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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4996

AN ORDINANCE relating to the regulation and control of noise emanating from construction sites; amending Sections 1.18.020, 9.18.015, 9.18.020, 9.18.040, 9.18.050, 9.18.060 and 23.05.040CC; adding a new Section 9.18.044; and repealing Section 9.18.070 of the Bellevue City Code.

WHEREAS, the noise control regulations currently allow construction work on Saturday and Sunday only if it does not violate the maximum permissible environmental noise levels; and

WHEREAS, the process to obtain authorization for expanded hours of operation on construction sites does not contain criteria for determining when expanded hours should be authorized; and

WHEREAS, it is the desire of the City Council to expand construction hours of operation to be more consistent with surrounding jurisdictions; and

WHEREAS, it is the desire of the City Council that developers and residents be provided with additional certainty regarding the application and administration of the Noise Control Ordinance; and

WHEREAS, it is further the desire of the City Council that city staff be provided with adequate guidelines to authorize expanded hours of construction site operation under the terms of the Noise Control Ordinance; and

WHEREAS, it is the desire of the City Council that subcontractors be held accountable for violations through the issuance of infractions; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. 1.18.020D of the Bellevue City Code is hereby amended as follows:

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D. "Civil violation" means a violation for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation. Traffic infractions pursuant to BCC Title 11 and Civil Noise Infractions pursuant to Chapter 9.18 BCC are specifically excluded from the application of this chapter.

Section 2. 1.18.020K of the Bellevue City Code is hereby amended as follows:

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K. "Regulation" means and includes the following, as now or hereafter amended:

1. Chapters 9.09 BCC (Junk Cars), 9.10 BCC (Nuisances), 9.11 BCC (Anti-Litter Code), 9.20 BCC (Fair Housing Practices), 14.30 BCC (Right-of-Way Use Code);

2. BCC Title 20 (Land Use Code); BCC Title 22 (Development Code); BCC Title 23 (Construction Codes) and BCC Title 24 (Utilities Codes);

3. City of Bellevue, Department of Public Works Department Standards, as adopted by Resolution No. 5084, as now or hereafter amended;

4. All standards, regulations and procedures adopted pursuant to the above; and

5. The terms and conditions of any permit or approval issued by the city, or any concomitant agreement with the city.

Section 3. 9.18.015 of the Bellevue City Code is hereby amended as follows:

9.18.015 Definitions.

All terminology used in this chapter which is not defined below shall be interpreted in conformance with the most recent definitions used by the American Standards Institute (ANSI) or its successor body.

A. "Arterial" means a principal, minor or collector arterial as now or hereafter defined in the city's comprehensive plan, Policy TR-39.

B. "A-weighted sound level" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter as specified by the American National Standards Institute specification for sound level meters as now existing or as hereafter amended or modified. The level so read is designated dBA.

C. "Construction" means any site preparation, assembly, erection, demolition, substantial repair, alteration, or similar action for or of public or private rights-of-way, structures, utilities or similar property.

D. "Decibel (dB)" means a unit for measuring the volume of sound.

E. "EDNA" means environmental designation for noise abatement, which is an area within which maximum permissible noise levels are established by the Washington State Department of Ecology and Bellevue City Code.

F. "Emergency work" means work required to restore property to a safe condition following a public calamity, work required to protect persons or property from imminent exposure to danger, work necessary to stabilize sites or structures following weather related events or natural disasters, or work by private or public utilities to provide or restore immediately necessary utility service.

G. "Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay, with a peak value exceeding the ambient level by more than 10 dBA.

H. "Ldn" means the day-night average sound level which is a 24-hour energy average of the A-weighted sound pressure level where 10 dBA is added to nighttime noise levels from 10:00 p.m. to 7:00 a.m. before averaging.

I. "Legal Holiday" means Sundays and holidays as defined by the City of Bellevue and in RCW 1.16.050 as now exists or as hereafter amended or modified.

J. "Leq" means the equivalent A-weighted sound level which is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound.

K. "Noise disturbance" means any sound which annoys, disturbs, or perturbs reasonable persons with normal sensitivities; or any sound which unreasonably injures or endangers the comfort, repose, health, hearing, peace, or safety of persons or animals.

