

**Snohomish County Council
Snohomish County, Washington**

**AMENDED
ORDINANCE NO. 97-023**



CO00021702

**REPEALING AND RE-ENACTING SNOHOMISH COUNTY CODE CHAPTER 10.01
FOR THE PURPOSE OF CONTROLLING NOISE**

BE IT ORDAINED:

Section 1. Snohomish County Code Chapter 10.01, adopted by Ordinance No. 82-007 , is repealed and re-enacted to read:

Chapter 10.01

NOISE CONTROL

Sections:

10.01.010	Declaration of policy--findings
10.01.020	Definitions
10.01.030	Quantitative standards for sound
10.01.040	Public disturbance noise
10.01.050	Exemptions
10.01.060	Modified Standards Permits
10.01.070	Noise prevention
10.01.080	Enforcement and appeals

10.01.010 Declaration of policy--findings.

(1) **Purpose:** The purpose of this ordinance is 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. It is the express intent of the county to control the level of noise in a manner which promotes the use, value and enjoyment of property; sleep and repose; commerce; and the quality of the environment.

(2) **Findings.** The problem of noise in unincorporated Snohomish county has been observed by the council and county staff. It has been studied by a council-appointed citizens noise issues advisory group. It is documented by the complaints received and logged in the sheriff's department, and by the

complaints recorded and noted at public meetings of the noise issues advisory group. On the basis of this experience and knowledge of conditions within unincorporated Snohomish county, the council finds that special conditions exist which make necessary any and all differences between chapter 10.01 SCC and the regulations adopted by the Washington State Department of Ecology.

10.01.020 Definitions. All technical terminology used in chapter 10.01 SCC, and not defined in chapter 10.01 SCC, shall be interpreted in conformance with the American National Standards Institute Specifications, Section 1. 1-1960 and Section 1.4-1971 as now in force or as later amended. As used in this chapter, the following terms shall have the meanings set forth below:

(1) "Administrator" means the director of the planning and development services department or that person's designated representative who is authorized to administer and enforce specific noise control provisions under chapter 10.01.

(2) "Ambient sound level" means the background level of all sound in a given district independent of the specific source being measured.

(3) "Commercial agriculture" means the production of livestock or agricultural commodities on lands defined as "Farm and Agricultural" by RCW 84.34.020 (2) and the offering of the livestock and agricultural commodities for sale.

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

(5) "Day" or "daytime," for the purposes of this chapter, means the hours between 7:00 a.m. and 10:00 p.m. on weekdays and between 9:00 a.m. and 10:00 p.m. on weekends.

(6) "dB(A)" means the sound level measured in decibels, using the "A" weighting scale which reflects the response characteristics of the human ear.

(7) "District" means the land use zones to which the provisions of chapter 10.01 SCC are applied. For the purpose of Chapter 10.01:

(a) "Rural district" includes zones designated in chapter 18.12 SCC as Rural-5 acre (R-5), Rural Conservation (RC), Rural Reserve (RR), Rural use (RU), Suburban Agriculture-1 acre (SA-1), Forestry (F), Forestry and Recreation (F & R), Agriculture-10 Acre (A-10), and Rural Diversification (RD).

b) "Residential district" includes zones designated in chapter 18.12 SCC as Residential 20,000 sq. ft. (R-20,000), Residential 12,500 sq. ft. (R-12,500), Residential 9,600 sq. ft. (R-9,600), Residential 8,400 sq. ft. (R-8,400), Residential 7,200 sq ft (R-7,200), Waterfront Beach (WFB), Townhouse (T), Low Density Multiple Residential (LDMR), and Multiple Residential (MR).

(c) "Commercial district" includes zones designated in chapter 18.12 SCC as Freeway Service (FS), Neighborhood Business (NB), Planned Community Business (PCB), Community Business (CB), and General Commercial (GC)

(d) "Industrial district" includes zones designated in chapter 18.12 SCC as Business Park (BP), Light Industrial (LI), Heavy Industrial (HI), Industrial Park (IP), Mineral Conservation (MC), and all parcels of land possessing a valid conditional use permit for mineral extraction issued pursuant to Chapter 18.72 SCC.

(8) "Equipment" means any stationary, mobile, self-powered, or portable device or any part thereof capable of generating sound.

