3 B.) Civil Penalties. In addition to any other remedy authorized by law or equity, and
4 except for violations of Sections 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, any person
5 violating or failing to comply with any requirement of this chapter or order issued by the
6 Administrator shall be subject to a cumulative civil penalty of up to one thousand three hundred
7 dollars (\$1300) per day for each day that the violation or failure to comply continues.

8 Alternatively, for violations of Sections 25.08.410, 25.08.420, and 25.08.425, the Administrator
9 may follow the citation process in Sections 25.08.900-25.08.970.

10
11 B. Crime. Conduct made unlawful by Section 25.08.500 of this chapter ((shall
12 constitute)) constitutes a crime subject to the provisions of Chapters 12A.02 and 12A.04 of this
13 Code (Seattle Criminal Code), except that absolute liability shall be imposed for such a violation,
14 and none of the mental states described in Section 12A.04.030 need be proved, and any person
15 convicted thereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500), or by
16 imprisonment in the City Jail for a term not to exceed six (6) months, or by both such fine and
17 imprisonment.

18
19 C. Penalties for other violations.

20
21 1. Conduct made unlawful by Section 25.08.515 shall be punished by a civil fine
22 or forfeiture not to exceed Fifty Dollars (\$50).

23
24 2. Conduct in violation of Subchapter IV of this chapter shall be punished by a
25 civil fine or forfeiture not to exceed Five Hundred Dollars (\$500).

1 D. Alternative criminal penalty. As an alternative to the civil penalties provided in this
2 section the Administrator may request that violations of or failure to comply with this chapter or
3 orders issued by the Administrator be prosecuted criminally. In such case, any person who
4 violates or fails to comply with an order issued by the Administrator or any of the provisions of
5 this chapter except for Sections 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, shall be
6 guilty of a gross misdemeanor subject to the provisions of Chapter 12A.02 and 12A.04, except
7 that absolute liability shall be imposed for such a violation or failure to comply, and none of the
8 mental states described in Section 12A.04.030 need be proved. Any person convicted thereof
9 shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000) or by imprisonment in
10 the City Jail for a term not to exceed one year, or by both such fine and imprisonment.

13 E. Each day a violation continues and each occurrence of a prohibited activity shall be
14 deemed a separate offense.

15 Section 53. Section 25.08.820 of the Seattle Municipal Code, which Section was last
16 amended by Ordinance 121192, is amended as follows:

17 **25.08.820 Penalties cumulative.**

18 The penalties imposed by Sections 25.08.800, 25.08.805, and 25.08.960 ((and 25.08.810
19 shall be)) are in addition to any other sanction or remedial ((injunctive)) procedure ((which))that
20 may be available at law or equity.

21 Section 54. Section 25.08.960 of the Seattle Municipal Code, adopted by Ordinance
22 122614, is amended as follows:

23 **25.08.960 Citation Penalties**

1 A person or entity found to have violated Sections 25.08.410, 25.08.420, 25.08.425 or
2 25.08.501 and to whom a citation was issued, is subject to a penalty according to the following
3 schedule.

Citation Penalty Schedule			
Section or Subsection Violated	First Violation	Second Violation ((and Subsequent Violations))	Third and Subsequent Violations
<u>25.08.410,</u> <u>25.08.420,</u> <u>25.08.425 B, or</u> <u>25.08.425 F</u>	<u>\$150</u>	<u>\$300</u>	<u>\$600</u>
<u>25.08.425 C</u>	<u>\$325</u>	<u>\$650</u>	<u>\$1300</u>
<u>25.08.501</u>	<u>\$1000</u>	<u>\$2000</u>	<u>\$2000</u>

13 Section 55. The enforcement provisions contained in this ordinance apply to all
14 enforcement actions commenced on or after the effective date of this ordinance, regardless of
15 when the violation occurred. To this extent, this ordinance applies retroactively, but in all other
16 respects it applies prospectively.

18 Section 56. Sections 25.08.130, 25.08.240, 25.08.535, 25.08.620, 25.08.750, 25.08.770,
19 25.08.780, 25.08.790, and 25.08.810 of the Seattle Municipal Code are hereby repealed.

21 Section 57. The provisions of this ordinance are declared to be separate and severable.
22 The invalidity of any particular provision shall not affect the validity of any other provision.

23 Section 58. This ordinance shall take effect and be in force on whichever is the later of:

24 (a) the effective date of approval of the amendments in this ordinance by the Washington State
25 Department of Ecology, which date is no later than ninety days after submittal to the Department
26

1 of Ecology; or (b)(i) thirty (30) days from and after approval by the Mayor or (ii) if not approved
2 and returned by the Mayor within (10) days after presentation, then as provided by Municipal
3 Code Section 1.04.020.

4 Passed by the City Council the ____ day of _____, 2008, and signed by me in open
5 session in authentication of its passage this ____ day of _____, 2008.

6 _____
7 _____
8 _____

9 President _____ of the City Council

10 Approved by me this ____ day of _____, 2008.

11 _____
12 _____
13 Gregory J. Nickels, Mayor

14 Filed by me this ____ day of _____, 2008.

15 _____
16 _____
17 City Clerk

18 (Seal)
19 _____
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21 _____
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ORDINANCE _____

1
2 **AN ORDINANCE** relating to noise control, amending various sections and adding new sections
3 to Chapter 25.08 of the Seattle Municipal Code, to provide for a major public project
4 construction variance for major public construction projects, to update various provisions
5 to conform to new technology and changes in technology, to revise the enforcement
6 procedures to provide for stop work orders, revocation of variances, citations and civil
7 penalties, to revise various provisions to update and clarify references and correct
8 grammar and other errors, and repealing Sections 25.08.130, 25.08.240, 25.08.535,
9 25.08.620, 25.08.750, 25.08.770, 25.08.780, 25.08.790 and 25.08.810.

10 WHEREAS, it is the policy of the City of Seattle to minimize the exposure of citizens to the
11 physiological and psychological dangers of excessive noise and to protect, promote and
12 preserve the public health, safety and welfare; and

13 WHEREAS, it is the express intent of the City to control the level of noise in a manner that
14 promotes commerce; the use, value and enjoyment of property; sleep and repose; and the
15 quality of the environment; and

16 WHEREAS, construction of major public infrastructure projects may result in noise impacts to
17 adjacent business and residential properties oftentimes along linear corridors and of
18 substantial duration; and

19 WHEREAS, several such major public infrastructure projects are either underway or are
20 proposed for construction in the near future, including Sound Transit's Link Light Rail
21 and the Alaskan Way Viaduct and Seawall Replacement Project; and

22 WHEREAS, the noise code does not clearly identify a process for qualifying for and obtaining
23 construction noise variances for major, public, multi-year, linear construction projects;
24 and

25 WHEREAS, the ability to work during nighttime hours is often essential to complete such
26 projects on a timely and financially feasible schedule; and

27 WHEREAS, the proposed changes in the noise ordinance do not increase the permissible exterior
28 sound levels allowed during construction from what is allowed in the current ordinance,
while providing for a variance from these levels for major public construction projects;
and

1 WHEREAS, the noise ordinance has not been amended in recent years to reflect technological
2 changes in how to measure noise impacts, changes in other codes and ordinances, or to
3 make grammar changes; NOW, THEREFORE,

4 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

5 Section 1. Consistent with Section 25.08.020 of the Seattle Municipal Code, the City
6 finds that it has continued to study the problem of noise since the previous finding in 1977. On
7 the basis of this experience and knowledge of conditions within the City, the City Council finds
8 that special conditions continue to exist in the City that make necessary the differences between
9 this chapter 25.08 and the noise regulations adopted by the Department of Ecology.

10 Section 2. Section 25.08.040 of the Seattle Municipal Code, which Section was adopted
11 by Ordinance 106360, is amended as follows:

12 **25.08.040 Definitions generally – Gender.**

13 All technical terminology used in this chapter, not defined in this subchapter, shall be
14 interpreted in conformance with American National Standards Institute (“ANSI”) Specifications,
15 Section 1.1 ~~((1960))~~1994, as it now exists or as hereafter amended and Section 1.4-~~((1971))~~1983,
16 as it now exists or as hereafter amended. Words used in the masculine gender include the
17 feminine and words used in the feminine gender include the masculine. For the purposes of this
18 chapter the words and phrases used herein shall have the meanings set forth in the following
19 sections of this subchapter.
20
21

22 Section 3. Section 25.08.050 of the Seattle Municipal Code, which Section was adopted
23 by Ordinance 106360, is amended as follows:

24 **25.08.050 Administrative Code.**

1 "Administrative Code" means the Administrative Code of The City of Seattle, SMC
2 Chapter 3.02, ((Ordinance 102228)) as now or hereafter amended.

3 Section 4. Section 25.08.060 of the Seattle Municipal Code, which Section was last
4 amended by Ordinance 121276, is amended as follows:

5 **25.08.060 Administrator.**

6 "Administrator" means the Director of the Department of Planning and Development or
7 ~~((his or her))~~ the Director's authorized representative ~~((, except that the Director of the Public~~
8 ~~Health—Seattle and King County or his or her authorized representative shall continue to be the~~
9 ~~"Administrator" of Subchapter VII Variances through December 31, 1993)).~~

10 Section 5. Section 25.08.100 of the Seattle Municipal Code, which Section was last
11 amended by Ordinance 115041, is amended as follows:

12 **25.08.100 Districts.**

13 "District" means the land use zones to which the provisions of this chapter are applied.
14 For the purposes of this chapter:

15 A. ~~((("Rural District" includes zones designated in the King County Zoning Code as A, F,~~
16 ~~R, F-P, S-E, G, and S-R greater than thirty-five thousand (35,000) square feet.~~

17 ~~-B-))~~ "Residential District" includes ~~((zones designated in the King County Zoning Code~~
18 ~~as R-S, R-D, R-M, B-N, and S-R less than thirty-five thousand (35,000) square feet, and))~~ zones
19 defined as residential zones and NC1 zones in The Seattle Land Use Code, Title 23.

20 ~~((C-))~~ B. "Commercial District" includes zones designated ~~((in the King County Zoning~~
21 ~~Code as B-C, C-G, M-L, and M-P, and zones designated))~~ as NC2, NC3, SM, C1, C2, DOC1,
22

1 DOC2, DRC, DMC, PSM, IDM, DH1, DH2, PMM, and IB in the Seattle Land Use Code, Title
2 23.

3 ~~((D-))~~ C. "Industrial District" includes zones designated ~~((in the King County Zoning~~
4 ~~Code as M-H, Q-M, and unclassified uses and zones designated))~~ as IG1, IG2, and IC in the
5 Seattle Land Use Code, Title 23.

6 D. For any zone not listed in subsections A, B, or C of this section the Administrator may
7 determine that the zone is substantially similar to a zone listed in subsections A, B, or C and may
8 classify it similarly for purposes of this chapter.

9
10 Section 6. A new Section 25.08.155 of the Seattle Municipal Code, is adopted to read as
11 follows:

12 **25.08.155 Legal Holiday.**

13 "Legal Holiday" means the following holidays: New Year's Day, Memorial Day,
14 Independence Day, Labor Day, Thanksgiving Day and the day after, and Christmas Day.

15
16 Section 7. Section 25.08.160 of the Seattle Municipal Code, which Section was last
17 amended by Ordinance 108552, is amended as follows:

18 **25.08.160 ~~((L-eq))~~ Leq.**

19 ~~(("L-eq"))~~ "Leq" means the equivalent sound level, which is the constant sound level
20 ~~((that,))~~ in a given ~~((situation and))~~ time period~~((;))~~ that conveys the same sound energy as the
21 actual time-varying A-weighted sound. The applicable time period ~~((applicable))~~ for the Leq
22 must be specified.
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1 Section 8. A new Section 25.08.165 of the Seattle Municipal Code, is adopted to read as
2 follows:

3 **25.08.165 Lmax.**

4 "Lmax" means the maximum sound level over a measurement interval determined by
5 using a sound level meter set to "Fast" response time.
6

7 Section 9. A new Section 25.08.168 of the Seattle Municipal Code, is adopted to read
8 as follows:

9 **25.08.168 Major public project.**

10 "Major public project" means a project for a public facility as defined in SMC Title 23,
11 the construction of which the Administrator determines is likely to have a substantial impact on
12 the public safety, health and welfare and the provision of public services, including transportation
13 services. In making this determination the Administrator shall consider factors such as the
14 expected size, complexity or cost of the proposed construction or reconstruction; the expected
15 duration of the proposed construction or reconstruction, which must be a minimum of six
16 months; the magnitude of the expected impacts on traffic and transportation; and/or the degree of
17 impact on the provision of public services during the proposed construction or reconstruction.
18
19

20 Section 10. Section 25.08.180 of the Seattle Municipal Code, which Section was adopted
21 by Ordinance 106360, is amended as follows:

22 **25.08.180 Motor vehicle.**

23 "Motor vehicle" means any vehicle (~~(which)~~) that is self-propelled, used primarily for
24 transporting persons or property upon (~~(public)~~) highways and required to be licensed under
25
26
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28

1 RCW 46.16.010. (~~((Aircraft, watercraft and vehicles used exclusively on stationary rails or tracks~~
2 ~~are not motor vehicles as that term is used in this chapter.)))~~

3 Section 11. Section 25.08.190 of the Seattle Municipal Code, which Section was adopted
4 by Ordinance 106360, is amended as follows:

5 **25.08.190 Motor vehicle racing event.**
6

7 "Motor vehicle racing event" means any competition between motor vehicles and/or off-
8 highway vehicles under the auspices of a sanctioning body recognized by the Administrator
9 under rules adopted in accordance with the Administrative Code, SMC Chapter 3.02.

10 Section 12. Section 25.08.230 of the Seattle Municipal Code, which Section was adopted
11 by Ordinance 106360, is amended as follows:

12 **25.08.230 Off-highway vehicle.**
13

14 "Off-highway vehicle" means any self-propelled motor-driven vehicle not used primarily
15 for transporting persons or property upon ~~((public))~~ highways nor required to be licensed under
16 RCW 46.16.010. The term "off-highway vehicle" ~~((shall))~~ does not include special construction
17 vehicles.
18

19 Section 13. Section 25.08.270 of the Seattle Municipal Code, which Section was adopted
20 by Ordinance 106360, is amended as follows:

21 **25.08.270 ~~((Public highway))~~ Highway.**
22

23 ~~(("Public highway"))~~ "Highway" means the entire width between the boundary lines of
24 every way publicly maintained by the Washington State Department of ~~((Highways))~~
25
26
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1 Transportation or any county or city when any part thereof is generally open to ~~((the use of))~~ the
2 public for purposes of vehicular travel ~~((as a matter of right))~~.

3 Section 14. Section 25.08.300 of the Seattle Municipal Code, which Section was adopted
4 by Ordinance 106360, is amended as follows:

5 **25.08.300 Real property.**

6 "Real property" means an interest or aggregate of rights in land ~~((which))~~ that is
7 guaranteed and protected by law; for purposes of this chapter, the term "real property" includes a
8 leasehold interest.
9

10 Section 15. Section 25.08.320 of the Seattle Municipal Code, which Section was adopted
11 by Ordinance 106360, is amended as follows:

12 **25.08.320 Sound level.**

13 "Sound level" means the weighted sound pressure level measured by the use of a
14 metering characteristic and weighted as specified in American National Standards Institute
15 Specifications, Section 1.4-~~((1971))~~ 1983, as it now exists or as hereafter amended. The sound
16 pressure level of a sound expressed in decibels is twenty (20) times the logarithm to the base ten
17 (10) of the ratio of the pressure of the sound to the reference sound pressure of twenty (20)
18 micropascals. In the absence of any specific modifier, the level is understood to be that of a
19 mean-square pressure.
20
21

22 Section 16. Section 25.08.330 of the Seattle Municipal Code, which Section was adopted
23 by Ordinance 106360, is amended as follows:

24 **25.08.330 Sound level meter.**

1 "Sound level meter" means a sound level measuring device, either Type I or Type II, as
2 defined by American National Standards Institute Specifications, Section 1.4 ~~((1971))~~1983, as it
3 now exists or as hereafter amended.

4 Section 17. Section 25.08.340 of the Seattle Municipal Code, which Section was adopted
5 by Ordinance 106360, is amended as follows:

6
7 **25.08.340 Special construction vehicle.**

8 "Special construction vehicle" means any vehicle ~~((which))~~ that is designed and used
9 primarily for grading, paving, earth moving, and other construction work~~((; and which-)),~~ that is
10 not designed or used primarily for the transportation of persons or property on a ~~((public))~~
11 highway~~((;)),~~ and ~~((which))~~ that is only incidentally operated or moved over the highway.
12

13 Section 18. Section 25.08.380 of the Seattle Municipal Code, which Section was adopted
14 by Ordinance 106360, is amended as follows:

15 **25.08.380 Weekday.**

16 "Weekday" means any day Monday through Friday ~~((which))~~ that is not a legal holiday.
17

18 Section 19. Section 25.08.390 of the Seattle Municipal Code, which Section was adopted
19 by Ordinance 106360, is amended as follows:

20 **25.08.390 Weekend.**

21 "Weekend" means Saturday and Sunday ~~((or any legal holiday)).~~
22

23 Section 20. Section 25.08.400 of the Seattle Municipal Code, which Section was adopted
24 by Ordinance 106360, is amended as follows:

25 **25.08.400 Unlawful sounds.**
26
27
28

1 It is unlawful for any person to cause sound, or for any person in possession of property to
2 permit sound originating from such property, to intrude into the real property of another person
3 whenever such sound exceeds the ~~((maximum))~~ permissible exterior sound levels established by
4 this subchapter.

5 Section 21. Section 25.08.410 of the Seattle Municipal Code, which Section was adopted
6 by Ordinance 106360, is amended as follows:

7 **25.08.410 ~~((Maximum-permissible))~~ Permissible exterior sound levels.**

8 A. The permissible exterior sound levels are based on the Leq during the measurement
9 interval, using a minimum measurement interval of 1 minute for a constant sound source, or a
10 one-hour measurement for a non-continuous sound source. For sound sources located within the
11 City ~~((or King County))~~, the ~~((maximum))~~ permissible exterior sound levels are as follows:

12

<u>Permissible Exterior Sound Levels</u>			
<u>District of Sound Source</u>	<u>District of Receiving Property ((Within The City of Seattle))</u>		
	<u>Residential (dB(A)) <u>(Leq)</u></u>	<u>Commercial ((dB(A))) (dB(A)) <u>(Leq)</u></u>	<u>Industrial (dB(A)) <u>(Leq)</u></u>
((Rural))	((52))	((55))	((57))
Residential	55	57	60
Commercial	57	60	65
Industrial	60	65	70

13
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21 B. During a measurement interval, Lmax may exceed the permissible exterior sound
22 levels shown in subsection A of this Section by no more than 15 dB(A).

23 Section 22. Section 25.08.420 of the Seattle Municipal Code, which Section was adopted
24 by Ordinance 106360, is amended as follows:
25
26

1 **25.08.420 Modifications to ~~((maximum))~~ permissible exterior sound levels.**

2 ~~((The maximum permissible sound levels established by this subchapter shall be reduced~~
3 ~~or increased by the sum of the following:))~~

4 A. Between the hours of ten (10:00) p.m. and seven (7:00) a.m. during weekdays, and
5 between the hours of ten (10:00) p.m. and nine (9:00) a.m. on weekends and legal holidays, the
6 permissible exterior sound levels established by Section 25.08.410 are reduced by ten (10) dB(A)
7 where the receiving property lies within a residential district of the City.

8 B. For any source of sound ~~((which))~~ that ~~((is periodic, which))~~ has a pure tone
9 component~~((, or which is impulsive and is not measured with an impulse sound level meter))~~, the
10 permissible exterior sound levels established by this subchapter ~~((shall be))~~ are reduced by five
11 ~~(5) ((Db(A)))~~ dB(A); provided, however, ~~((that))~~ this five (5) dB(A) ~~((penalty for the emission of~~
12 ~~sound having a pure tone component))~~ reduction shall not be imposed on any electrical
13 substation~~((, whether existing or new))~~.

14 C. For any source of sound that is impulsive and not measured with an impulse sound
15 level meter ~~((which is of short duration))~~, the permissible exterior sound levels established by
16 this subchapter are ~~((increased by:))~~ reduced by five (5) dB(A).

- 17 ~~((1. Five (5) dB(A) for a total of fifteen (15) minutes in any one (1) hour period;~~
18 ~~or~~
19 ~~2. Ten (10) dB(A) for a total of five (5) minutes in any one (1) hour period; or~~
20 ~~3. Fifteen (15) dB(A) for a total of 1.5 minutes in any one (1) hour period.))~~

1 Section 23. Section 25.08.425 of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 115041, is amended as follows:

3 **25.08.425 Sounds created by ((€))construction and maintenance equipment ((operations)).**

4 A. The ~~((maximum))~~ permissible exterior sound levels established by Sections 25.08.410
5 and 25.08.420, as measured from the property line of the real property of another person or at a
6 distance of fifty (50) feet from the construction or maintenance equipment making the sound,
7 whichever is greater, may be exceeded during the following times by the sound levels specified
8 in subsection B for the types of equipment listed in that subsection.

9
10 1. Within Lowrise, Midrise, Highrise, Residential-Commercial and
11 Neighborhood Commercial zones, between seven (7:00) a.m. and seven (7:00) p.m. on weekdays
12 and between nine (9:00) a.m. and seven (7:00) p.m. on weekends and legal holidays, provided
13 that if no property in residential use exists within 100 feet of the property generating the sound,
14 or if the equipment is being used for a public project, then between seven (7:00) a.m. and ten
15 (10:00) p.m. on weekdays and between the hours of nine (9:00) a.m. and ten (10:00) p.m. on
16 weekends and legal holidays.

17
18 2. Within all other zones, between seven (7:00) a.m. and ten (10:00) p.m. on
19 weekdays and between nine (9:00) a.m. and ten (10:00) p.m. on weekends and legal holidays.

20
21 B. During the time periods specified in subsection A, the permissible exterior sound
22 levels, as measured from the property line of the real property of another person or at a distance
23 of fifty (50) feet from the construction or maintenance equipment making the sound, whichever
24 is greater, may be exceeded ((between the hours of seven (7:00) a.m. and ten (10:00) p.m. on
25



1 ~~weekdays and between the hours of nine (9:00) a.m. and ten (10:00) p.m. on weekends~~) by no
2 more than the following dB(A)'s for the following types of equipment:

3 1. Twenty-five (25) dB(A) for equipment on construction sites, including but not
4 limited to crawlers, tractors, dozers, rotary drills and augers, loaders, power shovels, cranes,
5 derricks, graders, off-highway trucks, ditchers, trenchers, compactors, compressors, and
6 pneumatic-powered equipment;
7

8 2. Twenty (20) dB(A) for portable powered equipment used in temporary
9 locations in support of construction activities or used in the maintenance of public facilities,
10 including but not limited to chainsaws, log chippers, lawn and garden maintenance equipment,
11 and powered hand tools; or
12

13 3. Fifteen (15) dB(A) for powered equipment used in temporary or periodic
14 maintenance or repair of the grounds and appurtenances of residential property, including but not
15 limited to lawnmowers, powered hand tools, snow-removal equipment, and composters.
16

17 ~~((B-))~~C. Sounds created by impact types of ~~((construction))~~ equipment, including but not
18 limited to pavement breakers, piledrivers, jackhammers, sandblasting tools, or by other types of
19 equipment ~~((or devices which))~~that create impulse ~~((noise))~~sound or impact ~~((noise))~~sound or are
20 used as impact equipment, as measured at the property line or fifty (50) feet from the equipment,
21 whichever is greater, may exceed the ~~((maximum))~~ permissible exterior sound levels established
22 in subsection ~~((A))~~B of this section in any one (1) hour period between the hours of eight (8:00)
23 a.m. and five (5:00) p.m. on weekdays and nine (9:00) a.m. and five (5:00) p.m. on weekends
24 and legal holidays, but in no event ~~((to))~~ may the sound level exceed the following:
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1. ~~((Le-q))~~ Leq ninety (90) dB(A) continuously;
2. ~~((Le-q))~~ Leq ninety-three (93) dB(A) for thirty (30) minutes;
3. ~~((Le-q))~~ Leq ninety-six (96) dB(A) for fifteen (15) minutes; or
4. ~~((Le-q))~~ Leq ninety-nine (99) dB(A) for seven and one-half (7-1/2) minutes;

provided that sound levels in excess of ~~((Le-q))~~Leq ninety-nine (99) dB(A) are prohibited unless authorized by variance obtained from the Administrator; and provided further that sources producing sound levels less than ninety (90) dB(A) shall comply with subsections A and B of this section during those hours not covered by this subsection ~~((B))~~C.