L. "Pure tone component" means any sound which can be distinctly heard as a single pitch or a set of single pitches. A pure tone shall exist if the 1/3 octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous 1/3 octave bands by five decibels for center frequencies of 500 Hz and above, by eight decibels for center frequencies between 160 Hz and 400 Hz, and by 15 decibels for center frequencies less than or equal to 125 Hz.

M. "Receiving property" means real property within which sound originating from outside the property is received.

N. "Sound level" means a weighted sound pressure level measured by the use of a sound level meter using an A-weighted network and reported as decibels, dBA.

O. "Sound level meter" means a device which measures sound pressure levels and conforms to Type I, S1A, Type II or S2A, as specified in the American National Standards Institute Specification Section 1.4 (1971) as now exists or as hereafter amended or modified.

P. "Warning device" means any device intended to provide public warning of potentially hazardous, emergency or illegal activities, including but not limited to a burglar alarm or vehicle backup signal.

Q. "Weekday" means any day Monday through Friday which is not a legal holiday.

R. "Weekend" means Saturday, Sunday and any legal holiday.

Section 4. 9.18.020B of the Bellevue City Code is hereby amended as follows:

9.18.020 Exemptions.

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B. The following sounds are exempt from the provisions of this chapter at all times if the receiving property is in Class B and Class C EDNAs, and between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and 9:00 a.m. and 10:00 p.m. on weekends if the receiving property is located in a Class A EDNA:

1. Sounds created by bells, chimes and carillons not operating continuously for more than five minutes in any one hour; and

2. Sounds created by the repair or installation of essential utility services and streets; and

3. Sounds relating to temporary repair, addition or maintenance projects on existing single family homes, grounds and appurtenances; and

4. Sounds emanating from officially sanctioned parades or other civic events; and

5. Sounds emanating from discharge of firearms on legally established shooting ranges; and

6. Sounds created by blasting; and

7. Sounds created by repairing, rebuilding, modifying, operating or testing any motor vehicle or internal combustion engine; and

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8. Sounds created by commercial business activity including, but not limited to: handling containers and materials; or sweeping parking lots and streets (except sweeping parking lots of businesses engaged in retail trade as defined in the Standard Industrial Classification Manual is exempt until 12:00 midnight); or boarding domestic animals (except expanded hours of operation may be authorized by the applicable department director).

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Section 5. 9.18.020C of the Bellevue City Code is hereby amended as follows:

9.18.020 Exemptions.

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C. Sounds created by construction and emanating from construction sites are exempt from the provisions of this chapter between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, and 9:00 a.m. and 6:00 p.m. on Saturdays which are not legal holidays. Sounds emanating from construction sites on Sundays or Legal Holidays or outside of the exempt work hours are prohibited pursuant to BCC 9.18.040 unless expanded hours of operation are authorized by the applicable department director subject to the following criteria. Approval of expanded exempt hours may be authorized if:

1. Necessary to accommodate: transportation mitigation such as evening haul routes; construction on schools and essential government facilities which cannot be undertaken during exempt hours; construction activities and site stabilization in the fall prior to the onset of winter weather; or, emergency work; or

2. Sounds created by construction will not exceed the maximum permissible environmental noise levels contained in BCC 9.18.030 as verified by sound level monitoring conducted before and during construction by a qualified acoustic consultant.

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Section 6. 9.18.040 of the Bellevue City Code is hereby amended as follows:

9.18.040 Noise disturbances.

A. All noise disturbances not exempt under BCC 9.18.020 are prohibited at all times. The content of the sound will not be considered in determining a violation. The following acts are considered to be noise disturbances if the noise is clearly audible across a real property boundary, or at least 75 feet from the source:

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1. Operating or playing, or permitting the operating or playing of any audio equipment, television set, musical instrument and similar device, whether portable or stationary or mounted on or within a motor vehicle;

2. Creating loud and raucous, and frequent, repetitive, or continuous sounds with the amplified human voice;

3. Intentional sounding or permitting the sounding outdoors of any emergency warning device where an actual emergency does not exist;

4. Permitting any sounds to emanate from a construction site outside the hours that construction sounds are exempt from the provisions of this chapter or outside expanded hours authorized by the applicable department director pursuant to BCC 9.18.020.C.;

5. The foregoing enumeration of acts shall not be construed as excluding other acts which may constitute noise disturbances.

