

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5719

AN ORDINANCE amending the Bellevue City Code to limit the issuance of permits for amplified sound on the same property to a maximum of four days within any given week (Monday through Saturday); to impose a decibel limitation on amplified sound; to consolidate the Sound Amplification Code (BCC 9.14) into the Noise Control Code (BCC 9.18); to declare that the failure to comply with the terms of a sound amplification permit is a civil violation; and to clarify the types of events which are exempt from the limitations on noise set forth in the Noise Control Code; repealing Sections 9.14 and 9.18.045 of the Bellevue City Code; amending Sections 9.18.010, 9.18.015, 9.18.020, 9.18.025, 9.18.030, 9.18.040, 9.18.044, 9.18.050 and 9.18.060 of the Bellevue City Code; creating new Section 9.18.045A and 9.18.045B in the Bellevue City Code; and establishing an effective date.

WHEREAS, excessive noise is a serious hazard to public health, safety and welfare, the quality of life and the environment; and

WHEREAS, it is the desire of City Council to strike a balance between the competing policies of controlling noise pollution and allowing residents to host events at which amplified sound equipment may be operated; and

WHEREAS, it is the desire of City Council that residents and property owners be provided with additional certainty regarding the application and administration of the City's noise regulations; and

WHEREAS, it is the desire of City Council that City staff be provided with adequate guidelines to effectively enforce the City's noise regulations; and

WHEREAS, consolidation of the Sound Amplification Code and the Noise Control Code will provide additional clarity and certainty with regard to application, administration and enforcement of the City's noise regulations; and

WHEREAS, it is the desire of City Council to clarify those events which may be exempt from the limitations on noise production set forth in the Noise Control Code; and

WHEREAS, it is the desire of City Council to hold those who violate the Noise Control Code accountable through the issuance of civil violations; and

WHEREAS, it is further the desire of City Council that City staff submit this ordinance to the Department of Ecology in compliance with the State Noise Control Act (Chapter 70.107 RCW) and Chapter 173-60 WAC; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02; now, therefore,

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

Section 1. Chapter 9.14 of the Bellevue City Code is hereby repealed in its entirety.

Section 2. Section 9.18.010 of the Bellevue City Code is hereby amended as follows:

9.18.010 Purpose.

The purpose of this chapter is to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise. The intent of the city council is to control the level of noise pollution in a manner which promotes commerce; the use, value, and enjoyment of property; sleep and repose; and the quality of the environment by establishing maximum environmental noise levels applicable within designated areas or zones of the city; to adopt appropriate exemptions to the provisions of this chapter to allow for the functioning of commercial business and the operation of construction and emergency equipment; and to declare certain noise producing activities to be noise disturbances.

Section 3. Section 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 National 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"-weighted 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 (including blasting), 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 this 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, or work by private or public utilities to provide or restore immediately necessary utility service.

G. "Generator, portable" means an electricity-generating device that is not permanently mounted and uses temporary wiring to supply electrical service.

H. "Generator, stationary" means an electricity-generating device with noise attenuation that is permanently mounted and uses permanent wiring to supply electrical service.

I. "Heavy equipment" means backhoes, concrete mixing and pumping trucks, compactors/rollers, cranes, dozers, dump trucks, excavators, forklifts, graders, jackhammers, loaders, pavement breakers, pile drivers, portable crushers, tractors, trailer-mounted woodchippers, trenchers, or other pieces of equipment that generate similar levels of noise.

J. "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.

K. "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.

L. "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.

M. "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.

N. "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.

O. "Person responsible for the violation" means any person who is required by the applicable regulation to comply therewith, or who commits any act or omission which is a violation or causes or permits a violation to occur or remain upon property in the city, and includes but is not limited to owner(s), lessor(s), tenant(s), or other person(s) entitled to control, use and/or occupy property where a violation occurs.

P. "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 one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third 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.

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

R. "Sound amplification equipment" means any machine or device for the amplification of the human voice, music or any other noise or sound.