(9) "Exterior play area" means any outdoor area which is designated in any site plan as a place where children will play and/or features playground equipment, fields for organized sports, or other facilities for outdoor recreational activities.

(10) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the recommended maximum loaded weight of a single vehicle.

(11) "Impulsive sound" means sound having the following qualities: the peak of the sound level is less than one second and short compared to the occurrence rate, the onset is abrupt, the decay is rapid, and the peak value exceeds the ambient level by more than 10 dB(A). For example, the sound made by a pile driver would often meet the definition of an "impulsive sound".

(12) "Land Use" means the nature of the occupancy, the type of activity, or the character and form of improvements to which land is devoted or may be devoted.

(13) "Leq" is a basic measure for quantifying noise exposure, namely: the equivalent A-weighted continuous sound level in a given time period that conveys the same sound energy as the actual time-varying A-weighted sound.

(14) "Ldn (day-night equivalent sound level)" is a basic measure for quantifying noise exposure, namely: the Leq for a 24-hour period with a 10dB weighting applied to sound levels between the hours of 10:00 p.m. and 7:00 a.m.

(15) "Motor vehicle" means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways, and required to be licensed under RCW 46.16.010. Aircraft, watercraft and vehicles used exclusively on stationary rails or tracks are not motor vehicles as that term is used in chapter 10.01.

(16) "Motorcycle" means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, except that farm tractors and vehicles powered by engines of less than five horsepower are not included.

(17) "Muffler" means a device consisting of a series of chambers or other mechanical designs for the purpose of receiving exhaust gas from an internal combustion engine, or for the purpose of introducing water to the flow of the exhaust gas, and which is effective in reducing sound.

(18) "Night" or "nighttime," for the purposes of this chapter, means the hours between 10:00 p.m. and 7:00 a.m. on weekdays, and between 10:00 p.m. and 9:00 a.m. on weekends.

(19) "Noise" means the intensity, duration and character of sounds from any and all sources.

(20) "Off-road 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. "Off-road vehicle" shall not include special construction vehicles.

(21) "Periodic sound" means sound having the following qualities: the sound level varies repetitively with a period of one minute or less, and the peak value is more than 5 dB(A) above the

minimum value. For example, the "chugging" sound made by a steam engine might meet the definition of a "periodic sound".

(22) "Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.

(23) "Property" means an interest or aggregate of rights in land which is guaranteed and protected by law. For purposes of chapter 10.01 SCC, "property" includes a leasehold interest.

(24) "Property boundary" means an imaginary line exterior to any enclosed structure, at ground surface, which separates the property of one or more persons from that owned by others; and its vertical extension. In the case of separate tenancies or ownerships which share a common wall, floor, or ceiling "property boundary" shall mean the edge of the wall, floor, or ceiling which is on the side of the receiving tenancy or ownership.

(25) "Public disturbance noise" means any sound which, because of its random or infrequent occurrence, is not conducive to measurement under the quantitative standards established in section SCC 10.01.030; and endangers or injures the safety or health of humans or animals, or endangers or damages personal or real property, or annoys, disturbs or perturbs any reasonable person of normal sensitivities, or is specifically included in those listed in sub-sections SCC 10.01.040 (1) or 10.01.040 (2).

(26) "Public highway" means the entire width between the right of way lines of every roadway publicly maintained by the Washington State Department of Transportation, or any county or city, when any part of the right-of-way is generally open to the use of the public for purposes of vehicular travel as a matter of right.

(27) "Pure tone component" means sound having the following qualities: a one-third octave band sound pressure level in the band with the tone that exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above, by 8 dB for center frequencies between 160 and 400 Hz, and by 15 dB for center frequencies less than or equal to 125 Hz. For example, the sound made by a siren often meets the definition of a "pure tone component".

(28) "Receiving property" means property within which sound originating beyond its property boundary is received.

(29) "Repetitive barking" means barking, whether by one or more dogs, which while not continuous constitutes 10 minutes or more of any half hour time span.

(30) "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 1.4-1971.

(31) "Sound level meter" means a sound level measuring device either Type I or Type II, as defined by American National Standards Institute Specifications, Section 1.4-1971.