Section 7. A new section 9.18.044 is added to the Bellevue City Code is as follows:

9.18.044 Posting Notice of Construction Hours

A. **When Required.** A sign providing notice of the limitation on construction hours contained in this chapter shall be posted on construction sites prior to commencement of any new commercial or single family construction or commercial addition. Notice signs are not required prior to commencement of additions or maintenance to existing single family homes. The Director of the Department of Planning and Community Development shall establish standards for size, color, layout, design, wording and placement of the signs.

B. **Violations.** The building official is authorized to enforce this section of this chapter as provided for in BCC Section 23.05.

Section 8. 9.18.050 of the Bellevue City Code is hereby amended as follows:

9.18.050 Violation - Penalty.

A. **Violations - Unlawful.** The violation or failure to comply with any of the provisions of this chapter is declared to be unlawful.

B. **Civil Noise Infraction.** Any violation of any provision of this chapter is a civil noise infraction as provided for in RCW Chapter 7.80 for which a monetary penalty may be assessed. The monetary penalty shall be as follows:

1. If a person violates this chapter and has not committed a violation under this chapter at any location within the city in the two year period preceding the most recent violation, a warning shall be issued but no citation shall be issued and no monetary penalty shall be assessed.

2. If a person violates this chapter and has previously committed one violation under this chapter at any location in the city within the two year period preceding the most recent violation, a citation shall be issued assessing a monetary penalty in the amount of \$125.00.

3. If a person violates this chapter and has previously committed two or more violations under this chapter at any location in the city within the two year period preceding the most recent violation, a citation shall be issued assessing a monetary penalty in the amount of \$250.00.

Section 9. 9.18.060 of the Bellevue City Code is hereby amended as follows:

9.18.060 Administration and authority.

A. Administration. The Department of Planning and Community Development shall be responsible for the administration of this chapter and enforcement of section 9.18.044 shall be under the administrative and operational control of the building official.

B. Civil noise infractions. The Police Department shall be responsible for the enforcement this chapter, excluding section 9.18.044, and is authorized to issue, serve and file notices of civil noise infractions for violations of the provisions of this chapter.

Section 10. 9.18.070 of the Bellevue City Code is hereby repealed:

Section 11. 23.05.040CC of the Bellevue City Code is hereby amended as follows:

23.05.040CC Definitions.

CC. "Technical codes" means and refers to the following: Uniform Building Code, Chapter 23.10 BCC, Uniform Mechanical Code, Chapter 23.50 BCC; Uniform Plumbing Code, Chapter 23.60 BCC; Uniform Swimming Pool, Spa and Hot Tub Code, Chapter 23.14 BCC; National Electric Code, Chapter 23.30 BCC; Uniform Fire Code, Chapter 23.11 BCC; Uniform Housing Code, Chapter 23.10 BCC; Protective Parking Devices, Chapter 23.18 BCC; Uniform Building Security Code, Chapter 23.10 BCC; Washington State Energy Code, Chapter 23.10 BCC; Washington State Ventilation and Indoor Air Quality Code, Chapter 23.10 BCC; Uniform Code for the

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Abatement of Dangerous Buildings, Chapter 23.10 BCC; Posting Notice of Construction Hours, BCC section 9.18.044.

Section 12. This ordinance shall take effect and be in force thirty (30) days after passage by the City Council and approval by the Department of Ecology.

PASSED by the City Council this 16th day of June, 1997, and signed in authentication of its passage this 16th day of June, 1997.


(SEAL)



Ronald E. Smith, Mayor

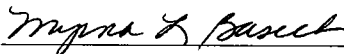
Approved as to form:

Richard L. Andrews, City Attorney



Richard L. Andrews, City Attorney

Attest:



Myrna L. Basich, City Clerk

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