S. "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.

T. "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.

U. "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.

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

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

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

9.18.020 Exemptions.

A. The following sounds are exempt from the provisions of this chapter:

1. Sounds caused by natural phenomena or wildlife; and
2. Unamplified sounds created by domestic animals as permitted by BCC Title 20, or as regulated by Chapter 8.04 BCC; and
3. Sounds created by emergency equipment and work necessary for law enforcement or for the health, welfare and safety of the community; and
4. Sounds created by portable generators during periods when there is no electrical service available from the primary supplier due to natural disaster or power outage; and
5. Sounds created by stationary generators that do not exceed a sound level of 75 dBA at any property line during periods when there is no electrical service available from the primary supplier due to natural disaster or power outage; and
6. Sounds originating from aircraft in flight; and
7. Sounds created by motor vehicles when regulated by Chapter 173-62 WAC; and
8. Sounds created by watercraft when regulated by Chapter 173-70 WAC; and
9. Sounds created by surface carriers engaged in interstate commerce by railroad; and
10. Sounds created by safety and protective warning devices where noise suppression would render the device ineffective; and
11. Sounds created by existing electrical substations and stationary equipment used to convey water, wastewater or natural gas by a utility; and
12. Sounds from existing industrial installations which exceed standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of normal necessity and/or demonstrated routine normal operation. Changes in working hours, which would increase the average day-night sound level (Ldn), require written approval of the director of design and development pursuant to subsection E of this section.
13. Sounds, including sounds created by sound amplification equipment, emanating from any event or activity, for which a permit has been issued pursuant to BCC 3.43 or BCC 14.50; provided that sound created by sound amplification equipment from such event shall be exempt only if the permit issued pursuant to BCC 3.43 or BCC 14.50 authorized the use of sound amplification equipment and such use was in compliance with all terms and conditions of the permit.
14. Sounds created by sound amplification equipment which have been approved through, and are in compliance with all terms and conditions of, a Conditional Use Permit pursuant to BCC 20.30B.

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 (except that sounds created by heavy equipment will be regulated pursuant to the construction noise exemption contained in subsection C of this section); and

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

5. Sounds created by repairing, rebuilding, modifying, operating or testing any motor vehicle or internal combustion engine (except for portable and stationary generators located in a Class A EDNA which are exempt only during the hours of 9:00 a.m. to 6:00 p.m. daily when electrical service is available from the primary supplier and except for heavy equipment, which will be regulated pursuant to the construction noise exemption contained in subsection C of this section); and

6. 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); and

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.

D. Sounds created by sound amplification equipment, and not otherwise permitted pursuant to BCC 9.18.020.A.13 are exempt from the provisions of this Chapter between the hours of 8 a.m. and 5 p.m. pursuant to a permit issued by the Director of the Department of Planning and Community Development. Use of sound amplification equipment may be authorized by the Director of the Department of Planning and Community Development pursuant to BCC 9.18.045A.

E. Sounds originating from public parks, playgrounds, and recreation areas are exempt from the provisions of this chapter during the hours the parks, playgrounds or recreation areas are open for public use as established under Chapter 3.43 BCC, as now existing or hereafter amended and modified.

F. The sounds in subsections B, D and E of this section are subject to the maximum permissible environmental sound levels in BCC 9.18.030 and the noise disturbance provisions in BCC 9.18.040 at all times other than when they are specifically exempt or authorized.

G. Nothing in these exemptions is intended to preclude the applicable department director through the authority of the State Environmental Policy Act from requiring installation of the best available noise abatement technology consistent with feasibility.

Section 5. Section 9.18.025 of the Bellevue City Code is hereby amended as follows:

9.18.025 Identification of environments.

A. Environmental designations for noise abatement are as follows:

1. Residential land use district: Class A EDNA;

2. Commercial land use district: Class B EDNA;
3. Industrial land use district: Class C EDNA.

B. The land use districts listed in the city of Bellevue Land Use Code, BCC Title 20, are classified for the purposes of this chapter as follows:

1. Residential land use district: R-1, R-1.8, R-2.5, R-3.5, R-4, R-5, R-7.5, R-10, R-15, R-20, R-30;
2. Commercial land use district: PO, O, OLB, OLB-OS, NB, CB, DNTN-O-1, DNTN-O-2, DNTN-MU, DNTN-R, DNTN-OB, DNTN-OLB, F1, F2, F3, MI; ;
3. Industrial land use district: LI, GC.

Section 6. Section 9.18.030 of the Bellevue City Code is hereby amended as follows:

9.18.030 Maximum permissible environmental noise levels.

A. No person shall cause or permit sound to intrude onto the real property of another person which exceeds the maximum permissible sound levels established by this chapter. The point of measurement shall be at the property boundary of the receiving property or anywhere within.