(32) "Special construction vehicle" means any vehicle which is designed and used primarily for grading, paving, earthmoving, and other construction work; which is not designed or used primarily for the transportation of persons or property on a public highway; and which is only incidentally operated or moved over the highway.

(33) "Temporary Construction Site" means any location where site clearing, construction of plat improvements, or construction or remodeling of a structure, facility, improvement, or other feature attached to the land occurs including roadway, bikeway, trail, sidewalk, or other similar construction, repair, or improvement.

(34) "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, but not including any fire alarm.

(35) "Watercraft" means any contrivance powered by an internal or external combustion engine used or capable of being used as a means of transportation or recreation on water. "Watercraft" includes aircraft taxiing on water, but excludes aircraft in the act of actual landing or takeoff.

(36) "Weekday" means any day Monday through Friday which is not a legal holiday as defined in RCW 1.16.050.

(37) "Weekend" means Saturday and Sunday or any legal holiday as defined in RCW 1.16.050 .

10.01.030 Quantitative standards for sound.

(1) Unlawful sounds. Except as provided in SCC 10.01.050 (1), 10.01.050 (2), 10.01.050 (3), 10.01.050 (4), 10.01.050 (5), 10.01.050 (6) and 10.01.050 (7) it is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound which intrudes into the property of another person and exceeds the maximum permissible sound levels established in sub-sections SCC 10.01.030 (2) and 10.01.030 (3); or 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 manner as to exceed the maximum permissible sound levels established in sub-section SCC 10.01.030 (4) for the category of vehicle.

(2) Maximum permissible sound levels. Measurement of sound levels from all sources except motor vehicles on public roads shall be made at or within the property boundary of the receiving property. Maximum permissible sound levels for districts within unincorporated Snohomish county, expressed in dB(A)'s, are:

DISTRICT OF RECEIVING PROPERTY	DISTRICT OF NOISE SOURCE			
	RURAL	RESIDENTIAL	COMMERCIAL	INDUSTRIAL
RURAL	49	52	55	57
RESIDENTIAL	52	55	57	60
COMMERCIAL	55	57	60	65
INDUSTRIAL	57	60	65	70

(3) Modifications to maximum permissible sound levels. The maximum permissible sound levels established in sub-section SCC 10.01.030 (2) are altered by the sum of the increases and reductions in (a), (b), and (c) below:

(a) Sounds of short duration may exceed the maximum permissible sound levels by a total of not more than fifteen minutes in any one-hour period, when comprised of one or any combination of the following:

(1) 5 dB(A) for a total of fifteen minutes, or

(2) 10 dB(A) for a total of five minutes, or

(3) 15 dB(A) for a total of one-and-one-half minutes.

(b) At night, as defined in sub-section 10.01.020 (18), the maximum permissible sound levels are reduced by ten dB(A) where the receiving property lies within a rural or residential district of Snohomish county, except for sound sources exempted under sub-section 10.01.050 (3).

(c) For any source of sound which is periodic, has a pure tone component, or is impulsive, the maximum permissible sound levels are reduced by 5 dB(A) at night, as defined in section 10.01.020 (18), where the receiving property lies within a rural or residential district of Snohomish county, except for sound sources exempted under sub-section 10.01.050 (4).

(4) Maximum permissible sound levels for motor vehicles. Measurement of motor vehicle sound levels shall be made at a distance of fifty feet from the center of the lane of travel at the posted speed limit, by measurement procedures established by the State Commission on Equipment. Maximum permissible sound levels for motor vehicles, expressed in dB(A)'s, are:

Vehicle Category	35 mph (56kph) or less	Over 35 mph (56 kph)
Motorcycles	78	82
Automobiles, light trucks, and all other motor vehicles 10,000 pounds or less GVWR	72	78
All motor vehicles over 10,000 pounds GVWR	86	90

(5) Maximum permissible sound levels for watercraft. No person shall operate a watercraft on the waters of unincorporated Snohomish county in a manner as to exceed the maximum noise limits as prescribed in RCW 88.12.085. All measurements for enforcement of this section shall be taken in accordance with the provisions of Chapter 352-67 WAC.

(6) Modification for recorded bells, chimes, and carillons. The maximum permissible sound levels established in sub-section SCC 10.01.030(2) may be exceeded by 20 dB(A) for sounds of bells, chimes or carillons created by a sound amplifier or other device capable of producing or reproducing sound for a total of not more than 15 minutes a week.