~~((a.))~~D. The standard of measurement shall be a one (1) hour ~~((Le-q))~~ Leq. ~~((Le-q))~~ Leq may be measured for times not less than one (1) minute to project an hourly ~~((Le-q))~~ Leq. Reference to one (1) hour is for measurement purposes only and shall not be construed as limiting construction or maintenance to a one (1) hour period.

E. ~~((b. These subsections A and B))~~ The permissible exterior sound levels established in this section shall be reviewed periodically by the City to assure that the permissible exterior sound levels ~~((level limits))~~ are technically feasible.

~~((C.))~~ F. Construction or maintenance equipment ~~((activity))~~ that exceeds the ~~((maximum))~~ permissible exterior sound levels established by Section 25.08.410, when measured from the interior of buildings within a commercial district, is prohibited between the hours of eight (8:00) a.m. and five (5:00) p.m. For purposes of this subsection~~((C))~~, interior sound levels shall be measured only after every reasonable effort, including but not limited to closing windows and doors, is taken to reduce the impact of the exterior construction noise.



1 Section 24. Section 25.08.430 of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 120481, is amended as follows:

3 **25.08.430 Sounds created by operation of motor vehicles.**

4 It is unlawful for any person to operate upon any ((public)) highway any motor vehicle or
5 any combination of motor vehicles under any conditions of grade, load, acceleration or
6 deceleration in such a manner ((so)) that the motor vehicle's exhaust noise exceeds ninety-five
7 (95) decibels as measured by the Society of Automotive Engineers (SAE) test procedure J1169
8 (May 1998).
9

10 Section 25. Section 25.08.470 of the Seattle Municipal Code, which Section was adopted
11 by Ordinance 106360, is amended as follows:

12 **25.08.470 Sale of new motor vehicles ((which)) that exceed limits.**

13 It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-
14 highway vehicle, ((which)) that produces a ((maximum)) sound level exceeding the following
15 ((maximum)) permissible exterior sound levels at a distance of fifty (50) feet, by acceleration test
16 procedures established by the State Commission on Equipment:
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Vehicle Category	dB(A)
Motorcycles manufactured after 1975	83
Any motor vehicle over 10,000 pounds GVWR manufactured after 1975 and prior to 1978	86
Any motor vehicle over 10,000 pounds GVWR manufactured <u>during or after</u> 1978	83
All other motor vehicles	80

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1
2 Section 26. Section 25.08.480 of the Seattle Municipal Code, which Section was adopted
3 by Ordinance 106360, is amended as follows:

4 **25.08.480 Motor vehicle exemptions.**

5 Sounds created by motor vehicles are exempt from the ~~((maximum))~~ permissible exterior
6 sound levels of Subchapter III, except that sounds created by any motor vehicle operated off
7 ~~((public))~~ highways shall be subject to the permissible exterior sound levels of Subchapter III
8 when the sounds are received within a residential district of the City.
9

10 Section 27. Section 25.08.485 of the Seattle Municipal Code, which Section was last
11 amended by Ordinance 109099, is amended as follows:

12 **25.08.485 Watercraft.**

13
14 A. It is unlawful for any person to operate any watercraft in such a manner as to exceed
15 the following ~~((maximum noise limits))~~ permissible exterior sound levels when measured within
16 fifty (50) feet of the shoreline or anywhere within a receiving property:

17
18 1. At any hour of the day or night, the limit for any receiving property ~~((shall be))~~
19 is seventy-four (74) dB(A), except that;

20 2. Between ~~((sunset and sunrise))~~ ten (10:00) p.m. and seven (7:00) a.m. the limit
21 for any receiving property within a residential ~~((or rural))~~ district ~~((shall be))~~ is sixty-four (64)
22 dB(A). ~~((For the purpose of administering and enforcing this section, sunset will be interpreted as~~
23 ~~ten (10:00) p.m. and sunrise will be interpreted as seven (7:00) a.m.))~~
24



1 B. It is unlawful for any person to operate any watercraft, except aircraft, ~~((which))~~ that is
2 not equipped with a functioning underwater exhaust or a properly installed and adequately
3 maintained muffler. Any of the following defects in the muffling system ~~((shall constitute))~~ is a
4 violation of this subsection:

5 1. The absence of a muffler;

6 2. The presence of a muffler cutout, bypass, or similar device ~~((which))~~ that is not
7 standard or normal equipment for the exhaust system being inspected;

8 3. Defects in the exhaust system including, but not limited to, pinched outlets,
9 holes, or rusted-through areas of the muffler or pipes; and
10

11 4. The presence of equipment ~~((which))~~ that will produce excessive or unusual
12 noise from the exhaust system. Dry stacks or water-injected stacks not containing a series of
13 chambers or mechanical designs effective in reducing sound shall not be considered as
14 adequately maintained mufflers.
15

16 C. The following exemptions ~~((shall))~~ apply to sounds created by watercraft or watercraft
17 operations:
18

19 1. Normal docking, undocking, and water skier pick-up and drop-off operations of
20 all watercraft ~~((shall be))~~ are exempt from the provisions in subsection A;

21 2. Sounds created by the operation of commercial, nonrecreational watercraft are
22 exempt at all times ~~((for))~~ from provisions of this chapter. These commercial activities include,
23 but are not limited to, tugboats, fishing boats, ferries, and vessels engaged in intrastate, interstate,
24 or international commerce;
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1 3. Sounds created by boat races and regattas, and trials ~~((therefor as-))~~ sanctioned
2 by the Chief of Police acting as Port Warden pursuant to ~~((Section 27 of Ordinance 879831))~~
3 Section 16.20.160 as amended, are exempt from provisions in this section and in this chapter
4 between the hours of seven (7:00) a.m. and ten (10:00) p.m. on weekdays and between the hours
5 of nine (9:00) a.m. and ten (10:00) p.m. on weekends and legal holidays.

6 D. Nothing in this section shall be construed to limit the powers of the Chief of Police
7 ~~((acting as Port Warden, as))~~ enumerated in Section 16.12.010 ~~((3 of Ordinance 879832 as~~
8 ~~amended))~~.

9 Section 28. Section 25.08.510 of the Seattle Municipal Code, which Section was adopted
10 by Ordinance 106360, is amended as follows:
11

12 **25.08.510 Exempted sources.**

13 No sound source specifically exempted from ~~((a maximum))~~ permissible exterior sound
14 ~~((level))~~ levels by this chapter ~~((shall be))~~ is a public nuisance noise or public disturbance noise
15 ~~((, insofar as the particular source is exempted))~~.

16 Section 29. Section 25.08.530 of the Seattle Municipal Code, which Section was last
17 amended by Ordinance 112976, is amended as follows:
18

19 **25.08.530 Sounds exempt at all times.**

20 A. The following sounds are exempt from the provisions of this chapter at all times:
21

22 1. Sounds originating from aircraft in flight, and sounds ~~((which))~~ that originate at
23 airports and are directly related to flight operations;
24



1 2. Sounds created by safety and protective devices, such as relief valves, where
2 noise suppression would defeat the safety release intent of the device;

3 3. Sounds created by fire alarms;

4 4. Sounds created by emergency equipment and emergency work necessary in the
5 interests of law enforcement or of the health, safety or welfare of the community;

6 5. ~~((Sounds created by the discharge of firearms in the course of lawful hunting~~
7 ~~activities;~~

8 ~~-6.))~~ Sounds created by natural phenomena;

9 ~~((7.))~~ 6. Sounds originating from forest harvesting and silviculture activity and
10 from commercial agriculture, if the receiving property is located in a commercial or industrial
11 district of the City;

12 ~~((8.))~~ 7. Sounds created by auxiliary equipment on motor vehicles while used for
13 highway surface maintenance; and

14 ~~((9.))~~ 8. Sounds created by warning devices or alarms not operated continuously
15 for more than thirty (30) minutes per incident.

16 Section 30. Section 25.08.540 of the Seattle Municipal Code, which Section was last
17 amended by Ordinance 112976, is amended as follows:

18 **25.08.540 Sounds exempt during daytime hours – Generally.**

19 A. The following sounds are exempt from the provisions of this chapter between the
20 hours of seven (7:00) a.m. and ten (10:00) p.m. on weekdays and between the hours of nine
21 (9:00) a.m. and ten (10:00) p.m. on weekends and legal holidays:



1 1. Sounds created by bells, chimes, or carillons not operating for more than five
2 (5) minutes in any one (1) hour;

3 2. Unamplified sounds originating from officially sanctioned parades and other
4 public events;

5 3. Sounds created by the discharge of firearms on legally established shooting
6 ranges;

7 4. Sounds created by blasting; and

8 5. Sounds originating from forest harvesting and silviculture activity and from
9 commercial agriculture, if the receiving property is located in a residential district of the City.

10 The Administrator is authorized to promulgate regulations (~~which~~) that extend the hours during
11 which this exemption (~~shall be~~) is in effect to conform with operating laws designated by the
12 Washington State Department of Natural Resources in directing an official fire closure.

13 Section 31. Section 25.08.545 of the Seattle Municipal Code, which Section was last
14 amended by Ordinance 108498, is amended as follows:

15 **25.08.545 Sounds exempt during daytime hours-Aircraft testing and maintenance.**

16 Sounds created by the testing or maintenance of aircraft, or of components of aircraft, are
17 exempt from the provisions of this chapter between the hours of seven (7:00) a.m. and ten
18 (10:00) p.m. on weekdays and between nine (9:00) a.m. and ten (10:00) p.m. on weekends and
19 legal holidays, when performed according to the following instructions:
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1 A. Testing and maintenance for any aircraft or component not connected thereto shall be
2 performed at an airport designated as such by the Federal Aviation Administration prior to April
3 1, 1979, or designated as such by the Administrator at any time.

4 B. If the testing or maintenance is performed at the King County International Airport, the
5 aircraft or component shall be entirely within the ultimate airport property line as shown on the
6 map entitled "King County International Airport - Airport Layout Plan" (prepared December 1,
7 1976, revised October 10, 1978), and at areas designated by the Airport Manager((;)). It is
8 intended that this map be the reference map regardless of any future changes, provided that the
9 Administrator may grant exceptions to this subsection for good cause shown. A copy of the King
10 County International Airport Layout Plan Map is on file in the City Clerk's office (C.F. 288269),
11 at the office of the Airport Manager of the King County International Airport, and at the Planning
12 and Research Department of the Port of Seattle.

13 Section 32. Section 25.08.550 of the Seattle Municipal Code, which Section was adopted
14 by Ordinance 106360, is amended as follows:

15 **25.08.550 Sounds exempt from nighttime reduction.**

- 16 The following sounds are exempt from the provisions of Section 25.08.420 A:
- 17 A. Sounds created by existing stationary equipment used in the conveyance of water by a
18 utility; and
 - 19 B. Sounds created by existing electrical substations. ((;
 - 20 C. ~~Sounds created by sources in industrial districts which, over the previous three (3)~~
21 ~~years, have consistently operated in excess of fifteen (15) hours per day as a demonstrated routine~~



1 ~~or as a consequence of process necessity; provided that such exemption shall only extend to five~~
2 ~~(5) years after the effective date of the ordinance codified in this chapter. <1> Changes in working~~
3 ~~hours or activity which would increase the noise emitted under this exemption require the~~
4 ~~approval of the Administrator, given under rules adopted in accordance with the Administrative~~
5 ~~Code. <2>))~~

7 Section 33. Section 25.08.560 of the Seattle Municipal Code, which Section was last
8 amended by Ordinance 110047, is amended as follows:

9 **25.08.560 Application--Generally.**

10 Any person who owns or is in possession of any property or use, or any process or
11 equipment, may apply to the Administrator for relief from the requirements of any provision of
12 this chapter other than ~~((Section))~~ Sections 25.08.500 or 25.08.505, or from the rules or
13 regulations promulgated hereunder governing the quality, nature, duration or extent of discharge
14 of noise. In a proper case, ((the))a variance may apply to all sources of a particular class or type.
15 The application shall be accompanied by such information and data as the Administrator may
16 require. In accordance with the Administrative Code, SMC Chapter 3.02, the Administrator shall
17 promulgate rules and regulations governing application for and granting of such variances (~~(;~~
18 ~~including hearings and notice))~~).

21 Section 34. Section 25.08.590 of the Seattle Municipal Code, which Section was last
22 amended by Ordinance 107377, is amended as follows:

23 **25.08.590 Granting of variance.**



1 A. No variance shall be granted ~~((pursuant to Sections 25.08.560 through 25.08.620))~~
2 until the Administrator has considered the relative interests of the applicant, other owners or
3 possessors of property likely to be affected by the noise, and the general public.

4 B. A technical, ~~((or))~~ economic, or major public project construction variance may be
5 granted only after notice and an opportunity for public comment in accordance with rules
6 adopted by the Administrator ~~((a public hearing on due notice))~~.

7 C. The Administrator may grant a variance~~((s))~~ if ~~((he))~~ the Administrator finds that:

8 ~~((A-))~~1. The noise occurring or proposed to occur does not endanger public health
9 or safety; and
10

11 ~~((B-))~~2. The applicant demonstrates that the criteria required for the ~~((temporary,~~
12 ~~technical or economic))~~ variance ~~((under Sections 25.08.610 through 25.08.630))~~ are met.
13

14 D. Noise Management and Mitigation Plan. As part of the application for a variance, an
15 applicant must submit a Noise Management and Mitigation Plan to be approved by the
16 Administrator. A Noise Management and Mitigation Plan must contain the following
17 components, except that the Administrator may modify the required components for a temporary
18 noise variance as the Administrator determines appropriate to fit the circumstances surrounding
19 the requested temporary variance:
20

21 1. A description of the permissible exterior sound levels of the chapter expected to
22 be exceeded, estimates of the amount(s) by which these levels are expected to be exceeded (i.e.,
23 indicating the levels that will be in effect during the variance), the time periods during which the
24 permissible exterior sound levels may be exceeded, and the expected sources of the sound during
25



1 each of the time periods (e.g., types of equipment or activity causing the permissible exterior
2 sound levels to be exceeded);

3 2. Measures and provisions to be taken to avoid exceeding the permissible
4 exterior sound levels of this chapter;

5 3. Provisions to mitigate sounds that exceed the permissible exterior sound levels
6 and that cannot otherwise be avoided.

7 4. A process for informing the public about the provisions of the variance.

8 E. The Administrator may impose conditions, including but not limited to conditions
9 relating to types of equipment, hours of use, and duration, to mitigate the adverse impacts of
10 granting the variance. The Administrator may also include conditions proposed by the applicant
11 as part of the variance application. Compliance with the Noise Management and Mitigation Plan
12 approved by the Administrator is a condition of every variance.

13 Section 35. Section 25.08.600 of the Seattle Municipal Code, which Section was last
14 amended by Ordinance 107377, is amended as follows:

15 **25.08.600 ((Renewal)) Extension of ((variance)) variances.**

16 A. Technical, economic and major public project construction variances ((Variances,
17 except temporary variances,)) granted pursuant to this chapter may be ((renewed)) extended on
18 terms and conditions and for periods ((which)) that would be appropriate on the initial granting
19 of a variance. No ((renewal)) extension of a technical, economic or major public project
20 construction variance shall be granted except on application made at least sixty (60) days prior to



1 the expiration of the variance and after public notice in accordance with rules adopted by the
2 Administrator.

3 B. Temporary variances may not be extended, but more than one temporary variance may
4 be granted on a project.

5 Section 36. Section 25.08.610 of the Seattle Municipal Code, which Section was last
6 amended by Ordinance 107377, is amended as follows:

7 **25.08.610 Appeal procedure.**

8 A. Any person aggrieved by the denial, ((grant)) approval, or the terms and conditions
9 imposed on ((the grant of an application for)) a variance, except a temporary variance, or
10 ((renewal)) by the extension of a variance by the Administrator, may appeal such decision ((to
11 the Hearing Examiner under procedures contained in Subchapter IX)) by filing an appeal in
12 writing with the Hearing Examiner by five (5:00) p.m. of the tenth day following the date of the
13 issuance of the decision on a variance application. When the last day of the appeal period is a
14 Saturday, Sunday, or federal or City holiday, the appeal may be filed until five (5:00)p.m. on the
15 next business day.

16 B. In form and content, the appeal shall conform to the rules of the Hearing Examiner.

17 C. The Hearing Examiner shall consider the appeal in accordance with the procedure
18 established for hearing contested cases under the Administrative Code, SMC Chapter 3.02.

19 D. Appeals shall be considered de novo, and the Administrator's decision on the variance
20 shall be given no deference.



1 E. The Hearing Examiner may affirm, reverse or modify the Administrator's decision or
2 remand to the Administrator for additional review and analysis.

3 F. The Hearing Examiner shall issue a written decision within fifteen (15) days of the
4 conclusion of the hearing.

5 G. The decision of the Hearing Examiner is the final decision of the City, and the
6 appellant and the Administrator are bound by the terms and conditions of the Hearing
7 Examiner's decision.

8
9 Section 37. A new Section 25.08.615 of the Seattle Municipal Code, is adopted to read
10 as follows:

11 **25.08.615 Revocation of Variance.**

12
13 A. Standards for revocation. Any noise variance other than a temporary variance may be
14 revoked if:

15 1. The noise code or the conditions of the variance have been or are being violated
16 and issuance of a notice of violation or stop work order has been, or, because of circumstances
17 related to the violation, would be, ineffective to secure compliance; or

18 2. The variance was obtained with false or misleading information.

19
20 B. Notice of Revocation. Whenever the Administrator determines there are grounds for
21 revoking a variance, the Administrator may issue a Notice of Revocation.

22 1. The Notice of Revocation shall identify the reason for the proposed revocation,
23 including the violations, the conditions violated, and/or the alleged false or misleading
24 information provided.
25



1 2. The Notice of Revocation shall be served on the owner of the property on
2 which the work is occurring, the holder of the variance, and the person doing or causing the work
3 to be done.

4 3. The Notice of Revocation shall be served in the manner set forth in RCW
5 4.28.080 for service of a summons or sent by first class mail. The Notice of Revocation may also
6 be posted in a conspicuous place on the site. For purposes of this section, service is complete at
7 the time of personal service, or if mailed, three (3) days after the date of mailing. When the last
8 day of the period so computed is a Saturday, Sunday or City holiday, the period runs until five
9 (5:00) p.m. on the next business day.
10

11 4. The Administrator shall identify in the Notice of Revocation a date certain on
12 which the revocation will take effect unless review before the Administrator is requested and
13 pursued pursuant to subsection C of this section.
14

15 C. Review by the Administrator.

16 1. Any person aggrieved by a Notice of Revocation of a noise variance may
17 obtain a review by making a request in writing to the Administrator within three (3) business
18 days of the date of service of the Notice of Revocation.
19

20 2. The review shall occur within five (5) business days after receipt by the
21 Administrator of the request for review.
22

23 3. Any person aggrieved by or interested in the Notice of Revocation may submit
24 additional information to the Administrator for consideration as part of the review at any time
25 prior to the review.
26



1 4. The review will be made by a representative of the Administrator who will
2 review all additional information received and may also request a site visit. After the review, the
3 Administrator may:

4 a. Sustain the Notice of Revocation and set or modify the date the
5 revocation will take effect;

6 b. Withdraw the Notice of Revocation;

7 c. Modify the Notice of Revocation and set or modify the date the
8 revocation will take effect; or
9

10 d. Continue the review to a date certain for receipt of additional
11 information.
12

13 D. Order of the Administrator.

14 1. The Administrator shall issue an Order of the Administrator containing the
15 decision within ten (10) days after the review and shall cause the same to be sent by first class
16 mail to the person or persons requesting the review, any other person on whom the Notice of
17 Revocation was served, and any other person who requested a copy before issuance of the Order
18 of the Administrator.
19

20 2. The Order of the Administrator is the final order of the City and the City and all
21 parties shall be bound by the Order unless judicial review is sought pursuant to subsection E.
22

23 E. Judicial Review. Any judicial review must be commenced pursuant to RCW 36.70C
24 within twenty-one (21) days after issuance of the Order of the Administrator.
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1 Section 38. Section 25.08.630 of the Seattle Municipal Code, which Section was adopted
2 by Ordinance 106360, is amended as follows:

3 **25.08.630 Temporary variance.**

4 The Administrator may grant a temporary variance, not to exceed fourteen (14) days, for
5 any activity, use, process or equipment (~~((which))~~) that the Administrator determines, in
6 accordance with rules and regulations, does not annoy a substantial number of (~~((the))~~) people and
7 does not endanger public health or safety.

8
9 Section 39. Section 25.08.640 of the Seattle Municipal Code, which Section was adopted
10 by Ordinance 106360, is amended as follows:

11 **25.08.640 Technical variance.**

12 A technical variance may be granted by the Administrator on the ground that there is no
13 practical means known or available for the adequate prevention, abatement or control of the noise
14 involved. (~~((Any technical variance shall be subject to the holder's taking of any alternative
15 measures that the Administrator may prescribe.))~~) The Administrator shall determine the duration
16 of each technical variance (~~((shall be until such practical means for prevention, abatement or
17 control become known or available))~~). The holder of a technical variance (~~((, as required by the
18 Administrator,))~~) shall make reports to the Administrator, on a schedule prescribed by the
19 Administrator, detailing actions taken to develop a means of noise control or to reduce the noise
20 involved and (~~((must relate))~~) relating these actions to pertinent current technology.

21
22 Section 40. Section 25.08.650 of the Seattle Municipal Code, which Section was adopted
23 by Ordinance 106360, is amended as follows:
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1 **25.08.650 Economic variance.**

2 An economic variance may be granted by the Administrator on the ground that
3 compliance with the particular requirement or requirements from which the variance is sought
4 will require the taking of measures ((which)) that, because of their extent or cost, must be spread
5 over a period of time. The duration of an economic variance shall be for a period not to exceed
6 such reasonable time as is required in the view of the Administrator for the taking of the
7 necessary measures. An economic variance shall contain a timetable for the taking of action in
8 an expeditious manner and shall be conditioned on adherence to the timetable.
9

10 Section 41. A new Section 25.08.655 of the Seattle Municipal Code, is adopted to read
11 as follows:
12

13 **25.08.655 Major Public Project Construction Variance.**

14 A. The Administrator may grant a major public project construction variance to provide
15 relief from the permissible exterior sound levels established by this chapter during the
16 construction periods of major public projects. A major public project construction variance shall
17 provide relief from the permissible exterior sound levels during the construction or
18 reconstruction of a major public project only to the extent the applicant demonstrates that
19 compliance with the levels would:
20

- 21 1. Be unreasonable in light of public or worker safety or cause the applicant to
22 violate other applicable regulations, including but not limited to regulations that reduce impacts
23 on transportation infrastructure and natural resources; or
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1 2. Render the project economically or functionally unreasonable due to factors
2 such as the financial cost of compliance or the impact of complying for the duration of the
3 construction or reconstruction of the major public project.