B. For sound sources located within the city, the maximum permissible sound sources are as follows:

Maximum Permissible Sound Levels by Receiving Property			
EDNA of Noise Source	EDNA of Receiving Property		
	Class A	Class B	Class C
	(dBA)	(dBA)	(dBA)
Class A	55	57	60
Class B	57	60	65
Class C	60	65	70

C. Modifications to maximum permissible sound levels are as follows:

1. Reduce by 10 dBA nights 10:00 p.m. to 7:00 a.m. for receiving property in Class A EDNAs; and
2. Reduce by five dBA for impulsive or pure tone sounds for any receiving property at any time; and
3. Increase for short duration for any receiving property at any time:
 - a. Increase by five dBA for 15 minutes in any one-hour period; or
 - b. Increase by 10 dBA for five minutes in any one-hour period; or
 - c. Increase by 15 dBA for 1.5 minutes in any one-hour period; and
4. Increase by 10 dBA for the operation of sound amplification equipment operated in compliance with a permit issued pursuant to BCC 9.18.020.D.

D. If the measurements of sound are made with a sound level meter, the instrument shall be 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 as now exist or as hereafter amended or modified. 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 the National Standards Institute specifications.

E. Where a receiving property lies within more than one EDNA, the maximum permissible sound level shall be determined by the most noise sensitive EDNA.

Section 7. Section 9.18.040 of the Bellevue City Code is hereby amended as follows:

9.18.040 Noise disturbances.

A. All noise disturbances, defined in BCC 9.18.015 and 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:

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 human voice;

3. Intentional sounding or permitting the sounding outdoors of any emergency warning device where an actual emergency does not exist, provided that sounds created during maintenance or testing of such emergency warning devices does not constitute a noise disturbance;

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. Operating sound amplification equipment not in compliance with a permit issued pursuant to BCC 9.18.045A or a Conditional Use Permit issued pursuant to BCC 20.30B;

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

7. Sounds which do not exceed the maximum environmental noise levels set forth in BCC 9.18.030 may constitute noise disturbances.

Section 8. Section 9.18.044 of the Bellevue City Code is hereby amended 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 BCC 9.18.020.C 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.

Section 9. Section 9.18.045 of the Bellevue City Code is hereby repealed in its entirety.

Section 10. A new Section 9.18.045A of the Bellevue City Code is hereby created as follows:

9.18.045A Sound amplification permits.

A. Any person desiring to operate sound amplification equipment consistent with BCC 9.18.020.D and the owner of property on which such equipment is proposed to be operated shall jointly file with the Director of the Department of Planning and Community Development an application for a permit at least one week in advance of the date on which sound amplification equipment is proposed to be operated and shall provide the following information:

1. The name and address of the sound amplification equipment operator, and a phone number where the operator can be reached during the time when the sound amplification equipment is proposed to be in use;

2. The name and address of the property owner for the location described in subsection 3 below if different from the operator, and a phone number where the property owner can be reached during the time when the sound amplification equipment is proposed to be in use;

3. A statement describing the address and location at which the sound amplification equipment will be in operation;

4. A general description of the sound amplification equipment and the purposes for which it is to be used; and

5. A statement designating the proposed time during which the sound amplification equipment will be in operation.

B. Use of sound amplification equipment may be authorized by the Director of the Department of Planning and Community Development pursuant to BCC subject to the following criteria:

1. The use of sound amplification equipment shall not be allowed on Sundays or legal holidays;

2. The use of amplified sound equipment shall not be allowed at the same location or on the same property on more than four days in any calendar week;

3. Amplified sound shall be subject to the maximum permissible noise levels for amplified sound set forth in BCC 9.18.030;

4. Amplified sound shall be subject to the quiet zone prohibitions in BCC 9.18.042; and

5. No person shall operate or cause to be operated within the city any sound amplification equipment, the sound from which is plainly audible to occupants of a school during school hours or a hospital at any time; provided that this section does not apply to the operation of sound amplification equipment on school or hospital grounds.

Section 11. A new Section 9.18.045B of the Bellevue City Code is hereby created as follows:

9.18.045B Development restrictions.