10.01.040 Public Disturbance Noise. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound that is a public disturbance noise.

(1) Public disturbance noises, day and night. Sounds resulting from the following activities, occurring at any hour of the day or night, are determined to be public disturbance noises.

(a) Keeping or harboring any animal whose frequent or repetitive noisemaking unreasonably interferes with the peace and comfort of persons in rural or residential districts, except farm animals in zones where farm animals are allowed and except the keeping or harboring of animals in commercial kennels, animal shelters, veterinary hospitals, pet shops, and grooming parlors which are in compliance with noise impact mitigation measures designed to meet the standards of SCC 10.01.030(2) and SCC 10.01.040(1) required as a part of a conditional use permit or SEPA determination issued by the Hearing Examiner or Department of Planning and Development Services.

(b) The use of unmuffled exhaust systems on motor vehicles, off-road vehicles and recreational watercraft.

(c) Creation of frequent, repetitive or continuous sounds in connection with starting, repairing, operating or testing of motor vehicles, off-road vehicles, or internal combustion engines in a manner that interferes with the peace and comfort of persons in rural or residential districts.

(d) The sounding of vehicle horns for purposes other than public safety.

(e) The making of any loud and raucous sound within one thousand feet of any school, hospital, sanitarium, nursing or convalescent facility, which unreasonably interferes with the use of such facility, or with the peace, comfort, or repose of persons therein.

(f) The use of a sound amplifier on public streets for commercial advertising or for the purpose of attracting attention to the vehicle, except as permitted by law, provided that ice cream vendors whose sole method of sale is from a moving vehicle shall be exempted.

(g) The creation, by use of a musical instrument, sound amplifier or other device capable of producing or reproducing sound, of sounds heard as comprehensible music rhythms or felt:

(1) Within a residence not originating the noise, or

(2) Outdoors in a commercial, rural or residential district at a distance of 75' or more from the noise source. Such sounds include band sessions, automobile sound systems, and electronic sound reproduction equipment whether the source of the sound is stationary, portable, or in a motor vehicle.

(2) Public disturbance noises, at night in rural or residential districts. Sounds resulting from the following activities are determined to be public disturbance noises when they occur at night and noise is received on property in a rural or residential district.

(a) Operation within a rural or residential district of any mechanically powered saw, drill, sander, grinder, blower, fan, garden tool or similar device, except devices engaged in emergency work exempted under section SCC 10.01.050 (1)(g).

(b) Operating or permitting someone to operate an internal combustion powered model.

(c) Construction activity, including blasting, unless a public disturbance exemption permit pursuant to SCC 10.01.050(6) is obtained.

(d) The operation or idling, for more than ten minutes at a time, of stationary trucks weighing in excess of 10,000 pounds GVWR, except vehicles engaged in emergency work exempted under section 10.01.050 (1) (g).

(e) The sounding of bells, chimes or ~~((clarions))~~ carillons.

(f) The creation by use of a musical instrument, whistle, human voice, sound amplifier, or other device capable of producing or reproducing sound, of loud and raucous sounds which emanate frequently, repetitively or continuously from any building, structure, vehicle or property, such as sounds originating from a band session, automobile sound system or social gathering.

(3) Exemptions from SCC 10.01.040. Sounds resulting from activities identified in SCC 10.01.040 (1) and 10.01.040 (2) shall not be considered public disturbance noises if:

(a) The activity which produces the noise is operated in conformance with a valid Conditional Use Permit; and

(b) The Conditional Use Permit establishes conditions designed to meet the standards of Chapter 10.01 SCC; and

(c) Sounds resulting from activities exempt from SCC 10.01.040 (1) and (2) pursuant to this section are not exempt from SCC 10.01.030.

No sound source specifically exempted from provisions of this chapter by SCC 10.01.050 (1), 10.01.050 (2), 10.01.050 (3), 10.01.050 (4), 10.01.050 (5), 10.01.050 (6), or 10.01.050 (7) may be determined to be a public disturbance noise, to the extent that the particular source is exempted.