4 B. A major public project construction variance shall set forth the period or periods
5 during which the variance is effective, which period or periods shall be the minimum reasonably
6 necessary in light of the standard set forth in subsection A. Different major public project
7 construction variances may be issued for distinct phases of a construction project, or one major
8 public project construction variance may be issued for the entire major public project. The
9 period or periods during which a major public project construction variance is effective may be
10 stated in terms of calendar dates or in terms of the duration of a construction project or a phase or
11 phases of a construction project.
12

13 C. The Administrator shall condition a major public project construction variance as
14 necessary to provide reasonable control or mitigation of the construction noise that may be
15 expected to occur pursuant to the variance.
16

17 Section 42. Section 25.08.670 of the Seattle Municipal Code, which Section was adopted
18 by Ordinance 106360, is amended as follows:
19

20 **25.08.670 Duties of Administrator.**

21 The duties of the Administrator ((shall)) include, but are not limited to:

- 22 A. Obtaining assistance from other appropriate City departments and divisions;
- 23 B. Training field inspectors;
- 24 C. Purchasing measuring instruments and training inspectors in their calibration and use;
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1 D. Promulgating and publishing rules and procedures, in accordance with the
2 Administrative Code, SMC Chapter 3.02, to establish techniques for measuring or reducing noise
3 and to provide for clarification, interpretation, and implementation of this chapter;

4 E. Investigating ((citizens')) noise complaints;

5 F. ((Issuing orders for the reduction or elimination of noise)) Enforcement of the chapter
6 in accordance with Subchapter IX;

7 G. Assisting citizens and City departments in evaluating and reducing the noise impact of
8 their activities;

9 H. Assisting City planning officials in evaluating the noise component in planning and
10 zoning actions;

11 I. Instituting a public education program on noise; and

12 J. Reviewing at least every three (3) years the provisions of this chapter and
13 recommending revisions consistent with technology to reduce noise.

14 Section 43. Section 25.08.680 of the Seattle Municipal Code, which Section was adopted
15 by Ordinance 106360, is amended as follows:

16 **25.08.680 Measurement of sound.**

17 If the measurements of sound are made with a sound level meter, it shall be an instrument
18 in good operating condition and shall meet the requirements for a Type I or Type II instrument,
19 as described in American National Standards Institute Specifications, Section 1.4-((1971))1983,
20 as it now exists or as hereafter amended. If the measurements are made with other instruments,
21 or assemblages of instruments, the procedure must be carried out in such manner that the overall
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1 accuracy shall be at least that called for in Section 1.4-~~((1971))~~1983, as it now exists or as
2 hereafter amended for Type II instruments.

3 Section 44. Section 25.08.700 of the Seattle Municipal Code, which Section was adopted
4 by Ordinance 106360, is amended as follows:

5 **25.08.700 Receiving properties within more than one district.**
6

7 Where a receiving property lies within more than one district, the ~~((maximum))~~
8 permissible exterior sound ~~((level))~~ levels shall be determined by the district within which the
9 measurement is made.

10 Section 45. Section 25.08.710 of the Seattle Municipal Code, which Section was last
11 amended by Ordinance 110047, is amended as follows:

12 **25.08.710 Right of entry ~~((Administrator))~~.**
13

14 Upon presentation of proper credentials, and ~~((the Administrator,))~~ with the consent of
15 the occupant ~~((, or with))~~ or the consent of the owner of any unoccupied building, structure,
16 property or portion thereof, or pursuant to a lawfully issued warrant, the Administrator or the
17 Administrator's designee may enter at all reasonable times, any building, structure, property or
18 portion thereof ~~((to inspect the same))~~ whenever necessary to make an inspection to enforce or
19 determine compliance with the provisions of this chapter, ~~((over which he has enforcement~~
20 ~~responsibility or whenever he has cause to believe that a violation of any provision of this chapter~~
21 ~~other than Section 25.08.500 has been or is being committed; provided, if))~~ If the building,
22 structure, property or portion thereof is unoccupied, the Administrator shall, except in case of
23 emergency first ~~((make a reasonable effort to))~~ locate the owner or other persons having charge
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1 or control of the building, structure, property or portion thereof and ((demand)) request entry. ((If
2 the Administrator is unable to locate the owner or such other persons and he has reason to
3 believe that conditions therein create an immediate and irreparable health hazard, then he shall
4 make entry.))

5 Section 46. A new Section 25.08.720 of the Seattle Municipal Code, is adopted to read
6 as follows:

7
8 **25.08.720 Stop Work Order.**

9
10 A. Stop Work Order. A Stop Work Order may be issued whenever a violation of this
11 Code or a violation of the conditions of a variance threatens the health or safety of the public or
12 materially impairs the Administrator's ability to secure compliance with this Code.

13 1. The Stop Work Order must specify the violation and may prohibit all or any
14 work or other activity at the site that is a cause of the code violation or the violation of the
15 variance condition.

16
17 2. The Administrator may serve the Stop Work Order by posting it in a
18 conspicuous place at the site, if posting is physically possible. If posting is not physically
19 possible, then the Stop Work Order may be served in the manner set forth in RCW 4.28.080 for
20 service of a summons or by sending it by first class mail to the last known address of: the
21 property owner(s), the person(s) doing or causing the work to be done, and the holder of any
22 variance if work is being stopped on a variance. For purposes of this section, service is complete
23 at the time of posting or of personal service, or if mailed, three (3) days after the date of mailing.
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1 When the last day of the period so computed is a Saturday, Sunday or City holiday, the period
2 runs until five (5:00) p.m. on the next business day.

3 3. A Stop Work Order is effective when posted, or if posting is not physically
4 possible, when one of the persons identified in subsection A2 is served.

5 B. Review by the Administrator.

6 1. Any person aggrieved by a Stop Work Order may obtain a review of the Stop
7 Work Order by delivering to the Department a request in writing within two (2) business days of
8 the date of service of the Stop Work Order.

9 2. The review shall occur within two (2) business days after receipt by the
10 Administrator of the request for review unless the requestor requests or agrees to a longer time.

11 3. Any person aggrieved by or interested in the Stop Work Order may submit
12 additional information to the Administrator for consideration as part of the review at any time
13 prior to the review.

14 4. The review will be made by a representative of the Administrator who will
15 review all additional information received and may also request a site visit. After the review, the
16 Administrator may:

- 17 a. Sustain the Stop Work Order;
18 b. Withdraw the Stop Work Order;
19 c. Modify the Stop Work Order; or
20 d. Continue the review to a date certain for receipt of additional
21 information.
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1 C. Order of the Administrator. The Administrator shall issue an Order of the
2 Administrator containing the decision within two (2) business days after the review and shall
3 cause the same to be sent by first class mail to the person or persons requesting the review, any
4 person on whom the stop work order was served, and any other person who requested a copy
5 before issuance of the Order. The City and all parties shall be bound by the Order.
6

7 Section 47. Section 25.08.730 of the Seattle Municipal Code, which Section was last
8 amended by Ordinance 110047, is amended as follows:

9 **25.08.730 Notice of Violation~~((and order))~~.**

10 A. ~~((Unless provided otherwise))~~ In addition to other remedies provided by this chapter or
11 by law, whenever the Administrator has reason to believe that a ~~((maximum))~~ permissible
12 exterior sound level ~~((of Subchapter III))~~ established by this chapter is being or has been
13 exceeded, that a public nuisance noise is being emitted, ((or)) that the terms of a variance have
14 not been met or are being violated, or that any other provision of this chapter that the
15 Administrator is authorized to enforce is being violated, ((he)) the Administrator may ((initiate
16 an administrative proceeding as provided by Subchapter IX, and serve)) issue a written notice of
17 violation ~~((and order directed))~~ to the owner or operator of the source, or to the holder of ~~((the)) a~~
18 variance. ((One (1) copy shall also be posted on the property or source, if reasonably possible,
19 and another copy shall be mailed to each complainant (if any) about the noise; additional copies
20 may be mailed by the Administrator to such other interested or affected persons as the
21 Administrator deems appropriate.))
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1 B. The notice of violation shall contain a brief and concise description of the conditions
2 alleged to be in violation (~~((or to be a public nuisance noise))~~), the provision(s) of this Chapter
3 alleged to have been violated, the sound level readings, if taken, including the time and place of
4 their recording, (~~((C. The order shall contain))~~) a statement of the corrective action required, and
5 if applicable, ((shall specify)) a reasonable time for correction ((within which the action must be
6 accomplished)).

8 C. Nothing in this section shall be deemed to limit or preclude any action or proceeding
9 to enforce this chapter, and nothing shall be deemed to obligate or require the Administrator to
10 issue a notice of violation prior to the imposition of civil or criminal penalties.

12 Section 48. Section 25.08.740 of the Seattle Municipal Code, which Section was adopted
13 by Ordinance 106360, is amended as follows:

14 **25.08.740 ((Method of service)) Service, Mailing and Posting of Notice.**

15 ((Service of the)) The notice of violation((and order)) shall be served ((made)) upon the
16 persons responsible for the condition or violation by personal service ((named in the notice and
17 order, either personally)) or by ((mailing a copy of the notice and order by certified mail, postage
18 prepaid, return receipt requested)) first class mail, to ((each person at his)) the person's last
19 known address. If the ((whereabouts of the persons)) address of the responsible person is
20 unknown and cannot be found after a reasonable search, ((ascertained by the Administrator in the
21 exercise of reasonable diligence, and the Administrator shall make affidavit to that effect, then
22 the service of)) the notice ((and order upon the persons)) may be ((made)) served by posting a
23 copy of the notice of violation at a conspicuous place on the property where the violation



1 occurred. ~~((by publishing them once each week for two (2) consecutive weeks in the City official~~
2 ~~newspaper. The failure of any such person to receive the notice and order shall not affect the~~
3 ~~validity of any proceedings taken under this chapter. Service by certified mail in the manner~~
4 ~~provided in this section shall be effective on the date of mailing.)) If a notice of violation is
5 directed to a person responsible for the violation who is not the owner of the property where the
6 violation is occurring, a copy of the notice of violation may be sent to the owner of the property.~~

8 Section 49. Section 25.08.760 of the Seattle Municipal Code, which Section was adopted
9 by Ordinance 106360, is amended as follows:

10 **25.08.760 Review by the Administrator ((Administrative conferences)).**

12 A. Any person significantly affected by or interested in a notice of violation issued by the
13 Administrator pursuant to this chapter may obtain a review of the notice by requesting such
14 review within ten (10) days after service of the notice. When the last day of the period so
15 computed is a Saturday, Sunday or federal or City holiday, the period shall run until five (5:00)
16 p.m. on the next business day. The request shall be in writing, and upon receipt of the request, the
17 Administrator shall notify any persons served the notice and the complainant, if any, of the
18 request for review and the deadline for submitting additional information for the review.
19 Additional information shall be submitted to the Administrator no later than fifteen (15) days
20 after the notice of a request for a review is mailed, unless otherwise agreed by all persons served
21 with the notice. Before the deadline for submission of additional information, any person
22 significantly affected by or interested in the notice (including any persons served the notice and
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1 the complainant) may submit any additional information in the form of written material or oral
2 comments to the Administrator for consideration as part of the review.

3 B. The review will be made by a representative of the Administrator who is familiar with
4 the case and the applicable ordinances. The Administrator's representative will review all
5 additional information received by the deadline for submission of additional information. The
6 reviewer may also request clarification of information received and a site visit. After review of
7 the additional information, the Administrator may:

- 9 1. Sustain the notice;
- 10 2. Withdraw the notice;
- 11 3. Continue the review to a date certain for receipt of additional information; or
- 12 4. Modify the notice, which may include an extension of any compliance date.

13
14 ((An informal administrative conference may be conducted at any time by the
15 Administrator for the purpose of bringing out all the facts and circumstances relating to an
16 alleged violation, promoting communication between concerned parties, and providing a forum
17 for efficient resolution of a violation. The Administrator may call a conference in response to a
18 request from any person aggrieved by an order of the Administrator or the Administrator may
19 call a conference on his own motion. Attendance at the conference shall be determined by the
20 Administrator and need not be limited to those named in a notice and order. As a result of
21 information developed at the conference, the Administrator may affirm, modify or revoke his
22 order. The holding of an administrative conference shall not be a prerequisite to use of any other
23 enforcement provisions contained in this chapter.))
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1 Section 50. A new Section 25.08.765 to the Seattle Municipal Code, is adopted to read as
2 follows:

3 **25.08.765 Order of the Administrator.**

4 A. Where review by the Administrator has been conducted pursuant to Section 25.08.760,
5 the Administrator shall issue an order of the Administrator containing the decision within fifteen
6 (15) days of the date the review is completed and shall cause the same to be mailed by regular
7 first class mail to the person or persons named in the notice of violation and mailed to the
8 complainant, if any.

9
10 B. Unless a request for review before the Administrator is made pursuant to Section
11 25.08.760, the notice of violation shall become the order of the Administrator.

12
13 C. Civil actions to enforce orders of the Administrator are brought in Seattle Municipal
14 Court and are not subject to judicial review pursuant to chapter 36.70C RCW.

15 Section 51. Section 25.08.800 of the Seattle Municipal Code, which Section was last
16 amended by Ordinance 114656, is amended as follows:

17
18 **25.08.800 ((Punishment)) Civil Enforcement and Criminal Penalties.**

19 A. ~~((Conduct made unlawful by Subchapter IV, Section 25.08.515 and Section~~
20 ~~25.08.520 of this chapter shall constitute a violation subject to the provisions of Chapters 12A.02~~
21 ~~and 12A.04 of this Code (Seattle Criminal Code) and any person convicted of a violation of~~
22 ~~Subchapter IV or Section 25.08.520 shall be punished by a civil fine or forfeiture not to exceed~~
23 ~~Five Hundred Dollars (\$500); conduct made unlawful by Section 25.08.515 shall be punished by~~
24 ~~a civil fine or forfeiture not to exceed Fifty Dollars (\$50).~~



1 B.)) Civil Penalties. In addition to any other remedy authorized by law or equity, and
2 except for violations of Sections 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, any person
3 violating or failing to comply with any requirement of this chapter or order issued by the
4 Administrator shall be subject to a cumulative civil penalty of up to one thousand three hundred
5 dollars (\$1300) per day for each day that the violation or failure to comply continues.
6 Alternatively, for violations of Sections 25.08.410, 25.08.420, and 25.08.425, the Administrator
7 may follow the citation process in Sections 25.08.900-25.08.970.

9 B. Crime. Conduct made unlawful by Section 25.08.500 of this chapter ((shall
10 constitute)) constitutes a crime subject to the provisions of Chapters 12A.02 and 12A.04 of this
11 Code (Seattle Criminal Code), except that absolute liability shall be imposed for such a violation,
12 and none of the mental states described in Section 12A.04.030 need be proved, and any person
13 convicted thereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500), or by
14 imprisonment in the City Jail for a term not to exceed six (6) months, or by both such fine and
15 imprisonment.

16 C. Penalties for other violations.

17 1. Conduct made unlawful by Section 25.08.515 shall be punished by a civil fine
18 or forfeiture not to exceed Fifty Dollars (\$50).

19 2. Conduct in violation of Subchapter IV of this chapter shall be punished by a
20 civil fine or forfeiture not to exceed Five Hundred Dollars (\$500).

21 D. Alternative criminal penalty. As an alternative to the civil penalties provided in this
22 section the Administrator may request that violations of or failure to comply with this chapter or
23



1 orders issued by the Administrator be prosecuted criminally. In such case, any person who
2 violates or fails to comply with an order issued by the Administrator or any of the provisions of
3 this chapter except for Sections 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, shall be
4 guilty of a gross misdemeanor subject to the provisions of Chapter 12A.02 and 12A.04, except
5 that absolute liability shall be imposed for such a violation or failure to comply, and none of the
6 mental states described in Section 12A.04.030 need be proved. Any person convicted thereof
7 shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000) or by imprisonment in
8 the City Jail for a term not to exceed one year, or by both such fine and imprisonment.

9
10 E. Each day a violation continues and each occurrence of a prohibited activity shall be
11 deemed a separate offense.

12
13 Section 52. Section 25.08.820 of the Seattle Municipal Code, which Section was last
14 amended by Ordinance 121192, is amended as follows:

15 **25.08.820 Penalties cumulative.**

16 The penalties imposed by Sections 25.08.800, 25.08.805, and 25.08.960 ~~((and 25.08.810~~
17 ~~shall be))~~ are in addition to any other sanction or remedial ~~((injunctive))~~ procedure ~~((which))~~ that
18 may be available at law or equity.

19
20 Section 53. If the effective date of Section 12 of Ordinance 122614 precedes the effective
21 date of the ordinance adopted by this Council Bill, on the effective date of the ordinance adopted
22 by this Council Bill, Section 25.08.960, as adopted by Ordinance 122614, is amended as follows:

23 **25.08.960 Citation Penalties**



1 A person or entity found to have violated Sections 25.08.410, 25.08.420, 25.08.425 or
2 25.08.501 and to whom a citation was issued, is subject to a penalty according to the following
3 schedule.

Citation Penalty Schedule			
Section or Subsection Violated	First Violation	Second Violation ((and Subsequent Violations))	Third and Subsequent Violations
<u>25.08.410,</u> <u>25.08.420,</u> <u>25.08.425 B, or</u> <u>25.08.425 F</u>	<u>\$150</u>	<u>\$300</u>	<u>\$600</u>
<u>25.08.425 C</u>	<u>\$325</u>	<u>\$650</u>	<u>\$1300</u>
<u>25.08.501</u>	<u>\$1000</u>	<u>\$2000</u>	<u>\$2000</u>

13 Section 54. If the effective date of the ordinance adopted by this Council Bill precedes
14 the effective date of Section 12 of Ordinance 122614, on the effective date of the ordinance
15 adopted by this Council Bill and until the effective date of Section 12 of Ordinance 122614, a
16 new Section 25.08.960 of the Seattle Municipal Code is adopted as follows:
17

18 **25.08.960 Citation Penalties**

19 A person or entity found to have violated Sections 25.08.410, 25.08.420, or 25.08.425 of
20 this chapter and to whom a citation was issued, is subject to a penalty according to the following
21 schedule.
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Citation Penalty Schedule			
Section or Subsection Violated	First Violation	Second Violation	Third and Subsequent Violations
25.08.410, 25.08.420, 25.08.425 B, or 25.08.425 F	\$150	\$300	\$600
25.08.425 C	\$325	\$650	\$1300

Section 55. If the effective date of the ordinance adopted by this Council Bill precedes the effective date of Section 12 of Ordinance 122614, on the effective date of Section 12 of Ordinance 122614, Section 25.08.960 of the Seattle Municipal Code, adopted by Ordinance 122614, will read as follows:

25.08.960 Citation Penalties

A person or entity found to have violated Sections 25.08.410, 25.08.420, 25.08.425 or 25.08.501 of this chapter and to whom a citation was issued, is subject to a penalty according to the following schedule.

Citation Penalty Schedule			
Section or Subsection Violated	First Violation	Second Violation	Third and Subsequent Violations
25.08.410, 25.08.420, 25.08.425 B, or 25.08.425 F	\$150	\$300	\$600
25.08.425 C	\$325	\$650	\$1300
25.08.501	\$1000	\$2000	\$2000



1 Section 56. The enforcement provisions contained in this ordinance apply to all
2 enforcement actions commenced on or after the effective date of this ordinance, regardless of
3 when the violation occurred. To this extent, this ordinance applies retroactively, but in all other
4 respects it applies prospectively.

5 Section 57. Sections 25.08.130, 25.08.240, 25.08.535, 25.08.620, 25.08.750, 25.08.770,
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1 25.08.780, 25.08.790, and 25.08.810 of the Seattle Municipal Code are hereby repealed.

2 Section 58. The provisions of this ordinance are declared to be separate and severable.

3 The invalidity of any particular provision shall not affect the validity of any other provision.

4 Section 59. This ordinance shall take effect and be in force on whichever is the later of:

5 (a) the effective date of approval of the amendments in this ordinance by the Washington State
6 Department of Ecology, which date is no later than ninety days after submittal to the Department
7 of Ecology; or (b)(i) thirty (30) days from and after approval by the Mayor or, (ii) if not approved
8 and returned by the Mayor within (10) days after presentation, then as provided by Municipal
9 Code Section 1.04.020.
10

11 Passed by the City Council the ____ day of _____, 2008, and signed by me in open
12 session in authentication of its passage this ____ day of _____, 2008.
13

14 _____
15
16 President _____ of the City Council

17 Approved by me this ____ day of _____, 2008.
18

19 _____
20 Gregory J. Nickels, Mayor

21 Filed by me this ____ day of _____, 2008.
22

23 _____
24 City Clerk

25 (Seal)
26



ORDINANCE _____

AN ORDINANCE relating to noise control, amending various sections and adding new sections to Chapter 25.08 of the Seattle Municipal Code, to provide for a major public project construction variance for major public construction projects, to update various provisions to conform to new technology and changes in technology, to revise the enforcement procedures to provide for stop work orders, revocation of variances, citations and civil penalties, to revise various provisions to update and clarify references and correct grammar and other errors, and repealing Sections 25.08.130, 25.08.240, 25.08.535, 25.08.620, 25.08.750, 25.08.770, 25.08.780, 25.08.790 and 25.08.810.

WHEREAS, it is the policy of the City of Seattle to minimize the exposure of citizens to the physiological and psychological dangers of excessive noise and to protect, promote and preserve the public health, safety and welfare; and

WHEREAS, it is the express intent of the City to control the level of noise in a manner that promotes commerce; the use, value and enjoyment of property; sleep and repose; and the quality of the environment; and

WHEREAS, construction of major public infrastructure projects may result in noise impacts to adjacent business and residential properties oftentimes along linear corridors and of substantial duration; and

WHEREAS, several such major public infrastructure projects are either underway or are proposed for construction in the near future, including Sound Transit's Link Light Rail and the Alaskan Way Viaduct and Seawall Replacement Project; and

WHEREAS, the noise code does not clearly identify a process for qualifying for and obtaining construction noise variances for major, public, more than six-month construction projects; and

WHEREAS, the ability to work during nighttime hours is often essential to complete such projects on a timely and financially feasible schedule; and

WHEREAS, the proposed changes in the noise ordinance do not increase the exterior sound levels allowed during construction from what is allowed in the current ordinance, while providing for a variance from these levels for major public construction projects; and

WHEREAS, the noise ordinance has not been amended in recent years to reflect technological changes in how to measure noise impacts, changes in other codes and ordinances, or to make grammar changes; NOW, THEREFORE,

1 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

2 Section 1. Consistent with Section 25.08.020 of the Seattle Municipal Code, the City
3 finds that it has continued to study the problem of noise since the previous finding in 1977. On
4 the basis of this experience and knowledge of conditions within the City, the City Council finds
5 that special conditions continue to exist in the City that make necessary the differences between
6 this chapter 25.08 and the noise regulations adopted by the Department of Ecology.
7

8 Section 2. Section 25.08.040 of the Seattle Municipal Code, which Section was adopted
9 by Ordinance 106360, is amended as follows:

10 **25.08.040 Definitions generally – Gender((,))**

11 All technical terminology used in this chapter, not defined in this subchapter, shall be
12 interpreted in conformance with American National Standards Institute ("ANSI") Specifications,
13 Section 1.1 ~~((1960))~~1994, as it now exists or as hereafter amended and Section 1.4-~~((1971))~~1983,
14 as it now exists or as hereafter amended. Words used in the masculine gender include the
15 feminine and words used in the feminine gender include the masculine. For the purposes of this
16 chapter the words and phrases used herein shall have the meanings set forth in the following
17 sections of this subchapter.
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21 Section 3. Section 25.08.050 of the Seattle Municipal Code, which Section was adopted
22 by Ordinance 106360, is amended as follows:

23 **25.08.050 Administrative Code((,))**

24 "Administrative Code" means the Administrative Code of The City of Seattle, SMC
25 Chapter 3.02, (((Ordinance 102228))) as now or hereafter amended.
26

1 Section 4. Section 25.08.060 of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 121276, is amended as follows:

3 **25.08.060 Administrator((,))**

4 "Administrator" means the Director of the Department of Planning and Development or
5 ((his or her)) the Director's authorized representative ((, except that the Director of the Public
6 Health—Seattle and King County or his or her authorized representative shall continue to be the
7 "Administrator" of Subchapter VII Variances through December 31, 1993)).

8
9 Section 5. A new Section 25.08.069 of the Seattle Municipal Code is adopted to read as
10 follows:

11
12 **25.08.069 City Holiday**

13 "City Holiday" means the days during which city offices are not open for transaction of
14 business as provided by SMC 3.102.010.

