

OPTION C

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6786

AN ORDINANCE amending the Bellevue City Code (BCC) Chapter 9.18, Noise Control, to expand the exempt hours for construction noise, create a public notice process, and modify the allowed decibel level for sleeping areas; providing for severability; and establishing an effective date.

WHEREAS, the purpose of Chapter 9.18 BCC is, in part, to minimize exposure to the harmful physiological and psychological effects of excessive noise and protect the health and welfare of Bellevue's residents; and

WHEREAS, extending the hours that construction noise is exempt from Chapter 9.18 BCC while requiring public notification and allowing multiple noise instances to be authorized under a single permit will likely minimize the duration of noise and traffic impacts of construction project, reducing the negative impacts of construction work and informing impacted individuals of the potential noise disturbance; and

WHEREAS, modifying the allowed decibel levels for sleeping areas consistent with U.S. Environmental Protection Agency standards protects the health and welfare of occupants and encourages the construction of multi-family housing, a noted need, by lowering the cost of construction; and

WHEREAS, the City Council reviewed the proposed amendments to Chapter 9.18 BCC, Noise Control, at a study session on February 26, 2024; and

WHEREAS, the City Council desires to amend Chapter 9.18 BCC, Noise Control, to expand the exempt hours for construction noise, create a public notice process, and modify the allowed decibel level for sleeping areas; and

WHEREAS, in accordance with RCW 70A.20.060 and WAC 173-60-110, the City submitted a draft of this Ordinance to the Washington State Department of Ecology for review; and

WHEREAS, the Washington State Department of Ecology completed its review and provided no comments to the City; and

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

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

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Section 1. Section 9.18.015 of the Bellevue City Code is hereby amended to read as follows, with all other provisions of Section 9.18.015 that are omitted below, as indicated by an ellipsis, remaining unchanged:

9.18.015 Definitions

...

A. "Arterial" means a principal, minor, or collector arterial as now or hereafter described in the city's comprehensive plan.

...

C. "Construction" means any site preparation (including blasting), assembly, erection, demolition, substantial repair, alteration, or similar actions.

...

N. "Lower Density Residential Zones" means all area within the R-1, R-1.8, R-2.5, R-3.5, R-4, R-5, and R-7.5 residential land use districts established, mapped, and defined pursuant to Chapter 20.10 LUC.

O. "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.

P. "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, or occupy property where a violation occurs.

Q. "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.

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

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

T. "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.

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U. "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.

V. "Street" means publicly owned land for the movement of vehicles and pedestrians and providing for access to adjacent parcels, and also means land subject to an easement or dedication in favor of the public for the movement of vehicles and pedestrians and providing for access to adjacent parcels. For the purposes of this Chapter, "Street" includes "Arterial" but does not include state or federal highways.

W. "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.

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

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

Section 2. Section 9.18.020 of the Bellevue City Code is hereby amended to read as follows, with all other provisions of Section 9.18.020 that are omitted below, as indicated by an ellipsis, remaining unchanged:

9.18.020 Exemptions and authorizations.

...

B. The following sounds, except as provided below, are exempt from the provisions of this chapter at all times if the receiving property is in Class B and Class C EDNAs, and only 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:

...

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 8:00 p.m. on weekdays, and 8:00 a.m. and 6:00 p.m. on Saturdays which are not legal holidays unless the parcel containing the construction site is within, abuts, or is directly across the street from lower density residential zones. If the parcel containing the construction site is within, abuts, or is directly across the street from lower density residential zones, sounds created by construction and emanating from the construction site are exempt from the provisions of this chapter between the hours of 7:00 a.m. and 7:00 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 beyond these exempt hours may only be permitted as follows:

1. Construction Noise Exemption. Approval from the appropriate director, in the form of a construction noise exemption, is required for any construction-related sounds to emanate from construction sites on Sundays, legal holidays, and outside the exempt work hours.

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- a. The exemption may only be approved if the appropriate director determines that an exemption is necessary to accommodate one or more of the following activities:
 - i. Emergency construction work necessary to address immediate hazards to public health, safety, or welfare, as determined by the appropriate Director;
 - ii. Mitigation of transportation impacts or safety hazards related to construction work, including but not limited to: evening or early morning haul routes; tower crane assembly, disassembly, and reconfiguration; concrete pours; placement of mechanical equipment on rooftops; or other transportation impacts or safety hazards related to construction work, as approved by the appropriate Director;
 - iii. Individual construction tasks that require more than 12 consecutive hours to complete.
 - iv. Construction activities occurring outside exempt hours to avoid or mitigate impacts from extreme weather;
 - v. Construction and essential maintenance or repair work of schools; essential utility services; state highway transportation projects; streets or utilities in the public right-of-way; and essential government facilities which cannot be undertaken or completed during exempt hours; or
 - vi. Sounds created by construction that do 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.
 - b. Unless otherwise approved by the appropriate director, applicants granted a construction noise exemption, other than those authorized under BCC 9.18.020(C)(1)(a)(i) or 9.18.020(C)(1)(a)(iv), shall provide written notice, in a form and manner approved by the appropriate Director, to all owners and tenants of property adjacent to the construction site at least two weeks prior to starting the construction work covered under the exemption.
2. The construction noise exemption may authorize multiple instances of noise occurring outside of allowed work hours, provided:
 - a. The construction noise exemption is associated with work authorized by an approved construction permit or state highway project;

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- b. The construction noise exemption may authorize multiple consecutive or non-consecutive days with noise outside of allowed work hours within a single 30-day period; and
 - c. The applicant shall provide a schedule and description of all construction activities to occur outside exempt work hours.
3. The appropriate director's decision on a construction noise exemption may be appealed using the process contained in LUC 20.35.250.

...

Section 3. Section 9.18.040 of the Bellevue City Code is hereby amended to read as follows, with all other provisions of Section 9.18.040 that are omitted below, as indicated by an ellipsis, remaining unchanged:

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:

...

- 4. Permitting any sounds created by construction 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);

...

- 6. Sounds which do not exceed the maximum environmental noise levels set forth in BCC 9.18.030 may constitute noise disturbances; or
- 7. Violations of BCC 9.18.020(C)(1)(b).

B. The enumeration of acts described in BCC 9.18.040(A) shall not be construed as excluding other acts which may constitute noise disturbances.

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Section 4. Section 9.18.045B of the Bellevue City Code is hereby amended to read as follows, with all other provisions of Section 9.18.045B that are omitted below, as indicated by an ellipsis, remaining unchanged:

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 to 45 dBA or lower.

...

Section 5. Section 9.18.046 of the Bellevue City Code is hereby amended to read as follows:

9.18.046 Variance.

A. A property owner, or authorized agent of the property owner, may submit a written request to the director of the development services department for a variance from the provisions of this chapter. Upon receipt, the director shall process the request for a variance from the provisions of this chapter using Process II, LUC 20.35.200 et seq. The director's decision to approve, approve with modifications, or deny the request for a variance shall be based on the variance decision criteria outlined in Ch. 173-60 WAC.

B. A variance is not required for construction noise exemptions, which shall be processed pursuant to BCC 9.18.020(C).

Section 6. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this Ordinance.

Section 7. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after adoption and legal publication.

Passed by the City Council this _____ day of _____, 2024 and signed in authentication of its passage this _____ day of _____, 2024.

(SEAL)

Lynne Robinson, Mayor

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Approved as to form:

Kathryn L. Gerla, City Attorney

Robert Sepler, Assistant City Attorney

Attest:

Charmaine Arredondo, City Clerk

Published: _____