10.01.050

Exemptions

(1) Sounds exempt at all times. The following sounds are exempt, at all times, from the maximum permissible sound levels established in sub-sections SCC 10.01.030 (2) and 10.01.030 (3), except that such sounds produced by operations or activities requiring the issuance of a Conditional Use Permit or a SEPA determination shall only be exempt in so far as the conditions of the Conditional Use Permit or SEPA determination are being complied with.

(a) Sounds originating from aircraft in flight and sounds which originate at airports and are directly related to flight operations.

(b) Sounds created by the operation of equipment or facilities of surface carriers engaged in interstate commerce by railroad.

(c) Sounds originating from commercial, non-recreational vessels.

(d) Sounds created by the normal operation, on public highways, of motor vehicles regulated under sub-section SCC 10.01.030 (4) pertaining to maximum permissible sound levels for motor vehicles.

(e) Sounds caused by fire alarms being used as such.

(f) Sounds created by warning devices, excluding back-up beepers, provided the devices do not operate continuously for more than five minutes per incident.

(g) Sounds created by emergency equipment and vehicles necessary for law enforcement or for the health, safety and welfare of the community, when used for these purposes.

(h) Sounds created by safety and protective devices, such as pressure relief valves, where noise suppression would defeat the safety purpose of the device.

(i) Sounds caused by pigs, cattle, horses, sheep, goats, and poultry in zones where allowed, whether in commercial or noncommercial activities, provided that such sounds shall not be exempt within the area bounded by Puget Sound on the west, the Snohomish county/King county line on the south, 164th Street SE on the north and the Bothell Highway (SR527) on the east.

(j) Sounds created by the discharge of firearms in the course of lawful hunting activities in zones where allowed.

(k) Sounds caused by natural phenomena.

(l) Sounds originating from officially sanctioned parades and other public events.

(m) Sounds originating from motor vehicle racing events at existing, authorized facilities.

(n) Sounds emitted during startup of petroleum refinery boilers, provided that the startup procedure is performed during daytime hours whenever possible.

(o) Sounds created by construction equipment, including special construction vehicles, at temporary construction sites, provided the receiving property is located in a commercial or industrial district.

(p) Sounds originating from forest harvesting, silviculture, or commercial agriculture, provided these uses are conducted in compliance with SCC 32.15 or 32.20.

(q) Sounds created by back-up beepers, provided that at night these sounds shall not be allowed to exceed the noise level necessary to comply with WAC 296.

(r) Sounds produced by fireworks, provided that all the restrictions in Snohomish County Code Chapter 16.10 are being complied with.

(s) Activities necessary for roof replacement or site protection when weather conditions create an emergency. The noise administrator shall have the authority to determine whether or not an emergency exists.

(2) Sounds exempt during daytime hours. The following sounds are exempt, during daytime hours, from the maximum permissible sound levels established in sub-sections SCC 10.01.030 (2) and 10.01.030 (3) except that such sounds produced by operations or activities requiring the issuance of a

Conditional Use Permit or a SEPA determination shall only be exempt in so far as the conditions regarding noise of the Conditional Use Permit or SEPA determination are being complied with.

(a) Sounds created by construction equipment, including special construction vehicles, at temporary construction sites.

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

(c) Sounds created by powered equipment used in temporary or periodic maintenance or repair of residential property.

(d) Sounds created by the installation or repair of essential utility services.

(e) Sounds created by the discharge of firearms in zones where allowed or at a shooting range (as defined in SCC 18.90.755) which is sited, developed and operated in accordance with all the provisions of Title 18 SCC.

(f) Sounds created by blasting.

(g) Sounds created by aircraft engine testing and maintenance.

(3) Exemptions from general nighttime reduction provision. The following sounds are exempt from the nighttime reduction provision of sub-section SCC 10.01.030 (3) (b) except that such sounds produced by operations or activities requiring the issuance of a Conditional Use Permit or a SEPA determination shall only be exempt in so far as the conditions regarding noise of the Conditional Use Permit or SEPA determination are being complied with:

(a) Sounds originating from electrical substations and transmission lines.

(b) Sounds originating from stationary equipment used in the conveyance of water by a utility.