15
16 Section 6. Section 25.08.100 of the Seattle Municipal Code, which Section was last
17 amended by Ordinance 115041, is amended as follows:

18 **25.08.100 Districts((,))**

19 "District" means the land use zones to which the provisions of this chapter are applied.
20 For the purposes of this chapter:

21
22 A. ((("Rural District" includes zones designated in the King County Zoning Code as A, F,
23 R, F-P, S-E, G, and S-R greater than thirty-five thousand (35,000) square feet.

1 ~~B.)~~"Residential District" includes ~~((zones designated in the King County Zoning Code~~
2 ~~as R-S, R-D, R-M, B-N, and S-R less than thirty-five thousand (35,000) square feet, and))~~ zones
3 defined as residential zones and NC1 zones in The Seattle Land Use Code, Title 23.

4 ~~((C.))~~ B. "Commercial District" includes zones designated ~~((in the King County Zoning~~
5 ~~Code as B-C, C-G, M-L, and M-P, and zones designated))~~ as NC2, NC3, SM, C1, C2, DOC1,
6 DOC2, DRC, DMC, PSM, IDM, DH1, DH2, PMM, and IB in the Seattle Land Use Code, Title
7 23.

8
9 ~~((D.))~~ C. "Industrial District" includes zones designated ~~((in the King County Zoning~~
10 ~~Code as M-H, Q-M, and unclassified uses and zones designated))~~ as IG1, IG2, and IC in the
11 Seattle Land Use Code, Title 23.

12
13 D. For any zone not listed in subsections A, B, or C of this section 25.08.100, the
14 Administrator may determine that the zone is substantially similar to a zone listed in subsections
15 25.08.100.A, B, or C and may classify it similarly for purposes of this chapter.

16
17 Section 7. A new Section 25.08.155 of the Seattle Municipal Code, is adopted to read as
18 follows:

19 **25.08.155 Legal Holiday**~~((:))~~

20 "Legal Holiday" means the following holidays: New Year's Day, Memorial Day,
21 Independence Day, Labor Day, Thanksgiving Day and the day after, and Christmas Day.

22
23 Section 8. Section 25.08.160 of the Seattle Municipal Code, which Section was last
24 amended by Ordinance 108552, is amended as follows:

25 **25.08.160** ~~((L-eg))~~ Leg.

1 ("Leq") "Leq" means the equivalent sound level, which is the constant sound level
2 ~~((that,))~~ in a given ~~((situation and))~~ time period~~((;))~~ that conveys the same sound energy as the
3 actual time-varying A-weighted sound. The applicable time period ~~((applicable))~~ for the Leq
4 must be specified.

5 Section 9. A new Section 25.08.165 of the Seattle Municipal Code, is adopted to read as
6 follows:
7

8 **25.08.165 Lmax((;))**

9 "Lmax" means the maximum sound level over a measurement interval determined by
10 using a sound level meter set to "Fast" response time.

11 Section 10. A new Section 25.08.168 of the Seattle Municipal Code, is adopted to read as
12 follows:
13

14 **25.08.168 Major public project**

15 "Major public project" means a project for a public facility as defined in SMC Title 23,
16 the construction of which the Administrator determines is likely to be of at least six months
17 duration, and is likely to have a substantial impact on the public safety, health and welfare and
18 the provision of public services, including transportation services. In making this determination
19 the Administrator shall consider factors such as the expected size, complexity or cost of the
20 proposed construction or reconstruction; the expected duration of the proposed construction or
21 reconstruction; the magnitude of the expected impacts on traffic and transportation; and/or the
22 degree of impact on the provision of public services during the proposed construction or
23 reconstruction.
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1 Section 11. Section 25.08.180 of the Seattle Municipal Code, which Section was adopted
2 by Ordinance 106360, is amended as follows:

3 **25.08.180 Motor vehicle((:))**

4 "Motor vehicle" means any vehicle ~~((which))~~ that is self-propelled, used primarily for
5 transporting persons or property upon ~~((public))~~ highways and required to be licensed under
6 RCW 46.16.010. ~~(((Aircraft, watercraft and vehicles used exclusively on stationary rails or tracks
7 are not motor vehicles as that term is used in this chapter.)))~~

8
9 Section 12. Section 25.08.190 of the Seattle Municipal Code, which Section was adopted
10 by Ordinance 106360, is amended as follows:

11 **25.08.190 Motor vehicle racing event((:))**

12 "Motor vehicle racing event" means any competition between motor vehicles and/or off-
13 highway vehicles under the auspices of a sanctioning body recognized by the Administrator
14 under rules adopted in accordance with the Administrative Code, SMC Chapter 3.02.

15
16 Section 13. Section 25.08.230 of the Seattle Municipal Code, which Section was adopted
17 by Ordinance 106360, is amended as follows:

18 **25.08.230 Off-highway vehicle((:))**

19 "Off-highway vehicle" means any self-propelled motor-driven vehicle not used primarily
20 for transporting persons or property upon ~~((public))~~ highways nor required to be licensed under
21 RCW 46.16.010. The term "off-highway vehicle" ~~((shall))~~ does not include special construction
22 vehicles.
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1 Section 14. Section 25.08.270 of the Seattle Municipal Code, which Section was adopted
2 by Ordinance 106360, is amended as follows:

3 **25.08.270 ((Public highway)) Highway((.))**

4 ((“Public highway”)) “Highway” means the entire width between the boundary lines of
5 every way publicly maintained by the Washington State Department of ((Highways))
6 Transportation or any county or city when any part thereof is generally open to ((the use of)) the
7 public for purposes of vehicular travel ((as a matter of right)).

8
9 Section 15. Section 25.08.300 of the Seattle Municipal Code, which Section was adopted
10 by Ordinance 106360, is amended as follows:

11 **25.08.300 Real property((.))**

12
13 "Real property" means an interest or aggregate of rights in land ((which)) that is
14 guaranteed and protected by law; for purposes of this chapter, the term "real property" includes a
15 leasehold interest.

16
17 Section 16. Section 25.08.320 of the Seattle Municipal Code, which Section was adopted
18 by Ordinance 106360, is amended as follows:

19 **25.08.320 Sound level((.))**

20
21 "Sound level" means the weighted sound pressure level measured by the use of a
22 metering characteristic and weighted as specified in American National Standards Institute
23 Specifications, Section 1.4-((1971))1983, as it now exists or as hereafter amended. The sound
24 pressure level of a sound expressed in decibels is twenty (20) times the logarithm to the base ten
25 (10) of the ratio of the pressure of the sound to the reference sound pressure of twenty (20)

1 micropascals. In the absence of any specific modifier, the level is understood to be that of a
2 mean-square pressure.

3 Section 17. Section 25.08.330 of the Seattle Municipal Code, which Section was adopted
4 by Ordinance 106360, is amended as follows:

5 **25.08.330 Sound level meter((;))**

6 "Sound level meter" means a sound level measuring device, either Type I or Type II, as
7 defined by American National Standards Institute Specifications, Section 1.4 ((1971))1983, as it
8 now exists or as hereafter amended.
9

10 Section 18. Section 25.08.340 of the Seattle Municipal Code, which Section was adopted
11 by Ordinance 106360, is amended as follows:

12 **25.08.340 Special construction vehicle((;))**

13 "Special construction vehicle" means any vehicle ((which)) that is designed and used
14 primarily for grading, paving, earth moving, and other construction work((; and which)), that is
15 not designed or used primarily for the transportation of persons or property on a ((public))
16 highway((;)), and ((which)) that is only incidentally operated or moved over the highway.
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19 Section 19. Section 25.08.380 of the Seattle Municipal Code, which Section was adopted
20 by Ordinance 106360, is amended as follows:

21 **25.08.380 Weekday((;))**

22 "Weekday" means any day Monday through Friday ((which)) that is not a legal holiday.
23

24 Section 20. Section 25.08.390 of the Seattle Municipal Code, which Section was adopted
25 by Ordinance 106360, is amended as follows:
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28

1 **25.08.390 Weekend((~~τ~~))**

2 "Weekend" means Saturday and Sunday ~~((or any legal holiday))~~.

3 Section 21. Section 25.08.400 of the Seattle Municipal Code, which Section was adopted
4 by Ordinance 106360, is amended as follows:

5 **25.08.400 Unlawful sounds((~~τ~~))**

6 It is unlawful for any person to cause sound, or for any person in possession of property to
7 permit sound originating from such property, to intrude into the real property of another person
8 whenever such sound exceeds the ~~((maximum permissible))~~ exterior sound level((s)) limits
9 established by this subchapter.
10

11 Section 22. Section 25.08.410 of the Seattle Municipal Code, which Section was adopted
12 by Ordinance 106360, is amended as follows:

13 **25.08.410 ~~((Maximum permissible))~~ Exterior sound level((s)) limits((~~τ~~))**

14 A. The exterior sound level limits are based on the Leq during the measurement interval,
15 using a minimum measurement interval of 1 minute for a constant sound source, or a one-hour
16 measurement for a non-continuous sound source. For sound sources located within the City ~~((or~~
17 ~~King County))~~, the ~~((maximum permissible))~~ exterior sound level((s)) limits are as follows:
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<u>Exterior sound level limits</u>			
District of Sound Source	District of Receiving Property ((Within The City of Seattle))		
	Residential (dB(A)) <u>(Leq)</u>	Commercial ((Db(A))) (dB(A)) <u>(Leq)</u>	Industrial (dB(A)) <u>(Leq)</u>
((Rural))	((52))	((55))	((57))
Residential	55	57	60
Commercial	57	60	65
Industrial	60	65	70

B. During a measurement interval, Lmax may exceed the exterior sound level limits shown in subsection 25.08.410.A by no more than 15 dB(A).

Section 23. Section 25.08.420 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.420 Modifications to ~~((maximum permissible))~~ exterior sound level~~((s))~~ limits~~((z))~~

~~((The maximum permissible sound levels established by this subchapter shall be reduced or increased by the sum of the following:))~~

A. Between the hours of ~~((ten-))~~10~~((:00))~~ p.m. and ~~((seven-))~~7~~((:00))~~ a.m. during weekdays, and between the hours of ~~((ten-))~~10~~((:00))~~ p.m. and ~~((nine-))~~9~~((:00))~~ a.m. on weekends and legal holidays, the ~~((levels))~~exterior sound level limits established by Section 25.08.410 are reduced by ~~((ten-))~~10~~((:))~~ dB(A) where the receiving property lies within a residential district of the City.

B. For any source of sound ~~((which))~~ that ~~((is periodic, which))~~ has a pure tone component~~((, or which is impulsive and is not measured with an impulse sound level meter)),~~ the ~~((levels))~~exterior sound level limits established by this subchapter ~~((shall be))~~are reduced by

1 ~~((five-)5(0)) ((Db(A))dB(A); provided, however, ((that)) this ((five-)5(0)) dB(A) ((penalty~~
2 ~~for the emission of sound having a pure tone component)) reduction shall not be imposed on any~~
3 ~~electrical substation((, whether existing or new)).~~

4 C. For any source of sound that is impulsive and not measured with an impulse sound
5 level meter ((which is of short duration)), the ((levels))exterior sound level limits established by
6 this subchapter are ((increased by:)) reduced by ((five-)5(0)) dB(A).

- 7
8 ~~((1. Five (5) dB(A) for a total of fifteen (15) minutes in any one (1) hour period;~~
9 ~~or~~
10 ~~2. Ten (10) dB(A) for a total of five (5) minutes in any one (1) hour period; or~~
11 ~~3. Fifteen (15) dB(A) for a total of 1.5 minutes in any one (1) hour period.))~~

12
13 Section 24. Section 25.08.425 of the Seattle Municipal Code, which Section was last
14 amended by Ordinance 115041, is amended as follows:

15 **25.08.425 Sounds created by ((C))construction and maintenance equipment ((operations.))**

16 A. The ~~((maximum permissible))~~exterior sound level((s)) limits established by Sections
17 25.08.410 and 25.08.420, as measured from the property line of the real property of another
18 person or at a distance of ((fifty-)50(0)) feet from the construction or maintenance equipment
19 making the sound, whichever is greater, may be exceeded during the following times by the
20 sound levels specified in subsection 25.08.425.B for the types of equipment listed in that
21 subsection.

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23
24 1. Within Lowrise, Midrise, Highrise, Residential-Commercial and Neighborhood
25 Commercial zones, between 7 a.m. and 7 p.m. on weekdays and between 9 a.m. and 7 p.m. on

1 weekends and legal holidays, provided that if no property in residential use exists within 100 feet
2 of the property generating the sound, or if the equipment is being used for a public project, then
3 between 7 a.m. and 10 p.m. on weekdays and between the hours of 9 a.m. and 10 p.m. on
4 weekends and legal holidays.

5 2. Within all other zones, between 7 a.m. and 10 p.m. on weekdays and between
6 9 a.m. and 10 p.m. on weekends and legal holidays.

7 B. During the time periods specified in subsection 25.08.425.A, the exterior sound level
8 limits, as measured from the property line of the real property of another person or at a distance
9 of 50 feet from the construction or maintenance equipment making the sound, whichever is
10 greater, may be exceeded ~~((between the hours of seven (7:00) a.m. and ten (10:00) p.m. on~~
11 ~~weekdays and between the hours of nine (9:00) a.m. and ten (10:00) p.m. on weekends))~~ by no
12 more than the following dB(A)'s for the following types of equipment:
13

14 1. Twenty-five ~~((25))~~dB(A) for equipment on construction sites, including but
15 not limited to crawlers, tractors, dozers, rotary drills and augers, loaders, power shovels, cranes,
16 derricks, graders, off-highway trucks, ditchers, trenchers, compactors, compressors, and
17 pneumatic-powered equipment;
18

19 2. Twenty ~~((20))~~dB(A) for portable powered equipment used in temporary
20 locations in support of construction activities or used in the maintenance of public facilities,
21 including but not limited to chainsaws, log chippers, lawn and garden maintenance equipment,
22 and powered hand tools; or
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1 3. Fifteen ~~((15))~~ dB(A) for powered equipment used in temporary or periodic
2 maintenance or repair of the grounds and appurtenances of residential property, including but not
3 limited to lawnmowers, powered hand tools, snow-removal equipment, and composters.

4 ~~((B-))~~ C. Sounds created by impact types of ~~((construction))~~ equipment, including but not
5 limited to pavement breakers, piledrivers, jackhammers, sandblasting tools, or by other types of
6 equipment ~~((or devices which))~~ that create impulse ~~((noise))~~ sound or impact ~~((noise))~~ sound or are
7 used as impact equipment, as measured at the property line or ~~((fifty-))~~ 50 ~~(())~~ feet from the
8 equipment, whichever is greater, may exceed the ~~((maximum))~~ exterior sound level limits
9 established in subsection ~~((A))~~ 25.08.425.B ~~((of this section))~~ in any one ~~((1))~~ hour period
10 between the hours of ~~((eight-))~~ 8 ~~((:00))~~ a.m. and ~~((five-))~~ 5 ~~((:00))~~ p.m. on weekdays and ~~((nine-))~~
11 ~~(())~~ 9 ~~((:00))~~ a.m. and ~~((five-))~~ 5 ~~((:00))~~ p.m. on weekends and legal holidays, but in no event ~~((to))~~
12 may the sound level exceed the following:
13

- 14 1. ~~((Le-q))~~ Leq ~~((ninety-))~~ 90 ~~(())~~ dB(A) continuously;
- 15 2. ~~((Le-q))~~ Leq ~~((ninety-three-))~~ 93 ~~(())~~ dB(A) for ~~((thirty-))~~ 30 ~~(())~~ minutes;
- 16 3. ~~((Le-q))~~ Leq ~~((ninety-six-))~~ 96 ~~(())~~ dB(A) for ~~((fifteen-))~~ 15 ~~(())~~ minutes; or
- 17 4. ~~((Le-q))~~ Leq ~~((ninety-nine-))~~ 99 ~~(())~~ dB(A) for ~~((seven-and-one-half-))~~ 7-1/2 ~~(())~~
18 minutes; provided that sound levels in excess of ~~((Le-q))~~ Leq ~~((ninety-nine-))~~ 99 ~~(())~~ dB(A) are
19 prohibited unless authorized by variance obtained from the Administrator; and provided further
20 that sources producing sound levels less than ~~((ninety-))~~ 90 ~~(())~~ dB(A) shall comply with
21 subsection 25.08.425.A and B of this section during those hours not covered by this subsection
22

23 ~~((B))~~ 25.08.425.C.
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1 ~~((a.))~~ D. The standard of measurement shall be a one ~~((+))~~ hour ~~((L-eq))~~ Leq. ~~((L-eq))~~
2 Leq may be measured for times not less than one ~~((+))~~ minute to project an hourly ~~((L-eq))~~ Leq.
3 Reference to one ~~((+))~~ hour is for measurement purposes only and shall not be construed as
4 limiting construction or maintenance to a one ~~((+))~~ hour period.

5 E. ~~((b. These subsections A and B))~~ The exterior sound level limits established in this
6 section shall be reviewed periodically by the City to assure that the exterior sound level limits are
7 technically feasible.

8 ~~((C.))~~ F. Construction or maintenance equipment ~~((activity))~~ that exceeds the ~~((maximum~~
9 ~~permissible))~~ exterior sound level ~~((s))~~ limits established by Section 25.08.410, when measured
10 from the interior of buildings within a commercial district, is prohibited between the hours of
11 ~~((eight-))~~8~~((:00))~~ a.m. and ~~((five-))~~5~~((:00))~~ p.m. For purposes of this subsection~~((C.))~~, interior
12 sound levels shall be measured only after every reasonable effort, including but not limited to
13 closing windows and doors, is taken to reduce the impact of the exterior construction noise.

14 Section 25. Section 25.08.430 of the Seattle Municipal Code, which Section was last
15 amended by Ordinance 120481, is amended as follows:

16 **25.08.430 Sounds created by operation of motor vehicles~~((:))~~**

17 It is unlawful for any person to operate upon any ~~((public))~~ highway any motor vehicle or
18 any combination of motor vehicles under any conditions of grade, load, acceleration or
19 deceleration in such a manner ~~((se))~~ that the motor vehicle's exhaust noise exceeds ~~((ninety-five~~
20 ~~))~~95~~(())~~ decibels as measured by the Society of Automotive Engineers (SAE) test procedure

21 J1169 (May 1998).

1 Section 26. Section 25.08.470 of the Seattle Municipal Code, which Section was adopted
2 by Ordinance 106360, is amended as follows:

3 **25.08.470 Sale of new motor vehicles ~~((which))~~ that exceed ~~limits((s))~~**

4 It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-
5 highway vehicle, ~~((which))~~ that produces a ~~((maximum))~~ sound level exceeding the following
6 ~~((maximum permissible))~~ exterior sound level~~((s))~~ limits at a distance of ~~((fifty-))50((s))~~ feet, by
7 acceleration test procedures established by the State Commission on Equipment:
8

9

Vehicle Category	dB(A)
Motorcycles manufactured after 1975	83
Any motor vehicle over 10,000 pounds gross vehicle weight rating (GVWR) manufactured after 1975 and prior to 1978	86
Any motor vehicle over 10,000 pounds GVWR manufactured <u>during or after</u> 1978	83
All other motor vehicles	80

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17 Section 27. Section 25.08.480 of the Seattle Municipal Code, which Section was adopted
18 by Ordinance 106360, is amended as follows:

19 **25.08.480 Motor vehicle exemptions~~((s))~~**

20 Sounds created by motor vehicles are exempt from the ~~((maximum permissible))~~ exterior
21 sound level~~((s))~~ limits of Subchapter III, except that sounds created by any motor vehicle
22 operated off ~~((public))~~ highways shall be subject to the exterior sound level~~((s))~~ limits of
23 Subchapter III when the sounds are received within a residential district of the City.
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1 Section 28. Section 25.08.485 of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 109099, is amended as follows:

3 **25.08.485 Watercraft~~(s)~~**

4 A. It is unlawful for any person to operate any watercraft in such a manner as to exceed
5 the following ~~((maximum noise limits))~~ exterior sound level limits when measured within ~~((fifty~~
6 ~~))50((s))~~ feet of the shoreline or anywhere within a receiving property:

7
8 1. At any hour of the day or night, the limit for any receiving property ~~((shall be))~~
9 is ~~((seventy-four(s))74((s)))~~ dB(A), except that;

10 2. Between ~~((sunset and sunrise))~~ 10 p.m. and 7 a.m. the limit for any receiving
11 property within a residential ~~((or rural))~~ district ~~((shall be))~~ is ~~((sixty-four(s))64((s)))~~ dB(A). ~~((For~~
12 ~~the purpose of administering and enforcing this section, sunset will be interpreted as ten (10:00)~~
13 ~~p.m. and sunrise will be interpreted as seven (7:00) a.m.))~~

14
15 B. It is unlawful for any person to operate any watercraft, except aircraft, ~~((which))~~ that is
16 not equipped with a functioning underwater exhaust or a properly installed and adequately
17 maintained muffler. Any of the following defects in the muffling system ~~((shall constitute))~~ is a
18 violation of this subsection:

- 19
20 1. The absence of a muffler;
- 21 2. The presence of a muffler cutout, bypass, or similar device ~~((which))~~ that is not
22 standard or normal equipment for the exhaust system being inspected;
- 23 3. Defects in the exhaust system including, but not limited to, pinched outlets,
24 holes, or rusted-through areas of the muffler or pipes; and
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1 4. The presence of equipment ~~((which))~~ that will produce excessive or unusual
2 noise from the exhaust system. Dry stacks or water-injected stacks not containing a series of
3 chambers or mechanical designs effective in reducing sound shall not be considered as
4 adequately maintained mufflers.

5 C. The following exemptions ~~((shall))~~ apply to sounds created by watercraft or watercraft
6 operations:
7

8 1. Normal docking, undocking, and water skier pick-up and drop-off operations of
9 all watercraft ~~((shall be))~~ are exempt from ~~the~~ provisions in subsection 25.08.485.A;

10 2. Sounds created by the operation of commercial, nonrecreational watercraft are
11 exempt at all times ~~((for))~~ from provisions of this chapter. These commercial activities include,
12 but are not limited to, tugboats, fishing boats, ferries, and vessels engaged in intrastate, interstate,
13 or international commerce;

14 3. Sounds created by boat races and regattas, and trials ~~((therefor as))~~ sanctioned
15 by the Chief of Police acting as Port Warden pursuant to ~~((Section 27 of Ordinance 879831))~~
16 Section 16.20.160 as amended, are exempt from provisions in this section and in this chapter
17 between the hours of ~~((seven-))7((:00))~~ a.m. and ~~((ten-))10((:00))~~ p.m. on weekdays and
18 between the hours of ~~((nine-))9((:00))~~ a.m. and ~~((ten-))10((:00))~~ p.m. on weekends and legal
19 holidays.
20
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22 D. Nothing in this section shall be construed to limit the powers of the Chief of Police
23 ~~((acting as Port Warden, as))~~ enumerated in Section 16.12.010 ~~((3 of Ordinance 879832 as~~
24 amended)).
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1 Section 29. Section 25.08.510 of the Seattle Municipal Code, which Section was adopted
2 by Ordinance 106360, is amended as follows:

3 **25.08.510 Exempted sources((;))**

4 No sound source specifically exempted from ~~((a maximum permissible))~~ exterior sound
5 level limits by this chapter ~~((shall be))~~ is a public nuisance noise or public disturbance noise ~~((;~~
6 ~~insofar as the particular source is exempted))~~).