A. New residential structures shall not be approved for construction if the exterior Ldn anywhere along the proposed building lines of the structure exceeds 65 dBA unless sound attenuation measures are incorporated into the site design and/or the design and construction plans of the structure which are intended to reduce the maximum interior Ldn as follows:

1. Forty dBA or lower for sleeping areas; and

2. Forty-five dBA or lower for non-sleeping areas.

B. Play area equipment shall not be installed as part of an exterior public or private community recreation area if the exterior Leq (daytime) at the play area site exceeds 55 dBA unless sound attenuation measures including, but not limited to berms, barriers and/or buildings are incorporated into the site design which are intended to reduce the maximum exterior Leq (daytime) to 55 dBA or lower.

C. Arterial improvements requirements in Class A EDNAs are as follows:

1. In Class A EDNAs, arterial improvement projects not including the addition of walkways, bicycle lanes and minor widening must include a noise analysis of the affected environment by a qualified noise consultant if:

- a. The existing exterior noise level exceeds 67 dBA peak hour Leq; or
- b. The projected exterior noise level as a result of the project is estimated to increase beyond 67 dBA peak hour Leq; or
- c. The exterior noise level is expected to increase by five dBA more as a result of the project.

2. The point of exterior noise level measurement for purposes of this subsection will be five feet above existing grade anywhere along a parallel line 60 feet on either side of the arterial centerline.

3. Noise mitigation measures, intended to reduce exterior noise levels to 60 dBA Ldn or lower, will be approved by the director of design and development if the cost of noise mitigation is included in the CIP budget, or by the city council if additional funds for noise mitigation are required, in consideration of the following factors:

- a. Whether reasonable noise mitigation measures are available which will reduce exterior noise levels by three dBA or more; and
- b. Whether the financial impacts of noise mitigation measures are not disproportionate to the overall cost of the arterial improvement project; and
- c. Whether benefited property owners contribute to the cost of mitigation, provided that this factor only applies if existing exterior noise levels exceed 67 dBA peak hour Leq; and
- d. Whether the benefited community is supportive of noise mitigation measures.

Section 12. Section 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 the provisions of BCC 9.18.040 or 9.18.042 is a civil noise infraction as provided for in Chapter 7.80 RCW. If a person violates the provisions of BCC 9.18.040 or 9.18.042, a citation may be issued assessing a monetary penalty in the amount of \$250.00.

C. Civil Violations. A violation of the provisions of BCC 9.18.030, 9.18.040.A.4, 9.18.040.A.5 or 9.18.045B is a civil violation as provided for in Chapter 1.18 BCC. A person responsible for the violation of the provisions of BCC 9.18.030, 9.18.040.A.4, 9.18.040.A.5 or 9.18.045B may be assessed a monetary penalty and required to perform abatement as provided for in Chapter 1.18 BCC.

D. Criminal Violations. In addition to or as an alternative to any other penalty provided in this chapter or by law, any person who violates the provisions of this chapter is guilty of a misdemeanor.

Section 13. Section 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.

B. Enforcement.

1. Civil Noise Infractions. The police department shall be responsible for the enforcement of provisions of this chapter relating to noise disturbances (including associated exemptions) and noise in quiet zones, and is authorized to issue, serve and file notices of civil noise infractions for violations of BCC 9.18.040 and 9.18.042.

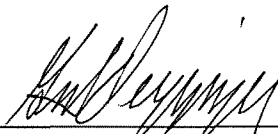
2. Civil Violations. The department of planning and community development shall be responsible for the enforcement of provisions of this chapter relating to stationary noise sources, maximum permissible noise levels and development restrictions, and is authorized to issue civil violations for violations of BCC 9.18.030, 9.18.040.A.4, 9.18.040.A.5 and 9.18.045B.

3. Construction Hours Posting. The building official shall be responsible for the enforcement of BCC 9.18.044 relating to the posting of construction hours as provided for in Chapter 23.05 BCC.

Section 14. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this 20th day of February, 2007 and signed in authentication of its passage this 20th day of February, 2007.

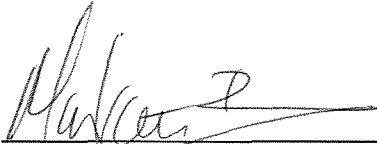
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Grant S. Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney



Mary Kate Berens, Deputy City Attorney

Attest:



Myrna L. Basich, City Clerk

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