7
8 Section 30. Section 25.08.530 of the Seattle Municipal Code, which Section was last
9 amended by Ordinance 112976, is amended as follows:

10 **25.08.530 Sounds exempt at all times((;))**

11 A. The following sounds are exempt from the provisions of this chapter at all times:

- 12 1. Sounds originating from aircraft in flight, and sounds ~~((which))~~ that originate at
13 airports and are directly related to flight operations;
14
15 2. Sounds created by safety and protective devices, such as relief valves, where
16 noise suppression would defeat the safety release intent of the device;
17
18 3. Sounds created by fire alarms;
19
20 4. Sounds created by emergency equipment and emergency work necessary in the
21 interests of law enforcement or of the health, safety or welfare of the community;
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23 5. ~~((Sounds created by the discharge of firearms in the course of lawful hunting~~
24 ~~activities;~~
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1 ~~((7.))~~ 6. Sounds originating from forest harvesting and silviculture activity and
2 from commercial agriculture, if the receiving property is located in a commercial or industrial
3 district of the City;

4 ~~((8.))~~ 7. Sounds created by auxiliary equipment on motor vehicles while used for
5 highway surface maintenance; and
6

7 ~~((9.))~~ 8. Sounds created by warning devices or alarms not operated continuously
8 for more than ~~((thirty-))~~30~~(())~~ minutes per incident.

9 Section 31. Section 25.08.540 of the Seattle Municipal Code, which Section was last
10 amended by Ordinance 112976, is amended as follows:

11 **25.08.540 Sounds exempt during daytime hours – Generally~~((:))~~**
12

13 A. The following sounds are exempt from the provisions of this chapter between the
14 hours of ~~((seven-))~~7~~((:00))~~ a.m. and ~~((ten-))~~10~~((:00))~~ p.m. on weekdays and between the hours
15 of ~~((nine-))~~9~~((:00))~~ a.m. and ~~((ten-))~~10~~((:00))~~ p.m. on weekends and legal holidays;
16

17 1. Sounds created by bells, chimes, or carillons not operating for more than ~~((five~~
18 ~~))~~5~~(())~~ minutes in any one ~~((1))~~ hour;

19 2. Unamplified sounds originating from officially sanctioned parades and other
20 public events;

21 3. Sounds created by the discharge of firearms on legally established shooting
22 ranges;
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24 4. Sounds created by blasting; and
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1 5. Sounds originating from forest harvesting and silviculture activity and from
2 commercial agriculture, if the receiving property is located in a residential district of the City.
3 The Administrator is authorized to promulgate regulations ~~((which))~~ that extend the hours during
4 which this exemption ~~((shall be))~~ is in effect to conform with operating laws designated by the
5 Washington State Department of Natural Resources in directing an official fire closure.
6

7 Section 32. Section 25.08.545 of the Seattle Municipal Code, which Section was last
8 amended by Ordinance 108498, is amended as follows:

9 **25.08.545 Sounds exempt during daytime hours-Aircraft testing and maintenance~~((:))~~**

10 Sounds created by the testing or maintenance of aircraft, or of components of aircraft, are
11 exempt from the provisions of this chapter between the hours of ~~((seven-))7~~((:00))~~~~ a.m. and
12 ~~((ten-))10~~((:00))~~~~ p.m. on weekdays and between ~~((nine-))9~~((:00))~~~~ a.m. and ~~((ten-))10~~((:00))~~~~
13 p.m. on weekends and legal holidays, when performed according to the following instructions:
14

15 A. Testing and maintenance for any aircraft or component not connected thereto shall be
16 performed at an airport designated as such by the Federal Aviation Administration prior to April
17 1, 1979, or designated as such by the Administrator at any time.
18

19 B. If the testing or maintenance is performed at the King County International Airport, the
20 aircraft or component shall be entirely within the ultimate airport property line as shown on the
21 map entitled "King County International Airport - Airport Layout Plan" (prepared December 1,
22 1976, revised October 10, 1978), and at areas designated by the Airport Manager~~((:))~~. It is
23 intended that this map be the reference map regardless of any future changes, provided that the
24 Administrator may grant exceptions to this subsection for good cause shown. A copy of the King
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1 County International Airport Layout Plan Map is on file in the City Clerk's office (C.F. 288269),
2 at the office of the Airport Manager of the King County International Airport, and at the Planning
3 and Research Department of the Port of Seattle.

4 Section 33. Section 25.08.550 of the Seattle Municipal Code, which Section was adopted
5 by Ordinance 106360, is amended as follows:

6 **25.08.550 Sounds exempt from nighttime reduction((;))**

7 The following sounds are exempt from the provisions of Section 25.08.420.A:

8 A. Sounds created by existing stationary equipment used in the conveyance of water by a
9 utility; and

10 B. Sounds created by existing electrical substations. ((;

11 C. ~~Sounds created by sources in industrial districts which, over the previous three (3)~~
12 ~~years, have consistently operated in excess of fifteen (15) hours per day as a demonstrated routine~~
13 ~~or as a consequence of process necessity; provided that such exemption shall only extend to five~~
14 ~~(5) years after the effective date of the ordinance codified in this chapter.<1> Changes in working~~
15 ~~hours or activity which would increase the noise emitted under this exemption require the~~
16 ~~approval of the Administrator, given under rules adopted in accordance with the Administrative~~
17 ~~Code.<2>))~~

18 Section 34. Section 25.08.560 of the Seattle Municipal Code, which Section was last
19 amended by Ordinance 110047, is amended as follows:

20 **25.08.560 Application--Generally((;))**

1 Any person who owns or is in possession of any property or use, or any process or
2 equipment, may apply to the Administrator for a variance granting relief from the requirements
3 of any provision of this chapter other than ~~((Section))~~ Sections 25.08.500 or 25.08.505, or ~~from~~
4 the rules or regulations promulgated hereunder governing the quality, nature, duration or extent
5 of discharge of noise. In a proper case, ((the)) a variance may apply to all sources of a particular
6 class or type. The application shall be accompanied by such information and data as the
7 Administrator may require. In accordance with the Administrative Code, SMC Chapter 3.02, the
8 Administrator shall promulgate rules and regulations governing application for and granting of
9 such variances ~~((, including hearings and notice))~~.

10
11
12 Section 35. Section 25.08.590 of the Seattle Municipal Code, which Section was last
13 amended by Ordinance 107377, is amended as follows:

14 **25.08.590 Granting of variance**~~((,))~~

15 A. No variance shall be granted ~~((pursuant to Sections 25.08.560 through 25.08.620))~~
16 until the Administrator has considered the relative interests of the applicant, other owners or
17 possessors of property likely to be affected by the noise, and the general public.

18
19 B. A technical, ~~((or))~~ economic, or major public project construction variance may be
20 granted only after notice and an opportunity for public comment in accordance with rules
21 adopted by the Administrator ~~((a public hearing on due notice))~~.

22
23 C. The Administrator may grant a variance~~((,))~~ if ~~((he))~~ the Administrator finds that:

24 ~~((A.))~~ 1. The noise occurring or proposed to occur does not endanger public health
25 or safety; and

1 ~~((B-))2.~~ The applicant demonstrates that the criteria required for the ~~((temporary,~~
2 ~~technical or economic))~~ variance ~~((under Sections 25.08.610 through 25.08.630))~~ are met.

3 D. Noise Management and Mitigation Plan. As part of the application for a variance, an
4 applicant must submit a Noise Management and Mitigation Plan to be approved by the
5 Administrator. A Noise Management and Mitigation Plan must contain the following
6 components, except that the Administrator may modify the required components for a temporary
7 noise variance as the Administrator determines appropriate to fit the circumstances surrounding
8 the requested temporary variance:

9 1. A description of the exterior sound level limits of the chapter expected to be
10 exceeded, estimates of the amount(s) by which these levels are expected to be exceeded and by
11 what equipment, the exterior sound level limits that will be in effect during the variance, the time
12 periods during which the pre-variance exterior sound level limits may be exceeded, and the
13 expected sources of the sound during each of the time periods (e.g., types of equipment or
14 activity causing the exterior sound level limits to be exceeded);

15 2. Measures and provisions to be taken to avoid exceeding the exterior sound
16 level limits of this chapter.

17 3. Provisions to mitigate sounds that exceed the exterior sound level limits and
18 that cannot otherwise be avoided.

19 4. A process for informing the public in the affected areas about the provisions of
20 the variance.

1 E. The Administrator may impose conditions, including but not limited to conditions
2 relating to types of equipment, hours of use, and duration, to mitigate the adverse impacts of
3 granting the variance. The Administrator may also include conditions proposed by the applicant
4 as part of the variance application. Compliance with the Noise Management and Mitigation Plan
5 approved by the Administrator is a condition of every variance.

6 F. A temporary variance shall be effective on the effective date stated on the variance
7 form. Any other variance shall be effective 30 days following the mailing of the decision granting
8 the variance, unless it is appealed to the Hearing Examiner, in which case the effective date is the
9 date of the Hearing Examiner's written decision on the appeal.

10 Section 36. Section 25.08.600 of the Seattle Municipal Code, which Section was last
11 amended by Ordinance 107377, is amended as follows:

12 **25.08.600 ((Renewal)) Extension of variances((;))**

13 A. Technical, economic and major public project construction variances((Variances,
14 except temporary variances;)) granted pursuant to this chapter may be((renewed)) extended on
15 terms and conditions and for periods((which)) that would be appropriate on the initial granting of
16 a variance. No((renewal)) extension of a technical, economic or major public project construction
17 variance shall be granted except on application made at least ((sixty-))60((;)) days prior to the
18 expiration of the variance and after public notice in accordance with rules adopted by the
19 Administrator.

20 B. Temporary variances may not be extended, but more than one temporary variance may
21 be granted on a project.

1 Section 37. Section 25.08.610 of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 107377, is amended as follows:

3 **25.08.610 Appeal procedure(=)**

4 A. Any person aggrieved by the denial, ((grant)) approval, or the terms and conditions
5 imposed on ((the grant of an application for)) a variance, except a temporary variance, or
6 ((renewal)) by the extension of a variance by the Administrator, may appeal such decision ((to
7 the Hearing Examiner under procedures contained in Subchapter IX)) by filing an appeal in
8 writing with the Hearing Examiner by 5 p.m. of the tenth day following the date of the issuance
9 of the decision on a variance application. When the last day of the appeal period is a Saturday,
10 Sunday, or federal or City holiday, the appeal may be filed until 5 p.m. on the next business day.

11 B. In form and content, the appeal shall conform to the rules of the Hearing Examiner.

12 C. The Hearing Examiner shall consider the appeal in accordance with the procedure
13 established for hearing contested cases under the Administrative Code, SMC Chapter 3.02.

14 D. Appeals shall be considered de novo, and the Administrator's decision on the variance
15 shall be given no deference.

16 E. The Hearing Examiner may affirm, reverse or modify the Administrator's decision or
17 remand to the Administrator for additional review and analysis.

18 F. The Hearing Examiner shall issue a written decision within 15 days of the conclusion
19 of the hearing.

1 G. The decision of the Hearing Examiner is the final decision of the City, and the
2 appellant and the Administrator are bound by the terms and conditions of the Hearing
3 Examiner's decision.

4 Section 38. A new Section 25.08.615 of the Seattle Municipal Code, is adopted to read
5 as follows:

6 **25.08.615 Revocation of Variance**

7 A. Standards for revocation. Any noise variance other than a temporary variance may be
8 revoked if:
9

10 1. The noise code or the conditions of the variance have been, or are being
11 violated and issuance of a notice of violation or stop work order has been, or would be
12 ineffective to secure compliance because of circumstances related to the violation; or

13 2. The variance was obtained with false or misleading information.

14 B. Notice of Revocation. Whenever the Administrator determines there are grounds for
15 revoking a variance, the Administrator may issue a Notice of Revocation.
16

17 1. The Notice of Revocation shall identify the reason for the proposed revocation,
18 including the violations, the conditions violated, and/or the alleged false or misleading
19 information provided.
20

21 2. The Notice of Revocation shall be served on the owner of the property on
22 which the work is occurring, the holder of the variance, and the person doing or causing the work
23 to be done.
24

1 3. The Notice of Revocation shall be served in the manner set forth in RCW
2 4.28.080 for service of a summons or sent by first class mail. The Notice of Revocation may also
3 be posted in a conspicuous place on the site. For purposes of this section, service is complete at
4 the time of personal service, or if mailed, three days after the date of mailing. When the last day
5 of the period so computed is a Saturday, Sunday or City holiday, the period runs until 5 p.m. on
6 the next business day.

7
8 4. The Administrator shall identify in the Notice of Revocation a date certain on
9 which the revocation will take effect unless review before the Administrator is requested and
10 pursued pursuant to subsection 25.08.615.C .

11 C. Review by the Administrator.

12
13 1. Any person aggrieved by a Notice of Revocation of a noise variance may
14 obtain a review by making a request in writing to the Administrator within three business days of
15 the date of service of the Notice of Revocation.

16 2. The review shall occur within five business days after receipt by the
17 Administrator of the request for review.

18 3. Any person aggrieved by or interested in the Notice of Revocation may submit
19 additional information to the Administrator for consideration as part of the review at any time
20 prior to the review.

21 4. The review will be made by a representative of the Administrator who will
22 review all additional information received and may also request a site visit. After the review, the
23 Administrator may:
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1 a. Sustain the Notice of Revocation and set or modify the date the
2 revocation will take effect;

3 b. Withdraw the Notice of Revocation;

4 c. Modify the Notice of Revocation and set or modify the date the
5 revocation will take effect; or

6 d. Continue the review to a date certain for receipt of additional
7 information.
8

9 D. Order of the Administrator.

10 1. The Administrator shall issue an Order of the Administrator containing the
11 decision within ten days after the review and shall cause the same to be sent by first class mail to
12 the person or persons requesting the review, any other person on whom the Notice of Revocation
13 was served, and any other person who requested a copy before issuance of the Order of the
14 Administrator.
15

16 2. The Order of the Administrator is the final order of the City and the City and all
17 parties shall be bound by the Order unless judicial review is sought pursuant to subsection
18 25.08.615.E.
19

20 E. Judicial Review. Any judicial review must be commenced pursuant to RCW 36.70C
21 within 21 days after issuance of the Order of the Administrator.
22

23 Section 39. Section 25.08.630 of the Seattle Municipal Code, which Section was adopted
24 by Ordinance 106360, is amended as follows:

25 ~~25.08.630~~ Temporary variance((:))
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1 The Administrator may grant a temporary variance, not to exceed ~~((fourteen (14)))~~ 14 ~~((3))~~
2 days, for any activity, use, process or equipment ~~((which))~~ that the Administrator determines, in
3 accordance with rules and regulations, does not annoy a substantial number of ~~((the))~~ people and
4 does not endanger public health or safety.

5
6 Section 40. Section 25.08.640 of the Seattle Municipal Code, which Section was adopted
7 by Ordinance 106360, is amended as follows:

8 **25.08.640 Technical variance~~((:))~~**

9 A technical variance may be granted by the Administrator on the ground that there is no
10 practical means known or available for the adequate prevention, abatement or control of the noise
11 involved. ~~((Any technical variance shall be subject to the holder's taking of any alternative
12 measures that the Administrator may prescribe.))~~ The Administrator shall determine the duration
13 of each technical variance ~~((shall be until such practical means for prevention, abatement or
14 control become known or available)).~~ The holder of a technical variance ~~((, as required by the
15 Administrator,))~~ shall make reports to the Administrator, on a schedule prescribed by the
16 Administrator, detailing actions taken to develop a means of noise control or to reduce the noise
17 involved and ~~((must relate))~~ relating these actions to pertinent current technology.
18
19

20 Section 41. Section 25.08.650 of the Seattle Municipal Code, which Section was adopted
21 by Ordinance 106360, is amended as follows:

22 **25.08.650 Economic variance~~((:))~~**

23 An economic variance may be granted by the Administrator on the ground that
24 compliance with the particular requirement or requirements from which the variance is sought
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1 will require the taking of measures ((which)) that, because of their extent or cost, must be spread
2 over a period of time. The duration of an economic variance shall be for a period not to exceed
3 such reasonable time as is required in the view of the Administrator for the taking of the
4 necessary measures. An economic variance shall contain a timetable for the taking of action in
5 an expeditious manner and shall be conditioned on adherence to the timetable.
6

7 Section 42. A new Section 25.08.655 of the Seattle Municipal Code, is adopted to read
8 as follows:

9 **25.08.655 Major Public Project Construction Variance**

10 A. The Administrator may grant a major public project construction variance to provide
11 relief from the exterior sound level limits established by this chapter during the construction
12 periods of major public projects. A major public project construction variance shall provide
13 relief from the exterior sound level limits during the construction or reconstruction of a major
14 public project only to the extent the applicant demonstrates that compliance with the levels
15 would:
16

17 1. Be unreasonable in light of public or worker safety or cause the applicant to
18 violate other applicable regulations, including but not limited to regulations that reduce impacts
19 on transportation infrastructure or natural resources; or
20

21 2. Render the project economically or functionally unreasonable due to factors
22 such as the financial cost of compliance or the impact of complying for the duration of the
23 construction or reconstruction of the major public project.
24

1 B. A major public project construction variance shall set forth the period or periods
2 during which the variance is effective, which period or periods shall be the minimum reasonably
3 necessary in light of the standard set forth in subsection A, and the exterior sound level limits
4 that will be in effect during the period of the variance. Different major public project
5 construction variances may be issued for distinct phases of a construction project, or one major
6 public project construction variance may be issued for the entire major public project. The
7 period or periods during which a major public project construction variance is effective may be
8 stated in terms of calendar dates or in terms of the duration of a construction project or a phase or
9 phases of a construction project.
10

11 C. The Administrator shall condition a major public project construction variance as
12 necessary to provide reasonable control or mitigation of the construction noise that may be
13 expected to occur pursuant to the variance.
14

15 D. One-year review and decision.

16 1. No later than one year after the start of construction to which a major public project
17 construction variance applies, the Administrator shall review, and provide opportunity for public
18 comment on, the operation of the variance during the first year, including the provisions of the
19 Noise Management and Mitigation Plan, and the conditions of the variance. For purposes of
20 determining the date of the start of the project's construction work, site exploration work is
21 excluded.
22

23 2. After considering the public comments received, the Administrator may modify the
24 terms and conditions of the variance or the Noise Management and Mitigation plan as needed if
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1 the Administrator determines that the current variance, the conditions of the variance, or the
2 Noise Management and Mitigation Plan are not adequately protecting the public health and safety
3 or reasonably controlling or mitigating the construction noise, or that there are more reasonable
4 methods of doing so.

5
6 3. The Administrator shall make a decision either to modify or not modify a variance
7 pursuant to this review within one-year and 90 days after the start of construction work as
8 provided in subsection 25.08.655.D.1.

9
10 4. The decision of the Administrator to modify or not modify a variance pursuant to this
11 subsection 25.08.655.D is a final decision of the City for purposes of RCW chapter 36.70C, and
12 is effective 30 days from the date of the decision, unless otherwise ordered by a court. If a court
13 stays the effective date of the decision, the original unmodified variance shall remain in effect
14 during the stay.

15 Section 43. Section 25.08.670 of the Seattle Municipal Code, which Section was adopted
16 by Ordinance 106360, is amended as follows:

17
18 **25.08.670 Duties of Administrator((=))**

19 The duties of the Administrator ((shall)) include, but are not limited to:

- 20 A. Obtaining assistance from other appropriate City departments and divisions;
21 B. Training field inspectors;
22 C. Purchasing measuring instruments and training inspectors in their calibration and use;
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1 D. Promulgating and publishing rules and procedures, in accordance with the
2 Administrative Code, SMC Chapter 3.02, to establish techniques for measuring or reducing noise
3 and to provide for clarification, interpretation, and implementation of this chapter;

4 E. Investigating ((citizens')) noise complaints;

5 F. ((Issuing orders for the reduction or elimination of noise)) Enforcement of this chapter
6 in accordance with Subchapter IX;

7 G. Assisting ((citizens)) the public and City departments in evaluating and reducing the
8 noise impact of their activities;

9 H. Assisting City planning officials in evaluating the noise component in planning and
10 zoning actions;

11 I. Instituting a public education program on noise; and

12 J. Reviewing at least every three ((3)) years the provisions of this chapter and
13 recommending revisions consistent with technology to reduce noise.

14 Section 44. Section 25.08.680 of the Seattle Municipal Code, which Section was adopted
15 by Ordinance 106360, is amended as follows:

16 **25.08.680 Measurement of sound((;))**

17 If the measurements of sound are made with a sound level meter, it shall be an instrument
18 in good operating condition and shall meet the requirements for a Type I or Type II instrument,
19 as described in American National Standards Institute Specifications, Section 1.4-((1971))1983,
20 as it now exists or as hereafter amended. If the measurements are made with other instruments,
21 or assemblages of instruments, the procedure must be carried out in such manner that the overall
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1 accuracy shall be at least that called for in Section 1.4-~~((1971))~~1983, as it now exists or as
2 hereafter amended for Type II instruments.

3 Section 45. Section 25.08.700 of the Seattle Municipal Code, which Section was adopted
4 by Ordinance 106360, is amended as follows:

5 **25.08.700 Receiving properties within more than one district~~((,))~~**

6 Where a receiving property lies within more than one district, the ~~((maximum~~
7 ~~permissible))~~ exterior sound level~~((s))~~ limits shall be determined by the district within which the
8 measurement is made.

9
10 Section 46. Section 25.08.710 of the Seattle Municipal Code, which Section was last
11 amended by Ordinance 110047, is amended as follows:

12 **25.08.710 Right of entry ~~((--Administrator.))~~**

13 Upon presentation of proper credentials, and ~~((the Administrator,))~~ with the consent of
14 the occupant ~~((, or with))~~ or the consent of the owner of any unoccupied building, structure,
15 property or portion thereof, or pursuant to a lawfully issued warrant, the Administrator or the
16 Administrator's designee may enter at all reasonable times, any building, structure, property or
17 portion thereof ~~((to inspect the same))~~ whenever necessary to make an inspection to enforce or
18 determine compliance with the provisions of this chapter, ~~((over which he has enforcement~~
19 ~~responsibility or whenever he has cause to believe that a violation of any provision of this chapter~~
20 ~~other than Section 25.08.500 has been or is being committed; provided, if))~~ If the building,
21 structure, property or portion thereof is unoccupied, the Administrator shall, except in case of
22 emergency first ~~((make a reasonable effort to))~~ locate the owner or other persons having charge
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1 or control of the building, structure, property or portion thereof and ~~((demand))~~ request entry. ~~((If~~
2 ~~the Administrator is unable to locate the owner or such other persons and he has reason to~~
3 ~~believe that conditions therein create an immediate and irreparable health hazard, then he shall~~
4 ~~make entry.))~~

5
6 Section 47. A new Section 25.08.720 of the Seattle Municipal Code, is adopted to read
7 as follows:

8 **25.08.720 Stop Work Order**

9
10 A. Stop Work Order. A Stop Work Order may be issued whenever a violation of this
11 Code or a violation of the conditions of a variance threatens the health or safety of the public or
12 materially impairs the Administrator's ability to secure compliance with this Code.

13 1. The Stop Work Order must specify the violation and may prohibit all or any
14 work or other activity at the site that is a cause of the code violation or the violation of the
15 variance condition.

16
17 2. The Administrator may serve the Stop Work Order by posting it in a
18 conspicuous place at the site, if posting is physically possible. If posting is not physically
19 possible, then the Stop Work Order may be served in the manner set forth in RCW 4.28.080 for
20 service of a summons or by sending it by first class mail to the last known address of: the
21 property owner(s), the person(s) doing or causing the work to be done, and the holder of any
22 variance if work is being stopped on a variance. For purposes of this section, service is complete
23 at the time of posting or of personal service, or if mailed, three days after the date of mailing.
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1 When the last day of the period so computed is a Saturday, Sunday or City holiday, the period
2 runs until 5 p.m. on the next business day.

3 3. A Stop Work Order is effective when posted, or if posting is not physically
4 possible, when one of the persons identified in subsection 25.08.720 A.2 is served.

5 B. Review by the Administrator.

6
7 1. Any person aggrieved by a Stop Work Order may obtain a review of the Stop
8 Work Order by delivering to the Department a request in writing within two business days of the
9 date of service of the Stop Work Order.

10 2. The review shall occur within two business days after receipt by the
11 Administrator of the request for review unless the requestor requests or agrees to a longer time.

12 3. Any person aggrieved by or interested in the Stop Work Order may submit
13 additional information to the Administrator for consideration as part of the review at any time
14 prior to the review.

15 4. The review will be made by a representative of the Administrator who will
16 review all additional information received and may also request a site visit. After the review, the
17 Administrator may:

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19
20 a. Sustain the Stop Work Order;
21 b. Withdraw the Stop Work Order;
22 c. Modify the Stop Work Order; or
23 d. Continue the review to a date certain for receipt of additional
24 information.
25

1 C. Order of the Administrator. The Administrator shall issue an Order of the
2 Administrator containing the decision within two business days after the review and shall cause
3 the same to be sent by first class mail to the person or persons requesting the review, any person
4 on whom the stop work order was served, and any other person who requested a copy before
5 issuance of the Order. The City and all parties shall be bound by the Order.
6

7 Section 48. Section 25.08.730 of the Seattle Municipal Code, which Section was last
8 amended by Ordinance 110047, is amended as follows:

9 **25.08.730 Notice of Violation~~((and order.))~~**

10 A. ~~((Unless provided otherwise))~~ In addition to other remedies provided by this chapter or
11 by law, whenever the Administrator has reason to believe that an~~((maximum~~
12 ~~permissible))~~exterior sound level~~((of Subchapter III))~~ limit established by this chapter is being or
13 has been exceeded, that a public nuisance noise is being emitted, ~~((or))~~ that the terms of a
14 variance have not been met or are being violated, or that any other provision of this chapter that
15 the Administrator is authorized to enforce is being violated, ~~((he))~~ the Administrator may
16 ~~((initiate an administrative proceeding as provided by Subchapter IX, and serve))~~ issue a written
17 notice of violation ~~((and order directed))~~ to the owner or operator of the source, or to the holder
18 of ~~((the))~~ a variance. ~~((One (1) copy shall also be posted on the property or source, if reasonably~~
19 possible, and another copy shall be mailed to each complainant (if any) about the noise;
20 additional copies may be mailed by the Administrator to such other interested or affected persons
21 as the Administrator deems appropriate.))
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1 B. The notice of violation shall contain a brief and concise description of the conditions
2 alleged to be in violation (~~(or to be a public nuisance noise)~~), the provision(s) of this Chapter
3 alleged to have been violated, the sound level readings, if taken, including the time and place of
4 their recording, (~~(- C. The order shall contain)~~) a statement of the corrective action required, and
5 if applicable, (~~(shall specify)~~) a reasonable time for correction (~~(within which the action must be~~
6 ~~accomplished)~~).

7
8 C. Nothing in this section shall be deemed to limit or preclude any action or proceeding
9 to enforce this chapter, and nothing shall be deemed to obligate or require the Administrator to
10 issue a notice of violation prior to the imposition of civil or criminal penalties.

11
12 Section 49. Section 25.08.740 of the Seattle Municipal Code, which Section was adopted
13 by Ordinance 106360, is amended as follows:

14 **25.08.740 (~~(Method of service)~~) Service, Mailing and Posting of Notice.**

15 (~~(Service of the)~~) The notice of violation(~~(and order)~~) shall be served (~~(made)~~) upon the
16 persons responsible for the condition or violation by personal service (~~(named in the notice and~~
17 ~~order, either personally)~~) or by (~~(mailing a copy of the notice and order by certified mail, postage~~
18 ~~prepaid, return receipt requested)~~) first class mail, to (~~(each person at his)~~) the person's last
19 known address. If the (~~(whereabouts of the persons)~~) address of the responsible person is
20 unknown and cannot be found after a reasonable search, (~~(ascertained by the Administrator in the~~
21 ~~exercise of reasonable diligence, and the Administrator shall make affidavit to that effect, then~~
22 ~~the service of)~~) the notice (~~(and order upon the persons)~~) may be (~~(made)~~) served by posting a
23 copy of the notice of violation at a conspicuous place on the property where the violation
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1 ~~occurred. ((by publishing them once each week for two (2) consecutive weeks in the City official~~
2 ~~newspaper. The failure of any such person to receive the notice and order shall not affect the~~
3 ~~validity of any proceedings taken under this chapter. Service by certified mail in the manner~~
4 ~~provided in this section shall be effective on the date of mailing.)) If a notice of violation is~~
5 ~~directed to a person responsible for the violation who is not the owner of the property where the~~
6 ~~violation is occurring, a copy of the notice of violation may be sent to the owner of the property.~~

8 Section 50. Section 25.08.760 of the Seattle Municipal Code, which Section was adopted
9 by Ordinance 106360, is amended as follows:

10 **25.08.760 Review by the Administrator ~~((Administrative conferences.))~~**

11 A. Any person significantly affected by or interested in a notice of violation issued by the
12 Administrator pursuant to this chapter may obtain a review of the notice by requesting such
13 review within ten days after service of the notice. When the last day of the period so computed is
14 a Saturday, Sunday or federal or City holiday, the period shall run until 5 p.m. on the next
15 business day. The request shall be in writing, and upon receipt of the request, the Administrator
16 shall notify any persons served the notice and the complainant, if any, of the request for review
17 and the deadline for submitting additional information for the review. Additional information
18 shall be submitted to the Administrator no later than 15 days after the notice of a request for a
19 review is mailed, unless otherwise agreed by all persons served with the notice. Before the
20 deadline for submission of additional information, any person significantly affected by or
21 interested in the notice (including any persons served the notice and the complainant) may submit

1 any additional information in the form of written material or oral comments to the Administrator
2 for consideration as part of the review.

3 B. The review will be made by a representative of the Administrator who is familiar with
4 the case and the applicable ordinances. The Administrator's representative will review all
5 additional information received by the deadline for submission of additional information. The
6 reviewer may also request clarification of information received and a site visit. After review of
7 the additional information, the Administrator may:

- 9 1. Sustain the notice;
- 10 2. Withdraw the notice;
- 11 3. Continue the review to a date certain for receipt of additional information; or
- 12 4. Modify the notice, which may include an extension of any compliance date.

13
14 ~~((An informal administrative conference may be conducted at any time by the~~
15 ~~Administrator for the purpose of bringing out all the facts and circumstances relating to an~~
16 ~~alleged violation, promoting communication between concerned parties, and providing a forum~~
17 ~~for efficient resolution of a violation. The Administrator may call a conference in response to a~~
18 ~~request from any person aggrieved by an order of the Administrator or the Administrator may~~
19 ~~call a conference on his own motion. Attendance at the conference shall be determined by the~~
20 ~~Administrator and need not be limited to those named in a notice and order. As a result of~~
21 ~~information developed at the conference, the Administrator may affirm, modify or revoke his~~
22 ~~order. The holding of an administrative conference shall not be a prerequisite to use of any other~~
23 ~~enforcement provisions contained in this chapter.))~~

1 Section 51. A new Section 25.08.765 to the Seattle Municipal Code, is adopted to read as
2 follows:

3 **25.08.765 Order of the Administrator**

4 A. Where review by the Administrator has been conducted pursuant to Section 25.08.760,
5 the Administrator shall issue an order of the Administrator containing the decision within fifteen
6 days of the date the review is completed and shall cause the same to be mailed by regular first
7 class mail to the person or persons named in the notice of violation and mailed to the
8 complainant, if any.

9 B. Unless a request for review before the Administrator is made pursuant to Section
10 25.08.760, the notice of violation shall become the order of the Administrator.

11 C. Civil actions to enforce orders of the Administrator are brought in Seattle Municipal
12 Court and are not subject to judicial review pursuant to chapter 36.70C RCW.

13 Section 52. Section 25.08.800 of the Seattle Municipal Code, which Section was last
14 amended by Ordinance 114656, is amended as follows:

15 **25.08.800 ~~((Punishment.))~~ Civil Enforcement and Criminal Penalties**

16 A. ~~((Conduct made unlawful by Subchapter IV, Section 25.08.515 and Section
17 25.08.520 of this chapter shall constitute a violation subject to the provisions of Chapters 12A.02
18 and 12A.04 of this Code (Seattle Criminal Code) and any person convicted of a violation of
19 Subchapter IV or Section 25.08.520 shall be punished by a civil fine or forfeiture not to exceed
20 Five Hundred Dollars (\$500); conduct made unlawful by Section 25.08.515 shall be punished by
21 a civil fine or forfeiture not to exceed Fifty Dollars (\$50).))~~

1 ~~((B-))~~ Civil Penalties. In addition to any other remedy authorized by law or equity, and
2 except for violations of Sections 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, any person
3 violating or failing to comply with any requirement of this chapter or order issued by the
4 Administrator shall be subject to a cumulative civil penalty of up to \$1,300 per day for each day
5 that the violation or failure to comply continues. Alternatively, for violations of Sections
6 25.08.410, 25.08.420, and 25.08.425, the Administrator may follow the citation process in
7 Sections 25.08.900-25.08.970.

9 B. Crime. Conduct made unlawful by Section 25.08.500 of this chapter ~~((shall~~
10 ~~constitute))~~ constitutes a crime subject to the provisions of Chapters 12A.02 and 12A.04 of this
11 Code (Seattle Criminal Code), except that absolute liability shall be imposed for such a violation,
12 and none of the mental states described in Section 12A.04.030 need be proved, and any person
13 convicted thereof shall be punished by a fine not to exceed ~~((Five Hundred Dollars-))\$500(()),~~
14 or by imprisonment in the City Jail for a term not to exceed six ~~((6))~~ months, or by both such
15 fine and imprisonment.

16
17
18 C. Penalties for other violations.

19 1. Conduct made unlawful by Section 25.08.515 shall be punished by a civil fine
20 or forfeiture not to exceed \$50.

21 2. Conduct in violation of Subchapter IV of this chapter shall be punished by a
22 civil fine or forfeiture not to exceed \$500.

23
24 D. Alternative criminal penalty. As an alternative to the civil penalties provided in this
25 section the Administrator may request that violations of or failure to comply with this chapter or
26

1 orders issued by the Administrator be prosecuted criminally. In such case, any person who
2 violates or fails to comply with an order issued by the Administrator or any of the provisions of
3 this chapter except for Sections 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, shall be
4 guilty of a gross misdemeanor subject to the provisions of Chapter 12A.02 and 12A.04, except
5 that absolute liability shall be imposed for such a violation or failure to comply, and none of the
6 mental states described in Section 12A.04.030 need be proved. Any person convicted thereof
7 shall be punished by a fine not to exceed \$5,000 or by imprisonment in the City Jail for a term
8 not to exceed one year, or by both such fine and imprisonment.

9
10 E. Each day a violation continues and each occurrence of a prohibited activity shall be
11 deemed a separate offense.

12
13 Section 53. Section 25.08.820 of the Seattle Municipal Code, which Section was last
14 amended by Ordinance 121192, is amended as follows:

15 **25.08.820 Penalties cumulative((+))**

16 The penalties imposed by Sections 25.08.800, 25.08.805, and 25.08.960 ((and 25.08.810
17 shall be)) are in addition to any other sanction or remedial ((injunctive)) procedure ((which))that
18 may be available at law or equity.

19
20 Section 54. Section 25.08.960 of the Seattle Municipal Code, adopted by Ordinance
21 122614, is amended as follows:

22 **25.08.960 Citation Penalties((-))**

1 A person or entity found to have violated Sections 25.08.410, 25.08.420, 25.08.425 or
2 25.08.501 and to whom a citation was issued, is subject to a penalty according to the following
3 schedule.

Citation Penalty Schedule			
Section or Subsection Violated	First Violation	Second Violation ((and Subsequent Violations))	Third and Subsequent Violations
<u>25.08.410, 25.08.420, 25.08.425 B, or 25.08.425 F</u>	<u>\$150</u>	<u>\$300</u>	<u>\$600</u>
<u>25.08.425 C</u>	<u>\$325</u>	<u>\$650</u>	<u>\$1,300</u>
<u>25.08.501</u>	<u>\$1,000</u>	<u>\$2,000</u>	<u>\$2,000</u>

13 Section 55. The enforcement provisions contained in this ordinance apply to all
14 enforcement actions commenced on or after the effective date of this ordinance, regardless of
15 when the violation occurred. To this extent, this ordinance applies retroactively, but in all other
16 respects it applies prospectively.

17 Section 56. Sections 25.08.130, 25.08.240, 25.08.535, 25.08.620, 25.08.750, 25.08.770,
18 25.08.780, 25.08.790, and 25.08.810 of the Seattle Municipal Code are hereby repealed.

19 Section 57. The provisions of this ordinance are declared to be separate and severable.
20 The invalidity of any particular provision shall not affect the validity of any other provision.

21 Section 58. This ordinance shall take effect and be in force on whichever is the later of:
22 (a) the effective date of approval of the amendments in this ordinance by the Washington State
23 Department of Ecology, which date is no later than ninety days after submittal to the Department
24
25
26

1 of Ecology; or (b)(i) thirty (30) days from and after approval by the Mayor or, (ii) if not approved
2 and returned by the Mayor within (10) days after presentation, then as provided by Municipal
3 Code Section 1.04.020.

4 Passed by the City Council the ____ day of _____, 2009, and signed by me in open
5 session in authentication of its passage this ____ day of _____, 2009.

6
7
8 _____
9 President _____ of the City Council

10 Approved by me this ____ day of _____, 2009.

11
12 _____
13 Gregory J. Nickels, Mayor

14 Filed by me this ____ day of _____, 2009.

15
16 _____
17 City Clerk

18 (Seal)
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28

STATE OF WASHINGTON – KING COUNTY

--SS.

235908
CITY OF SEATTLE, CLERKS OFFICE

No.

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.

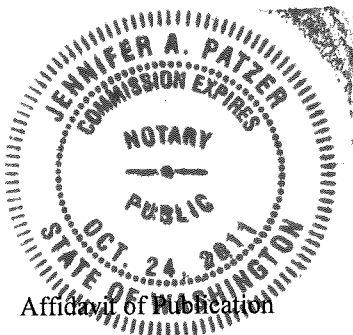
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORDINANCE 122923

was published on

03/16/09

The amount of the fee charged for the foregoing publication is the sum of \$5,306.25, which amount has been paid in full.



M. J. [Signature]

Subscribed and sworn to before me on
03/16/09 *[Signature]*

Notary public for the State of Washington,
residing in Seattle

WHEREAS, construction of major public infrastructure projects may result in noise impacts to adjacent business and residential properties oftentimes along linear corridors and of substantial duration; and

WHEREAS, several such major public infrastructure projects are either underway or are proposed for construction in the near future, including Sound Transit's Link Light Rail and the Alaskan Way Viaduct and Seawall Replacement Project; and

WHEREAS, the noise code does not clearly identify a process for qualifying for and obtaining construction noise variances for major, public, more than six-month construction projects; and

WHEREAS, the ability to work during nighttime hours is often essential to complete such projects on a timely and financially feasible schedule; and

WHEREAS, the proposed changes in the noise ordinance do not increase the exterior sound levels allowed during construction from what is allowed in the current ordinance, while providing for a variance from these levels for major public construction projects; and

WHEREAS, the noise ordinance has not been amended in recent years to reflect technological changes in how to measure noise impacts, changes in other codes and ordinances, or to make grammar changes; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Consistent with Section 25.08.020 of the Seattle Municipal Code, the City finds that it has continued to study the problem of noise since the previous finding in 1977. On the basis of this experience and knowledge of conditions within the City, the City Council finds that special conditions continue to exist in the City that make necessary the differences between this chapter 25.08 and the noise regulations adopted by the Department of Ecology.

Section 2. Section 25.08.040 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.040 Definitions generally – Gender((:))

All technical terminology used in this chapter, not defined in this subchapter, shall be interpreted in conformance with American National Standards Institute ("ANSI") Specifications, Section 1.1 ((1969))1994, as it now exists or as hereafter amended and Section 1.4-((1971))1983, as it now exists or as hereafter amended. Words used in the masculine gender include the feminine and words used in the feminine gender include the masculine. For the purposes of this chapter the words and phrases used herein shall have the meanings set forth in the following sections of this subchapter.

Section 3. Section 25.08.050 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.050 Administrative Code((:))

"Administrative Code" means the Administrative Code of The City of Seattle, SMC Chapter 3.02, ((Ordinance 102228)) as now or hereafter amended.

Section 4. Section 25.08.060 of the Seattle Municipal Code, which Section was last amended by Ordinance 121276, is amended as follows:

25.08.060 Administrator((:))

"Administrator" means the Director of the Department of Planning and Development or ((his or her)) the Director's authorized representative ((, except that the Director of the Public Health—Seattle and King County or his or her authorized representative shall continue to be the "Administrator" of Subchapter VII Variances through December 31, 1993)).

Section 5. A new Section 25.08.069 of the Seattle Municipal Code is adopted to read as

the construction of which the Administrator determines is likely to be of at least six months duration, and is likely to have a substantial impact on the public safety, health and welfare and the provision of public services, including transportation services. In making this determination the Administrator shall consider factors such as the expected size, complexity or cost of the proposed construction or reconstruction; the expected duration of the proposed construction or reconstruction; the magnitude of the expected impacts on traffic and transportation; and/or the degree of impact on the provision of public services during the proposed construction or reconstruction.

Section 11. Section 25.08.180 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.180 Motor vehicle((:))

"Motor vehicle" means any vehicle ((which)) that is self-propelled, used primarily for transporting persons or property upon ((public)) highways and required to be licensed under RCW 46.16.010. ((Aireraft, watercraft and vehicles used exclusively on stationary rails or tracks are not motor vehicles as that term is used in this chapter.))

Section 12. Section 25.08.190 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.190 Motor vehicle racing event((:))

"Motor vehicle racing event" means any competition between motor vehicles and/or off-highway vehicles under the auspices of a sanctioning body recognized by the Administrator under rules adopted in accordance with the Administrative Code, SMC Chapter 3.02.

Section 13. Section 25.08.230 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.230 Off-highway vehicle((:))

"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 46.16.010. The term "off-highway vehicle" ((shall)) does not include special construction vehicles.

Section 14. Section 25.08.270 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.270 ((Public highway)) Highway((:))

(("Public highway")) "Highway" means the entire width between the boundary lines of every way publicly maintained by the Washington State Department of ((Highways)) Transportation 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)).

Section 15. Section 25.08.300 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.300 Real property((:))

"Real property" means an interest or aggregate of rights in land ((which)) that is guaranteed and protected by law; for purposes of this chapter, the term "real property" includes a leasehold interest.

Section 16. Section 25.08.320 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.320 Sound level((s))

"Sound level" means the weighted sound pressure level measured by the use of a metering characteristic and weighted as specified in American National Standards Institute Specifications, Section 1.4-((1974))1983, as it now exists or as hereafter amended. The sound pressure level of a sound expressed in decibels is twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound to the reference sound pressure of twenty (20) micropascals. In the absence of any specific modifier, the level is understood to be that of a mean-square pressure.

Section 17. Section 25.08.330 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.330 Sound level meter((s))

"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 ((1974))1983, as it now exists or as hereafter amended.

Section 18. Section 25.08.340 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.340 Special construction vehicle((s))

"Special construction vehicle" means any vehicle ((which)) that is designed and used primarily for grading, paving, earth moving, and other construction work((+and-which-)), that is not designed or used primarily for the transportation of persons or property on a ((public)) highway((s)), and ((which)) that is only incidentally operated or moved over the highway.

Section 19. Section 25.08.380 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.380 Weekday((s))

"Weekday" means any day Monday through Friday ((which)) that is not a legal holiday.

Section 20. Section 25.08.390 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.390 Weekend((s))

"Weekend" means Saturday and Sunday ((or-any-legal-holiday)).

Section 21. Section 25.08.400 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.400 Unlawful sounds((s))

It is unlawful for any person to cause sound, or for any person in possession of property to permit sound originating from such property, to intrude into the real property of another person whenever such sound exceeds the ((maximum-permissible)) exterior sound level((s-)) limits established by this subchapter.

Section 22. Section 25.08.410 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.410 ((Maximum-permissible)) Exterior sound level((s)) limits((s))

A. The exterior sound level limits are based on the Leq during the measurement interval.

1. Within Lowrise, Midrise, Highrise, Residential-Commercial and Neighborhood Commercial zones, between 7 a.m. and 7 p.m. on weekdays and between 9 a.m. and 7 p.m. on weekends and legal holidays, provided that if no property in residential use exists within 100 feet of the property generating the sound, or if the equipment is being used for a public project, then between 7 a.m. and 10 p.m. on weekdays and between the hours of 9 a.m. and 10 p.m. on weekends and legal holidays.

2. Within all other zones, between 7 a.m. and 10 p.m. on weekdays and between 9 a.m. and 10 p.m. on weekends and legal holidays.

B. During the time periods specified in subsection 25.08.425.A, the exterior sound level limits, as measured from the property line of the real property of another person or at a distance of 50 feet from the construction or maintenance equipment making the sound, whichever is greater, may be exceeded ((between the hours of seven (7:00) a.m. and ten (10:00) p.m. on weekdays and between the hours of nine (9:00) a.m. and ten (10:00) p.m. on weekends)) by no more than the following dB(A)'s for the following types of equipment:

1. Twenty-five ((25))dB(A) for equipment on construction sites, including but not limited to crawlers, tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, graders, off-highway trucks, ditchers, trenchers, compactors, compressors, and pneumatic-powered equipment;

2. Twenty ((20))dB(A) for portable powered equipment used in temporary locations in support of construction activities or used in the maintenance of public facilities, including but not limited to chainsaws, log chippers, lawn and garden maintenance equipment, and powered hand tools; or

3. Fifteen ((15))dB(A) for powered equipment used in temporary or periodic maintenance or repair of the grounds and appurtenances of residential property, including but not limited to lawnmowers, powered hand tools, snow-removal equipment, and composters.

~~(B-)~~C. Sounds created by impact types of ((construction)) equipment, including but not limited to pavement breakers, piledrivers, jackhammers, sandblasting tools, or by other types of equipment ((or-devices-which)) that create impulse ((noise)) sound or impact ((noise)) sound or are used as impact equipment, as measured at the property line or ((fifty-))50((s)) feet from the equipment, whichever is greater, may exceed the ((maximum)) exterior sound level limits established in subsection ((A-))25.08.425.B ((of-this-section)) in any one ((H-))hour period between the hours of ((eight-))8((:00)) a.m. and ((five-))5((:00)) p.m. on weekdays and ((nine-))9((:00)) a.m. and ((five-))5((:00)) p.m. on weekends and legal holidays, but in no event ((te-)) may the sound level exceed the following:

1. ((Le-q)) Leq ((ninety-))90((s)) dB(A) continuously;

2. ((Le-q)) Leq ((ninety-three-))93((s)) dB(A) for ((thirty-))30((s)) minutes;

3. ((Le-q)) Leq ((ninety-six-))96((s)) dB(A) for ((fifteen-))15((s)) minutes; or

4. ((Le-q)) Leq ((ninety-nine-))99((s)) dB(A) for ((seven-and-one-half-))7-1/2((s)) minutes; provided that sound levels in excess of ((Le-q))Leq ((ninety-nine-))99((s)) dB(A) are prohibited unless authorized by variance obtained from the Administrator; and provided further that sources producing sound levels less than ((ninety-))90((s)) dB(A) shall comply with subsection 25.08.425.A and B of this section during those hours not covered by this subsection

Section 28. Section 25.08.485 of the Seattle Municipal Code, which Section was last amended by Ordinance 109099, is amended as follows:

25.08.485 Watercraft((s))

A. It is unlawful for any person to operate any watercraft in such a manner as to exceed the following ((maximum-noise-limits)) exterior sound level limits when measured within ((fifty-))50((s)) feet of the shoreline or anywhere within a receiving property:

1. At any hour of the day or night, the limit for any receiving property ((shall-be)) is ((seventy-four-))74((s)) dB(A), except that;

2. Between ((sunset-and-sunrise)) 10 p.m. and 7 a.m. the limit for any receiving property within a residential ((or-rural)) district ((shall-be)) is ((sixty-four-))64((s)) dB(A). ((For-the-purpose-of-administering-and-enforcing-this-section,-sunset-will-be-interpreted-as-ten-(10:00)-p.m.-and-sunrise-will-be-interpreted-as-seven-(7:00)-a.m.-))

B. It is unlawful for any person to operate any watercraft, except aircraft, ((which)) that is not equipped with a functioning underwater exhaust or a properly installed and adequately maintained muffler. Any of the following defects in the muffling system ((shall-constitute)) is a violation of this subsection:

1. The absence of a muffler;

2. The presence of a muffler cutout, bypass, or similar device ((which)) that is not standard or normal equipment for the exhaust system being inspected;

3. Defects in the exhaust system including, but not limited to, pinched outlets, holes, or rusted-through areas of the muffler or pipes; and

4. The presence of equipment ((which)) that will produce excessive or unusual noise from the exhaust system. Dry stacks or water-injected stacks not containing a series of chambers or mechanical designs effective in reducing sound shall not be considered as adequately maintained mufflers.

C. The following exemptions ((shall)) apply to sounds created by watercraft or watercraft operations:

1. Normal docking, undocking, and water skier pick-up and drop-off operations of all watercraft ((shall-be)) are exempt from the provisions in subsection 25.08.485.A;

2. Sounds created by the operation of commercial, nonrecreational watercraft are exempt at all times ((for)) from provisions of this chapter. These commercial activities include, but are not limited to, tugboats, fishing boats, ferries, and vessels engaged in intrastate, interstate, or international commerce;

3. Sounds created by boat races and regattas, and trials ((therefor-as-)) sanctioned by the Chief of Police acting as Port Warden pursuant to ((Section-27-of-Ordinance-879831)) Section 16.20.160 as amended, are exempt from provisions in this section and in this chapter between the hours of ((seven-))7((:00)) a.m. and ((ten-))10((:00)) p.m. on weekdays and between the hours of ((nine-))9((:00)) a.m. and ((ten-))10((:00)) p.m. on weekends and legal holidays.

D. Nothing in this section shall be construed to limit the powers of the Chief of Police ((acting-as-Port-Warden-as-)) enumerated in Section 16.12.010 ((3-of-Ordinance-879832-as-amended)).

using a minimum measurement interval of 1 minute for a constant sound source, or a one-hour measurement for a non-continuous sound source. For sound sources located within the City (or King County), the ~~(maximum permissible)~~ exterior sound level ~~(s)~~ limits are as follows:

Exterior sound level limits			
District of Sound Source	District of Receiving Property (Within The City of Seattle)		
	Residential (dB(A)) (Leq)	Commercial ((dB(A))) (dB(A)) (Leq)	Industrial (dB(A)) (Leq)
(Rural)	(52)	(55)	(57)
Residential	55	57	60
Commercial	57	60	65
Industrial	60	65	70

B. During a measurement interval, L_{max} may exceed the exterior sound level limits shown in subsection 25.08.410.A by no more than 15 dB(A).

Section 23. Section 25.08.420 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.420 Modifications to ~~(maximum permissible)~~ exterior sound level ~~(s)~~ limits ~~(i)~~

~~((The maximum permissible sound levels established by this subchapter shall be reduced or increased by the sum of the following:))~~

A. Between the hours of ~~((ten-))10((:00))~~ p.m. and ~~((seven-))7((:00))~~ a.m. during weekdays, and between the hours of ~~((ten-))10((:00))~~ p.m. and ~~((nine-))9((:00))~~ a.m. on weekends and legal holidays, the ~~(levels)~~ exterior sound level limits established by Section 25.08.410 are reduced by ~~((ten-))10((:))~~ dB(A) where the receiving property lies within a residential district of the City.

B. For any source of sound ~~((which)) that ((is periodic, which))~~ has a pure tone component ~~((or which is impulsive and is not measured with an impulse sound level meter)), the ((levels)) exterior sound level limits established by this subchapter ((shall be)) are reduced by ~~((five-))5((:))~~ ~~((dB(A))) dB(A)~~; provided, however, ~~((that)) this ((five-))5((:)) dB(A) ((penalty for the emission of sound having a pure tone component)) reduction shall not be imposed on any electrical substation ((whether existing or new)).~~~~

C. For any source of sound ~~that is impulsive and not measured with an impulse sound level meter ((which is of short duration)), the ((levels)) exterior sound level limits established by this subchapter are ((increased by:)) reduced by ~~((five-))5((:))~~ dB(A).~~

- ~~((1. Five (5) dB(A) for a total of fifteen (15) minutes in any one (1) hour period; or~~
- ~~2. Ten (10) dB(A) for a total of five (5) minutes in any one (1) hour period; or~~
- ~~3. Fifteen (15) dB(A) for a total of 1.5 minutes in any one (1) hour period.))~~

Section 24. Section 25.08.425 of the Seattle Municipal Code, which Section was last amended by Ordinance 115041, is amended as follows:

25.08.425 Sounds created by ~~((E)) construction and maintenance equipment ((operations))~~

A. The ~~(maximum permissible)~~ exterior sound level ~~(s)~~ limits established by Sections 25.08.410 and 25.08.420, as measured from the property line of the real property of another person or at a distance of ~~((fifty-))50((:))~~ feet from the construction or maintenance equipment making the sound, whichever is greater, may be exceeded during the following times by the sound levels specified in subsection 25.08.425.B for the types of equipment listed in that subsection.

~~((a-))D. The standard of measurement shall be a one ((+)) hour ((L-eg)) Leq. ((L-eg)) Leq may be measured for times not less than one ((+)) minute to project an hourly ((L-eg)) Leq. Reference to one ((+)) hour is for measurement purposes only and shall not be construed as limiting construction or maintenance to a one ((+)) hour period.~~

~~E. ((b. These subsections A and B)) The exterior sound level limits established in this section shall be reviewed periodically by the City to assure that the exterior sound level limits are technically feasible.~~

~~((E-)) E. Construction or maintenance equipment ((activity)) that exceeds the ((maximum permissible)) exterior sound level ~~(s)~~ limits established by Section 25.08.410, when measured from the interior of buildings within a commercial district, is prohibited between the hours of ~~((eight-))8((:00))~~ a.m. and ~~((five-))5((:00))~~ p.m. For purposes of this subsection ~~((E-))~~, interior sound levels shall be measured only after every reasonable effort, including but not limited to closing windows and doors, is taken to reduce the impact of the exterior construction noise.~~

Section 25. Section 25.08.430 of the Seattle Municipal Code, which Section was last amended by Ordinance 120481, is amended as follows:

25.08.430 Sounds created by operation of motor vehicles ~~(i)~~

It is unlawful for any person to operate upon any ~~(public)) highway any motor vehicle or any combination of motor vehicles under any conditions of grade, load, acceleration or deceleration in such a manner ((so)) that the motor vehicle's exhaust noise exceeds ((ninety-five-))95((:)) decibels as measured by the Society of Automotive Engineers (SAE) test procedure J1169 (May 1998).~~

Section 26. Section 25.08.470 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.470 Sale of new motor vehicles ~~((which)) that exceed limits ~~(i)~~~~

It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-highway vehicle, ~~((which)) that produces a ((maximum)) sound level exceeding the following ((maximum permissible)) exterior sound level ~~(s)~~ limits at a distance of ((fifty-))50((:)) feet, by acceleration test procedures established by the State Commission on Equipment:~~

Vehicle Category	dB(A)
Motorcycles manufactured after 1975	83
Any motor vehicle over 10,000 pounds gross vehicle weight rating (GVWR) manufactured after 1975 and prior to 1978	86
Any motor vehicle over 10,000 pounds GVWR manufactured during or after 1978	83
All other motor vehicles	80

Section 27. Section 25.08.480 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.480 Motor vehicle exemptions ~~(i)~~

Sounds created by motor vehicles are exempt from the ~~(maximum permissible)~~ exterior sound level ~~(s)~~ limits of Subchapter III, except that sounds created by any motor vehicle operated off ~~(public)) highways shall be subject to the exterior sound level ~~(s)~~ limits of Subchapter III when the sounds are received within a residential district of the City.~~

by Ordinance 106360, is amended as follows:

25.08.510 Exempted sources ~~(i)~~

No sound source specifically exempted from ~~(a maximum permissible)) exterior sound level limits by this chapter ((shall be)) is a public nuisance noise or public disturbance noise ((insofar as the particular source is exempted)).~~

Section 30. Section 25.08.530 of the Seattle Municipal Code, which Section was last amended by Ordinance 112976, is amended as follows:

25.08.530 Sounds exempt at all times ~~(i)~~

A. The following sounds are exempt from the provisions of this chapter at all times:

1. Sounds originating from aircraft in flight, and sounds ~~((which)) that originate at airports and are directly related to flight operations;~~
2. Sounds created by safety and protective devices, such as relief valves, where noise suppression would defeat the safety release intent of the device;
3. Sounds created by fire alarms;
4. Sounds created by emergency equipment and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community;
5. ~~((Sounds created by the discharge of firearms in the course of lawful hunting activities;~~
6. Sounds created by natural phenomena;
6. Sounds originating from forest harvesting and silviculture activity and from commercial agriculture, if the receiving property is located in a commercial or industrial district of the City;
7. Sounds created by auxiliary equipment on motor vehicles ~~while used for highway surface maintenance; and~~
8. Sounds created by warning devices or alarms not operated continuously for more than ~~((thirty-))30((:))~~ minutes per incident.

Section 31. Section 25.08.540 of the Seattle Municipal Code, which Section was last amended by Ordinance 112976, is amended as follows:

25.08.540 Sounds exempt during daytime hours – Generally ~~(i)~~

A. The following sounds are exempt from the provisions of this chapter between the hours of ~~((seven-))7((:00))~~ a.m. and ~~((ten-))10((:00))~~ p.m. on weekdays and between the hours of ~~((nine-))9((:00))~~ a.m. and ~~((ten-))10((:00))~~ p.m. on weekends and legal holidays:

1. Sounds created by bells, chimes, or carillons not operating for more than ~~((five-))5((:))~~ minutes in any one ~~((+)) hour;~~
2. Unamplified sounds originating from officially sanctioned parades and other public events;
3. Sounds created by the discharge of firearms on legally established shooting ranges;
4. Sounds created by blasting; and

5. Sounds originating from forest harvesting and silviculture activity and from commercial agriculture, if the receiving property is located in a residential district of the City. The Administrator is authorized to promulgate regulations ~~((which)) that~~ extend the hours during which this exemption ~~((shall be)) is~~ in effect to conform with operating laws designated by the Washington State Department of Natural Resources in directing an official fire closure.

Section 32. Section 25.08.545 of the Seattle Municipal Code, which Section was last amended by Ordinance 108498, is amended as follows:

25.08.545 Sounds exempt during daytime hours-Aircraft testing and maintenance((:))

Sounds created by the testing or maintenance of aircraft, or of components of aircraft, are exempt from the provisions of this chapter between the hours of ~~((seven-))7((:00))~~ a.m. and ~~((ten-))10((:00))~~ p.m. on weekdays and between ~~((nine-))9((:00))~~ a.m. and ~~((ten-))10((:00))~~ p.m. on weekends and legal holidays, when performed according to the following instructions:

A. Testing and maintenance for any aircraft or component not connected thereto shall be performed at an airport designated as such by the Federal Aviation Administration prior to April 1, 1979, or designated as such by the Administrator at any time.

B. If the testing or maintenance is performed at the King County International Airport, the aircraft or component shall be entirely within the ultimate airport property line as shown on the map entitled "King County International Airport - Airport Layout Plan" (prepared December 1, 1976, revised October 10, 1978), and at areas designated by the Airport Manager~~((:))~~. It is intended that this map be the reference map regardless of any future changes, provided that the Administrator may grant exceptions to this subsection for good cause shown. A copy of the King County International Airport Layout Plan Map is on file in the City Clerk's office (C.F. 288269), at the office of the Airport Manager of the King County International Airport, and at the Planning and Research Department of the Port of Seattle.

Section 33. Section 25.08.550 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.550 Sounds exempt from nighttime reduction((:))

The following sounds are exempt from the provisions of Section 25.08.420.A:

A. Sounds created by existing stationary equipment used in the conveyance of water by a utility; and

B. Sounds created by existing electrical substations. ((:))

~~C. Sounds created by sources in industrial districts which, over the previous three (3) years, have consistently operated in excess of fifteen (15) hours per day as a demonstrated routine or as a consequence of process necessity; provided that such exemption shall only extend to five (5) years after the effective date of the ordinance codified in this chapter. <1> Changes in working hours or activity which would increase the noise emitted under this exemption require the approval of the Administrator, given under rules adopted in accordance with the Administrative Code. <2>))~~

Section 34. Section 25.08.560 of the Seattle Municipal Code, which Section was last amended by Ordinance 110047, is amended as follows:

25.08.560 Application--Generally((:))

Any person who owns or is in possession of any property or use, or any process or

2. Measures and provisions to be taken to avoid exceeding the exterior sound

level limits of this chapter:

3. Provisions to mitigate sounds that exceed the exterior sound level limits and that cannot otherwise be avoided.

4. A process for informing the public in the affected areas about the provisions of the variance.

E. The Administrator may impose conditions, including but not limited to conditions relating to types of equipment, hours of use, and duration, to mitigate the adverse impacts of granting the variance. The Administrator may also include conditions proposed by the applicant as part of the variance application. Compliance with the Noise Management and Mitigation Plan approved by the Administrator is a condition of every variance.

F. A temporary variance shall be effective on the effective date stated on the variance form. Any other variance shall be effective 30 days following the mailing of the decision granting the variance, unless it is appealed to the Hearing Examiner, in which case the effective date is the date of the Hearing Examiner's written decision on the appeal.

Section 37. Section 25.08.600 of the Seattle Municipal Code, which Section was last amended by Ordinance 107377, is amended as follows:

25.08.600 ((Renewal)) Extension of variances((:))

A. Technical, economic and major public project construction variances((Variances, except temporary variances,)) granted pursuant to this chapter may be((renewed)) extended on terms and conditions and for periods((which)) that would be appropriate on the initial granting of a variance. No((renewal)) extension of a technical, economic or major public project construction variance shall be granted except on application made at least ((sixty-))60((:)) days prior to the expiration of the variance and after public notice in accordance with rules adopted by the Administrator.

B. Temporary variances may not be extended, but more than one temporary variance may be granted on a project.

Section 38. Section 25.08.610 of the Seattle Municipal Code, which Section was last amended by Ordinance 107377, is amended as follows:

25.08.610 Appeal procedure((:))

A. Any person aggrieved by the denial, ((grant)) approval, or the terms and conditions imposed on ((the grant of an application for)) a variance or ((renewal)) by the extension of a variance by the Administrator, may appeal such decision ((to the Hearing Examiner under procedures contained in Subchapter IX)) by filing an appeal in writing with the Hearing Examiner by 5 p.m. of the tenth day following the date of the issuance of the decision on a variance application. When the last day of the appeal period is a Saturday, Sunday, or federal or City holiday, the appeal may be filed until 5 p.m. on the next business day.

B. In form and content, the appeal shall conform to the rules of the Hearing Examiner.

C. The Hearing Examiner shall consider the appeal in accordance with the procedure established for hearing contested cases under the Administrative Code, SMC Chapter 3.02.

D. Appeals shall be considered de novo and the Administrator's decision on the variance shall be given no deference.

a. Sustain the Notice of Revocation and set or modify the date the revocation will take effect;

b. Withdraw the Notice of Revocation;

c. Modify the Notice of Revocation and set or modify the date the revocation will take effect; or

d. Continue the review to a date certain for receipt of additional information.

D. Order of the Administrator.

1. The Administrator shall issue an Order of the Administrator containing the decision within ten days after the review and shall cause the same to be sent by first class mail to the person or persons requesting the review, any other person on whom the Notice of Revocation was served, and any other person who requested a copy before issuance of the Order of the Administrator.

2. The Order of the Administrator is the final order of the City and the City and all parties shall be bound by the Order unless judicial review is sought pursuant to subsection 25.08.615.E.

E. Judicial Review. Any judicial review must be commenced pursuant to RCW 36.70C within 21 days after issuance of the Order of the Administrator.

Section 40. Section 25.08.630 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.630 Temporary variance((:))

The Administrator may grant a temporary variance, not to exceed ~~((fourteen-))14((:))~~ days, for any activity, use, process or equipment ~~((which)) that~~ the Administrator determines, in accordance with rules and regulations, does not annoy a substantial number of ~~((the))~~ people and does not endanger public health or safety.

Section 41. Section 25.08.640 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.640 Technical variance((:))

A technical variance may be granted by the Administrator on the ground that there is no practical means known or available for the adequate prevention, abatement or control of the noise involved. ~~((Any technical variance shall be subject to the holder's taking of any alternative measures that the Administrator may prescribe.))~~ The Administrator shall determine the duration of each technical variance ~~((shall be until such practical means for prevention, abatement or control become known or available)).~~ The holder of a technical variance ~~((as required by the Administrator,))~~ shall make reports to the Administrator, on a schedule prescribed by the Administrator, detailing actions taken to develop a means of noise control or to reduce the noise involved and ~~((must relate))~~ relating these actions to pertinent current technology.

Section 42. Section 25.08.650 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.650 Economic variance((:))

An economic variance may be granted by the Administrator on the ground that compliance with the particular requirement or requirements from which the variance is sought

equipment, may apply to the Administrator for a variance granting relief from the requirements of any provision of this chapter other than ~~((Section))~~ Sections 25.08.500 or 25.08.505, or from the rules or regulations promulgated hereunder governing the quality, nature, duration or extent of discharge of noise. In a proper case, ~~((the))~~ a variance may apply to all sources of a particular class or type. The application shall be accompanied by such information and data as the Administrator may require. In accordance with the Administrative Code, SMC Chapter 3.02, the Administrator shall promulgate rules and regulations governing application for and granting of such variances ~~((including hearings and notice))~~.

Section 35. Section 25.08.580 of the Seattle Municipal Code, which Section was last amended by Ordinance 107377, is amended as follows:

25.08.580 Discretion of Administrator~~((:))~~

A variance or its ~~((renewal))~~ extension shall not be a right of the applicant or holder thereof but shall be at the reasonable discretion of the Administrator.

Section 36. Section 25.08.590 of the Seattle Municipal Code, which Section was last amended by Ordinance 107377, is amended as follows:

25.08.590 Granting of variance~~((:))~~

~~A.~~ No variance shall be granted ~~((pursuant to Sections 25.08.560 through 25.08.620))~~ until the Administrator has considered the relative interests of the applicant, other owners or possessors of property likely to be affected by the noise, and the general public.

~~B.~~ A technical, ~~((or))~~ economic, or major public project construction variance may be granted only after notice and an opportunity for public comment. For technical or economic variances proposed for more than two weeks and for major public project construction variances, a public meeting is also required, in accordance with rules adopted by the Administrator ~~((a public hearing on due notice))~~.

~~C.~~ The Administrator may grant a variance~~((:))~~ if ~~((he))~~ the Administrator finds that:

~~((A-))~~ 1. The noise occurring or proposed to occur does not endanger public health or safety; and

~~((B-))~~ 2. The applicant demonstrates that the criteria required for the ~~((temporary, technical or economic))~~ variance ~~((under Sections 25.08.610 through 25.08.630))~~ are met~~((:))~~; and

3. For temporary variances, if the scale and duration of the requested relief is more appropriate for a temporary variance than a technical, economic, or major public project construction variance.

~~D.~~ Noise Management and Mitigation Plan. As part of the application for a variance, an applicant must submit a Noise Management and Mitigation Plan to be approved by the Administrator. A Noise Management and Mitigation Plan must contain the following components, except that the Administrator may modify the required components for a temporary noise variance as the Administrator determines appropriate to fit the circumstances surrounding the requested temporary variance:

1. A description of the exterior sound level limits of the chapter expected to be exceeded, estimates of the amount(s) by which these levels are expected to be exceeded and by what equipment, the exterior sound level limits that will be in effect during the variance, the time periods during which the pre-variance exterior sound level limits may be exceeded, and the expected sources of the sound during each of the time periods (e.g., types of equipment or activity causing the exterior sound level limits to be exceeded);

~~E.~~ The Hearing Examiner may affirm, reverse or modify the Administrator's decision or remand to the Administrator for additional review and analysis.

~~F.~~ The Hearing Examiner shall issue a written decision within 15 days of the conclusion of the hearing.

~~G.~~ The decision of the Hearing Examiner is the final decision of the City, and the appellant and the Administrator are bound by the terms and conditions of the Hearing Examiner's decision.

Section 39. A new Section 25.08.615 of the Seattle Municipal Code, is adopted to read as follows:

25.08.615 Revocation of Variance

A. Standards for revocation. Any noise variance may be revoked if:

1. The noise code or the conditions of the variance have been, or are being violated and issuance of a notice of violation or stop work order has been, or would be ineffective to secure compliance because of circumstances related to the violation; or

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

B. Notice of Revocation. Whenever the Administrator determines there are grounds for revoking a variance, the Administrator may issue a Notice of Revocation.

1. The Notice of Revocation shall identify the reason for the proposed revocation including the violations, the conditions violated, and/or the alleged false or misleading information provided.

2. The Notice of Revocation shall be served on the owner of the property on which the work is occurring, the holder of the variance, and the person doing or causing the work to be done.

3. The Notice of Revocation shall be served in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail. The Notice of Revocation may also be posted in a conspicuous place on the site. For purposes of this section, service is complete at the time of personal service, or if mailed, three days after the date of mailing. When the last day of the period so computed is a Saturday, Sunday or City holiday, the period runs until 5 p.m. on the next business day.

4. The Administrator shall identify in the Notice of Revocation a date certain on which the revocation will take effect unless review before the Administrator is requested and pursued pursuant to subsection 25.08.615.C.

C. Review by the Administrator.

1. Any person aggrieved by a Notice of Revocation of a noise variance may obtain a review by making a request in writing to the Administrator within three business days of the date of service of the Notice of Revocation.

2. The review shall occur within five business days after receipt by the Administrator of the request for review.

3. Any person aggrieved by or interested in the Notice of Revocation may submit additional information to the Administrator for consideration as part of the review at any time prior to the review.

4. The review will be made by a representative of the Administrator who will review all additional information received and may also request a site visit. After the review, the Administrator may:

will require the taking of measures ~~((which))~~ that, because of their extent or cost, must be spread over a period of time. The duration of an economic variance shall be for a period not to exceed such reasonable time as is required in the view of the Administrator for the taking of the necessary measures. An economic variance shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to the timetable.

Section 43. A new Section 25.08.655 of the Seattle Municipal Code, is adopted to read as follows:

25.08.655 Major Public Project Construction Variance

A. The Administrator may grant a major public project construction variance to provide relief from the exterior sound level limits established by this chapter during the construction periods of major public projects. A major public project construction variance shall provide relief from the exterior sound level limits during the construction or reconstruction of a major public project only to the extent the applicant demonstrates that compliance with the levels would:

1. Be unreasonable in light of public or worker safety or cause the applicant to violate other applicable regulations, including but not limited to regulations that reduce impacts on transportation infrastructure or natural resources; or

2. Render the project economically or functionally unreasonable due to factors such as the financial cost of compliance or the impact of complying for the duration of the construction or reconstruction of the major public project.

B. A major public project construction variance shall set forth the period or periods during which the variance is effective, which period or periods shall be the minimum reasonably necessary in light of the standard set forth in subsection A, and the exterior sound level limits that will be in effect during the period of the variance. Different major public project construction variances may be issued for distinct phases of a construction project, or one major public project construction variance may be issued for the entire major public project. The period or periods during which a major public project construction variance is effective may be stated in terms of calendar dates or in terms of the duration of a construction project or a phase of phases of a construction project.

C. The Administrator shall condition a major public project construction variance as necessary to provide reasonable control or mitigation of the construction noise that may be expected to occur pursuant to the variance.

D. One-year review and decision.

1. No later than one year after the start of construction to which a major public project construction variance applies, the Administrator shall review, and provide opportunity for public comment on, the operation of the variance during the first year, including the provisions of the Noise Management and Mitigation Plan, and the conditions of the variance. For purposes of determining the date of the start of the project's construction work, site exploration work is excluded.

2. After considering the public comments received, the Administrator may modify the terms and conditions of the variance or the Noise Management and Mitigation plan as needed if the Administrator determines that the current variance, the conditions of the variance, or the Noise Management and Mitigation Plan are not adequately protecting the public health and safety or reasonably controlling or mitigating the construction noise, or that there are more

reasonable methods of doing so.

3. The Administrator shall make a decision whether to modify a variance pursuant to this review within one-year and 90 days after the start of construction work as provided in subsection 25.08.655.D.1.

4. Appeal. Any person aggrieved by the decision of the Administrator whether to modify a variance pursuant to this subsection 25.08.655.D may appeal such decision by filing an appeal in writing with the Hearing Examiner by 5 p.m. of the tenth day following the date of the issuance of the decision. When the last day of the appeal period is a Saturday, Sunday, or federal or City holiday, the appeal may be filed until 5 p.m. on the next business day. The Hearing Examiner appeal shall be conducted pursuant to section 25.08.610.

5. Effective date. The decision of the Administrator whether to modify a variance pursuant to this subsection 25.08.655.D is effective 30 days following the decision unless it is appealed to the Hearing Examiner. If the Administrator's decision is appealed to the Hearing Examiner, the Administrator's decision does not take effect and the original terms and conditions of the variance remain in effect until the effective date of the Hearing Examiner decision. The Hearing Examiner decision is a final decision of the City for purposes of RCW 36.70C, and is effective 30 days from the date of the decision, unless otherwise ordered by a court. If a court stays the effective date of the decision, the original unmodified variance shall remain in effect during the stay.

Section 44. Section 25.08.670 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.670 Duties of Administrator((s))

The duties of the Administrator ((shall)) include, but are not limited to:

- A. Obtaining assistance from other appropriate City departments and divisions;
- B. Training field inspectors;
- C. Purchasing measuring instruments and training inspectors in their calibration and use;
- D. Promulgating and publishing rules and procedures, in accordance with the Administrative Code, SMC Chapter 3.02, to establish techniques for measuring or reducing noise and to provide for clarification, interpretation, and implementation of this chapter;
- E. Investigating ((citizens')) noise complaints;
- F. ~~((Issuing orders for the reduction or elimination of noise))~~ **Enforcement of this chapter** in accordance with Subchapter IX;
- G. Assisting ((citizens)) the public and City departments in evaluating and reducing the noise impact of their activities;
- H. Assisting City planning officials in evaluating the noise component in planning and zoning actions;
- I. Instituting a public education program on noise; and
- J. Reviewing at least every three ((3)) years the provisions of this chapter and recommending revisions consistent with technology to reduce noise.

Section 45. Section 25.08.680 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.680 Measurement of sound((s))

variance if work is being stopped on a variance. For purposes of this section, service is complete at the time of posting or of personal service, or if mailed, three days after the date of mailing. When the last day of the period so computed is a Saturday, Sunday or City holiday, the period runs until 5 p.m. on the next business day.

3. A Stop Work Order is effective when posted, or if posting is not physically possible, when one of the persons identified in subsection 25.08.720.A.2 is served.

B. Review by the Administrator.

1. Any person aggrieved by a Stop Work Order may obtain a review of the Stop Work Order by delivering to the Department a request in writing within two business days of the date of service of the Stop Work Order.

2. The review shall occur within two business days after receipt by the Administrator of the request for review unless the requestor requests or agrees to a longer time.

3. Any person aggrieved by or interested in the Stop Work Order may submit additional information to the Administrator for consideration as part of the review at any time prior to the review.

4. The review will be made by a representative of the Administrator who will review all additional information received and may also request a site visit. After the review, the Administrator may:

- a. Sustain the Stop Work Order;
- b. Withdraw the Stop Work Order;
- c. Modify the Stop Work Order; or
- d. Continue the review to a date certain for receipt of additional

information.

C. Order of the Administrator. The Administrator shall issue an Order of the Administrator containing the decision within two business days after the review and shall cause the same to be sent by first class mail to the person or persons requesting the review, any person on whom the stop work order was served, and any other person who requested a copy before issuance of the Order. The City and all parties shall be bound by the Order.

Section 49. Section 25.08.730 of the Seattle Municipal Code, which Section was last amended by Ordinance 110047, is amended as follows:

25.08.730 Notice of Violation((and order))

A. ~~((Unless provided otherwise))~~ **In addition to other remedies provided by this chapter or by law**, whenever the Administrator has reason to believe that ~~an((maximum-permissible))~~ exterior sound level ~~((of Subchapter III))~~ limit established by this chapter is being or ~~has been~~ exceeded, that a public nuisance noise is being emitted, ~~((or))~~ that the terms of a variance have not been met ~~or are being violated~~, ~~or that any other provision of this chapter that the Administrator is authorized to enforce is being violated~~, ~~((he))~~ the Administrator may ~~((initiate an administrative proceeding as provided by Subchapter IX, and serve))~~ **issue** a written notice of violation ~~((and order directed))~~ to the owner or operator of the source, or to the holder of ~~((the))~~ a variance. ~~((One (1) copy shall also be posted on the property or source, if reasonably possible, and another copy shall be mailed to each complainant (if any) about the noise; additional copies may be mailed by the Administrator to such other interested or affected persons~~

~~B. The review will be made by a representative of the Administrator who is familiar with the case and the applicable ordinances. The Administrator's representative will review all additional information received by the deadline for submission of additional information. The reviewer may also request clarification of information received and a site visit. After review of the additional information, the Administrator may:~~

- ~~1. Sustain the notice;~~
- ~~2. Withdraw the notice;~~
- ~~3. Continue the review to a date certain for receipt of additional information; or~~
- ~~4. Modify the notice, which may include an extension of any compliance date.~~

~~((An informal administrative conference may be conducted at any time by the Administrator for the purpose of bringing out all the facts and circumstances relating to an alleged violation, promoting communication between concerned parties, and providing a forum for efficient resolution of a violation. The Administrator may call a conference in response to a request from any person aggrieved by an order of the Administrator or the Administrator may call a conference on his own motion. Attendance at the conference shall be determined by the Administrator and need not be limited to those named in a notice and order. As a result of information developed at the conference, the Administrator may affirm, modify or revoke his order. The holding of an administrative conference shall not be a prerequisite to use of any other enforcement provisions contained in this chapter.))~~

Section 52. A new Section 25.08.765 to the Seattle Municipal Code, is adopted to read as follows:

25.08.765 Order of the Administrator

A. Where review by the Administrator has been conducted pursuant to Section 25.08.760 the Administrator shall issue an order of the Administrator containing the decision within fifteen days of the date the review is completed and shall cause the same to be mailed by regular first class mail to the person or persons named in the notice of violation and mailed to the complainant, if any.

B. Unless a request for review before the Administrator is made pursuant to Section 25.08.760, the notice of violation shall become the order of the Administrator.

C. Civil actions to enforce orders of the Administrator are brought in Seattle Municipal Court and are not subject to judicial review pursuant to chapter 36.70C RCW.

Section 53. Section 25.08.800 of the Seattle Municipal Code, which Section was last amended by Ordinance 114656, is amended as follows:

25.08.800 ((Punishment.)) Civil Enforcement and Criminal Penalties

A. ~~((Conduct made unlawful by Subchapter IV, Section 25.08.515 and Section 25.08.520 of this chapter shall constitute a violation subject to the provisions of Chapters 12A.02 and 12A.04 of this Code (Seattle Criminal Code) and any person convicted of a violation of Subchapter IV or Section 25.08.520 shall be punished by a civil fine or forfeiture not to exceed Five Hundred Dollars (\$500); conduct made unlawful by Section 25.08.515 shall be punished by a civil fine or forfeiture not to exceed Fifty Dollars (\$50).))~~

~~((B.))~~ **Civil Penalties.** In addition to any other remedy authorized by law or equity, and except for violations of Sections 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, any person

If the measurements of sound are made with a sound level meter, it shall be an instrument in good operating condition and shall meet the requirements for a Type I or Type II instrument, as described in American National Standards Institute Specifications, Section 1.4-((4974))1983, as it now exists or as hereafter amended. If the measurements are made with other instruments, or assemblages of instruments, the procedure must be carried out in such manner that the overall accuracy shall be at least that called for in Section 1.4-((4974))1983, as it now exists or as hereafter amended for Type II instruments.

Section 46. Section 25.08.700 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.700 Receiving properties within more than one district((:))

Where a receiving property lies within more than one district, the ~~((maximum-permissible))~~ exterior sound level((s)) limits shall be determined by the district within which the measurement is made.

Section 47. Section 25.08.710 of the Seattle Municipal Code, which Section was last amended by Ordinance 110047, is amended as follows:

25.08.710 Right of entry ~~((--Administrator--))~~

Upon presentation of proper credentials, and ~~((the Administrator,))~~ with the consent of the occupant ~~((, or with))~~ or the consent of the owner of any unoccupied building, structure, property or portion thereof, or pursuant to a lawfully issued warrant, the Administrator or the Administrator's designee may enter at all reasonable times, any building, structure, property or portion thereof ~~((to inspect the same))~~ whenever necessary to make an inspection to enforce or determine compliance with the provisions of this chapter, ~~((over which he has enforcement responsibility or whenever he has cause to believe that a violation of any provision of this chapter other than Section 25.08.500 has been or is being committed; provided, if))~~ If the building, structure, property or portion thereof is unoccupied, the Administrator shall, except in case of emergency first ~~((make a reasonable effort to))~~ locate the owner or other persons having charge or control of the building, structure, property or portion thereof and ~~((demand))~~ request entry. ~~((If the Administrator is unable to locate the owner or such other persons and he has reason to believe that conditions therein create an immediate and irreparable health hazard, then he shall make entry.))~~

Section 48. A new Section 25.08.720 of the Seattle Municipal Code, is adopted to read as follows:

25.08.720 Stop Work Order

A. Stop Work Order. A Stop Work Order may be issued whenever a violation of this Code or a violation of the conditions of a variance threatens the health or safety of the public or materially impairs the Administrator's ability to secure compliance with this Code.

1. The Stop Work Order must specify the violation and may prohibit all or any work or other activity at the site that is a cause of the code violation or the violation of the variance condition.

2. The Administrator may serve the Stop Work Order by posting it in a conspicuous place at the site, if posting is physically possible. If posting is not physically possible, then the Stop Work Order may be served in the manner set forth in RCW 4.28.080 for service of a summons or by sending it by first class mail to the last known address of: the property owner(s), the person(s) doing or causing the work to be done, and the holder of any

~~as the Administrator deems appropriate.))~~ B. The notice of violation shall contain a brief and concise description of the conditions alleged to be in violation ~~((or to be a public nuisance noise)),~~ the provision(s) of this Chapter alleged to have been violated, the sound level readings, if taken, including the time and place of their recording, ~~((--C. The order shall contain))~~ a statement of the corrective action required, and if applicable, ~~((shall specify))~~ a reasonable time for correction ~~((within which the action must be accomplished))~~.

C. Nothing in this section shall be deemed to limit or preclude any action or proceeding to enforce this chapter, and nothing shall be deemed to obligate or require the Administrator to issue a notice of violation prior to the imposition of civil or criminal penalties.

Section 50. Section 25.08.740 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.740 ~~((Method of service))~~ Service, Mailing and Posting of Notice.

~~((Service of the))~~ The notice of violation ~~((and order))~~ shall be served ~~((made))~~ upon the persons responsible for the condition or violation by personal service ~~((named in the notice and order, either personally))~~ or by ~~((mailing a copy of the notice and order by certified mail, postage prepaid, return receipt requested))~~ first class mail, to ~~((each person at his))~~ the person's last known address. If the ~~((whereabouts of the persons))~~ address of the responsible person is unknown and cannot be found after a reasonable search, ~~((ascertained by the Administrator in the exercise of reasonable diligence, and the Administrator shall make affidavit to that effect, then the service of))~~ the notice ~~((and order upon the persons))~~ may be ~~((made))~~ served by posting a copy of the notice of violation at a conspicuous place on the property where the violation occurred. ~~((by publishing them once each week for two (2) consecutive weeks in the City official newspaper. The failure of any such person to receive the notice and order shall not affect the validity of any proceedings taken under this chapter. Service by certified mail in the manner provided in this section shall be effective on the date of mailing.))~~ If a notice of violation is directed to a person responsible for the violation who is not the owner of the property where the violation is occurring, a copy of the notice of violation may be sent to the owner of the property.

Section 51. Section 25.08.760 of the Seattle Municipal Code, which Section was adopted by Ordinance 106360, is amended as follows:

25.08.760 Review by the Administrator ~~((Administrative conferences.))~~

A. Any person significantly affected by or interested in a notice of violation issued by the Administrator pursuant to this chapter may obtain a review of the notice by requesting such review within ten days after service of the notice. When the last day of the period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until 5 p.m. on the next business day. The request shall be in writing, and upon receipt of the request, the Administrator shall notify any persons served the notice and the complainant, if any, of the request for review and the deadline for submitting additional information for the review. Additional information shall be submitted to the Administrator no later than 15 days after the notice of a request for a review is mailed, unless otherwise agreed by all persons served with the notice. Before the deadline for submission of additional information, any person significantly affected by or interested in the notice (including any persons served the notice and the complainant) may submit any additional information in the form of written material or oral comments to the Administrator for consideration as part of the review.

violating or failing to comply with any requirement of this chapter or order issued by the Administrator shall be subject to a cumulative civil penalty of up to \$1,300 per day for each day that the violation or failure to comply continues. Alternatively, for violations of Sections 25.08.410, 25.08.420, and 25.08.425, the Administrator may follow the citation process in Sections 25.08.900-25.08.970.

B. Crime. Conduct made unlawful by Section 25.08.500 of this chapter ~~((shall constitute))~~ constitutes a crime subject to the provisions of Chapters 12A.02 and 12A.04 of this Code (Seattle Criminal Code), except that absolute liability shall be imposed for such a violation and none of the mental states described in Section 12A.04.030 need be proved, and any person convicted thereof shall be punished by a fine not to exceed ~~((Five Hundred Dollars-))~~\$500((:)), or by imprisonment in the City Jail for a term not to exceed six ~~((6))~~ months, or by both such fine and imprisonment.

C. Penalties for other violations.

1. Conduct made unlawful by Section 25.08.515 shall be punished by a civil fine or forfeiture not to exceed \$50.

2. Conduct in violation of Subchapter IV of this chapter shall be punished by a civil fine or forfeiture not to exceed \$500.

D. Alternative criminal penalty. As an alternative to the civil penalties provided in this section the Administrator may request that violations of or failure to comply with this chapter or orders issued by the Administrator be prosecuted criminally. In such case, any person who violates or fails to comply with an order issued by the Administrator or any of the provisions of this chapter except for Sections 25.08.500, 25.08.505, 25.08.515, and Subchapter IV, shall be guilty of a gross misdemeanor subject to the provisions of Chapter 12A.02 and 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply, and none of the mental states described in Section 12A.04.030 need be proved. Any person convicted thereof shall be punished by a fine not to exceed \$5,000 or by imprisonment in the City Jail for a term not to exceed one year, or by both such fine and imprisonment.

E. Each day a violation continues and each occurrence of a prohibited activity shall be deemed a separate offense.

Section 54. Section 25.08.820 of the Seattle Municipal Code, which Section was last amended by Ordinance 121192, is amended as follows:

25.08.820 Penalties cumulative((:))

The penalties imposed by Sections 25.08.800, 25.08.805, and 25.08.960 ~~((and 25.08.810-))~~ shall be) are in addition to any other sanction or remedial ~~((injunctive))~~ procedure ~~((which))~~ that may be available at law or equity.

Section 55. Section 25.08.960 of the Seattle Municipal Code, adopted by Ordinance 122614, is amended as follows:

25.08.960 Citation Penalties((:))

A person or entity found to have violated Sections 25.08.410, 25.08.420, 25.08.425 or 25.08.501 and to whom a citation was issued, is subject to a penalty according to the following schedule.

Citation Penalty Schedule			
Section or Subsection Violated	First Violation	Second Violation ((and Subsequent Violations))	Third and Subsequent Violations
25.08.410. 25.08.420. 25.08.425 B, or 25.08.425 F	\$150	\$300	\$600
25.08.425 C	\$325	\$650	\$1,300
25.08.501	\$1,000	\$2,000	\$2,000

Section 56. The enforcement provisions contained in this ordinance apply to all enforcement actions commenced on or after the effective date of this ordinance, regardless of when the violation occurred. To this extent, this ordinance applies retroactively, but in all other respects it applies prospectively.

Section 57. Sections 25.08.130, 25.08.240, 25.08.535, 25.08.620, 25.08.750, 25.08.770, 25.08.780, 25.08.790, and 25.08.810 of the Seattle Municipal Code are hereby repealed.

Section 58. The provisions of this ordinance are declared to be separate and severable. The invalidity of any particular provision shall not affect the validity of any other provision.

Section 59. This ordinance shall take effect and be in force on whichever is the later of: (a) the effective date of approval of the amendments in this ordinance by the Washington State Department of Ecology, which date is no later than ninety days after submittal to the Department of Ecology; or (b)(i) thirty (30) days from and after approval by the Mayor or, (ii) if not approved and returned by the Mayor within (10) days after presentation, then as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 2nd day of March, 2009, and signed by me in open session in authentication of its passage this 2nd day of March, 2009.

RICHARD CONLIN,

President of the City Council.

Approved by me this 10th day of March, 2009,

GREGORY J. NICKELS,

Mayor.

Filed by me this 11th day of March, 2009.

(Seal) JUDITH E. PIPPIN,

City Clerk.

Publication ordered by JUDITH PIPPIN, City Clerk.

Date of publication in the Daily Journal of Commerce, March 16, 2009.

3/16 (235908)

BANKRUPTCY NOTICES

USING THIS SECTION

This section lists bankruptcies filed in the U.S. Bankruptcy court offices in Seattle and Tacoma, published daily.

The records are sorted by the office in which they were filed. This section allows readers to research the financial history of potential clients and customers and monitor the general financial health of the local economy.

The name of the filer is in bold, followed by the social security number or business tax I.D. number and contact address. The records conclude with the filing date, filing number and the type of bankruptcy (Chapter 7, 11, or 13).

A database of bankruptcy listings from 1994 is available to online subscribers on the DJC<0x2019>s Web site.

Visit <http://www.djc.com>.

FILED IN SEATTLE

Peter Jay Tucker, Carol Ann Tucker, xxx-xx-3846, xxx-xx-5517; 19010 73rd Ave Ne, Kenmore, WA 98028, Ref 09-12257, filed on Mar 12. (Ch. 13)

Angela Renee Penix, Ronald Lee Penix, xxx-xx-2167, xxx-xx-7421; 1121 S 6th St., Mount Vernon, WA 98273, Ref 09-12258, filed on Mar 12. (Ch. 13)

John Berkey, Lisa Berkey, xxx-xx-6873, xxx-xx-8924; 2020 Bickford Ave #26, Snohomish, WA 98290, Ref 09-12259, filed on Mar 12. (Ch. 7)

Oudone Maytrichith, Phou Vanh Maytrichith, xxx-xx-7644, xxx-xx-8688; 9 198th Pl SE, Bothell, WA 98012, Ref 09-12260, filed on Mar 12. (Ch. 7)

Steven Roger Fenske, Sr, Janice Kaye Fenske, xxx-xx-5341, xxx-xx-7749; 3453 Memory Lane, Custer, WA 98240, Ref 09-12261, filed on Mar 12. (Ch. 13)

Marie Nardone, xxx-xx-0456; 7453 Newcastle Golf Club Rd #H104, Newcastle, WA 98059, Ref 09-12262, filed on Mar 12. (Ch. 7)

Todd Michael Kummelman, Melissa Noel Kummelman, xxx-xx-1806, xxx-xx-8169;

Jason Mathew Riemland, Kristina Marie Kesti-Riemland, xxx-xx-3976, xxx-xx-6946; PO Box 1047, La Conner, WA 98257, Ref 09-12288, filed on Mar 12. (Ch. 13)

Carey Gray Bayles, Stacey Lynn Bayles, xxx-xx-7657, xxx-xx-8330; 2373 Main Street, #301, Ferndale, WA 98248, Ref 09-12289, filed on Mar 12. (Ch. 13)

FILED IN TACOMA

Sandra Lee Crider, Keith Alan Crider, xxx-xx-5072, xxx-xx-5315; 16028 16th Avenue S, Spanaway, WA 98387, Ref 09-41584, filed on Mar 12. (Ch. 13)

Rodney Eugene Bowen, xxx-xx-6222; 27009 155th St E, Buckley, WA 98321, Ref 09-41585, filed on Mar 12. (Ch. 13)

Gary Lee Varichak, Diana Celeste Varichak, xxx-xx-5343, xxx-xx-9127; 8415 Wildwood Avenue SW, Lakewood, WA 98498, Ref 09-41586, filed on Mar 12. (Ch. 13)

Marcella A Rich, xxx-xx-4328; 8101 83rd Ave SW #J28, Lakewood, WA 98498, Ref 09-41587, filed on Mar 12. (Ch. 7)

Emily Ann Mason, xxx-xx-9700; 3013 N Mason Ave, Tacoma, WA 98407, Ref 09-41588, filed on Mar 12. (Ch. 7)

Brandon S Sherrill, xxx-xx-5315; 18917 92nd Ave E, Puyallup, WA 98375, Ref 09-41589, filed on Mar 12. (Ch. 7)

Charity Elaine Gayle, xxx-xx-3160; 8806 Washington Bld SW, Lakewood, WA 98498, Ref 09-41590, filed on Mar 12. (Ch. 7)

Gus A Salzer, Kelly M Salzer, xxx-xx-0903, xxx-xx-7276; PO Box 93, Centralia, WA 98531, Ref 09-41591, filed on Mar 12. (Ch. 7)

Susan Agnes Loomis, Robert John Loomis, xxx-xx-0654, xxx-xx-0692; 6208 NE 140th Ave, Vancouver, WA 98682, Ref 09-41592, filed on Mar 12. (Ch. 7)

Dustin Hainline, Ione Hainline, xxx-xx-7509, xxx-xx-8120; 920 Grant Ave, Shelton, WA 98584, Ref 09-41593, filed on Mar 12. (Ch. 7)

Jennifer S Butler, James N Butler, xxx-xx-0004, xxx-xx-9666; 3715 South Wilkeson Street, Tacoma, WA 98418, Ref 09-41594, filed on Mar 12. (Ch. 7)

Terry P Kesling, xxx-xx-9401; 12724 104th Avenue Court East #302-A, Puyallup, WA 98374, Ref 09-41595, filed on Mar 12. (Ch. 7)

Troy David Flynn, xxx-xx-9189; 2909 NE 185th Ct., Vancouver, WA 98682, Ref 09-41596, filed on Mar 12. (Ch. 13)

William Robert Davison, Wendy Maureen Davison, xxx-xx-2853, xxx-xx-8564; 408 E Wilson, Yacolt, WA 98675, Ref 09-41597, filed on Mar 12. (Ch. 13)

Kasey L Sundita, xxx-xx-9609; 9332 So Steele St Apt V460, Tacoma, WA 98444, Ref 09-41598, filed on Mar 12. (Ch. 7)

Cynthia Lea Hayes, xxx-xx-6864; 11021 Park Ave S #E301, Tacoma, WA 98444, Ref 09-41599, filed on Mar 12. (Ch. 7)

Aaron Lee Williams, xxx-xx-1845; 27611 68th Ave E, Graham, WA 98338, Ref 09-41600, filed on Mar 12. (Ch. 7)

Steven H Lorenz, Kristine K Lorenz, xxx-xx-4234, xxx-xx-7396; 401 NE 17th Ave, Camas, WA 98607, Ref 09-41601, filed on Mar 12. (Ch. 7)

Chad Aaron Clark, xxx-xx-5861; 5109 236th St Ct E, Graham, WA 98338, Ref 09-41602, filed on Mar 12. (Ch. 7)

Edward Scott Brassard, xxx-xx-3974; 101 NE Kristiana Way, Belfair, WA 98528, Ref 09-41603, filed on Mar 12. (Ch. 7)

Kristen Michelle Ritz, xxx-xx-5416; 7208 Circle Dr, Burleson, TX 76028, Ref 09-41604, filed on Mar 12. (Ch. 7)