(c) Sounds emitted from asphalt and concrete production required by public agencies for the construction of public roadways during night time hours, provided that:

(1) The county noise administrator receives advance written notice that the plant will be operating at night, with said notice indicating the agency in charge of the construction, the contract number, and the dates when the plant shall be operating during night time hours; and

(2) Notice shall be prominently posted for the general public:

(a) The same day as the plant operator is notified of the need for the night operation by the public agency; and

(b) Be placed at the front entrance to the plant on signs measuring two feet by three feet; and

(c) Which gives the information listed in (1) above; and

(3) If the plant will be operating for more than two consecutive nights notice shall be mailed by the plant operator to all residents within 500 feet of the plant if the plant is located within a Urban Growth Area and within 1,500 feet of the plant if the plant is located outside of an Urban Growth Area.

(4) In the event the plant operates at night for more than 3 consecutive weeks the operator shall hold a public meeting no later than the end of the fourth week to hear public comment. The purpose of the meeting shall be to identify and, when possible, mitigate neighborhood impacts. Notice of the public meeting shall be provided in the manner described in (1), (2), and (3) above.

(4) Exemptions from the reduction for periodic, pure tone and impulsive sound. The following sounds are exempt from the reduction for periodic, pure tone and impulsive sound provided in sub-section SCC 10.01.030 (3) (c) except that such sounds produced by operations or activities requiring the issuance of a Conditional Use Permit or a SEPA determination shall only be exempt in so far as the conditions regarding noise of the Conditional Use Permit or SEPA determination are being complied with:

(a) Sounds created by electrical substations and transmission lines

(b) Sounds created by existing stationary equipment used in the conveyance of water by a utility.

(c) Sounds created by existing industrial activities; provided, that such exemption shall pertain only to the additional 5dB(A) nighttime component of the reduction for periodic, pure tone and impulsive sound, and provided further that such exemption shall only extend to three years after the effective date of this chapter.

(5) Kennel exemptions.

(a) Commercial kennels, animal shelters, veterinary hospitals, pet shops, and grooming parlors holding a valid license issued pursuant to SCC 6.06 at the time of the adoption of this chapter shall be exempt from the provisions of this ordinance other than SCC 10.01.050 (5) (b). Such exemption shall not apply to any conditions or mitigating requirements imposed as a result of a Conditional Use Permit or SEPA determination. All commercial kennels, animal shelters, veterinary hospitals, pet shops, and grooming parlors obtaining a valid license issued pursuant to SCC 6.06 after the adoption of this chapter shall comply with all provisions.

(b) Commercial kennels holding a valid license issued pursuant to SCC 6.06 shall be required to observe "quiet hours" between 10 PM and 6 AM on Monday through Friday and between 10 PM and 8 AM on Saturday and Sunday. During this time it shall be a violation of the noise ordinance to allow repetitive barking or barking for a duration in excess of 5 minutes.

(6) Public Disturbance Exemption Permit.

(a) Any person who wishes an exemption from the public disturbance provisions of SCC 10.01.040 may apply to the administrator for a permit. The application shall be accompanied by such information and data as the administrator may require and be filed not less than 45 days prior to the proposed event or activity for which the permit is required.

(b) Any use which would otherwise be a violation of SCC 10.01.040 will be exempt from the provisions of SCC 10.01.040 provided a valid permit has been issued by the administrator for the property upon which the use takes place. In no way shall such a permit exempt any holder from compliance with all other county codes.

(c) The person applying for an exemption shall post the property with a notice stating the proposed exemption, any proposed mitigating measures, and instructing persons who wish to comment to contact the administrator within a thirty day comment period. The comment period shall extend for 30 days from the day the affidavit described herein is given to the administrator. The applicant shall also mail notice to all property owners and residents within 500 feet of the property line of the lot containing the noise source. An affidavit, which shall include the names and addresses of property owners and residents notified, shall be given to the administrator by the applicant swearing that the posting and mailed notice was provided. Any person who believes they may be impacted may comment. Signs and instructions for posting shall be provided to the applicant by the administrator. The responsibility for and cost of notice shall be borne by the applicant.

(d) Following the 30 day comment period and after reviewing the application and any comments, the administrator shall:

(1) If no comments have been received, issue a temporary permit which may include conditions. Following the issuance of the temporary permit there shall be a 14 day appeal period. The holder of a temporary permit may operate upon receipt of the permit, even if the 14 day appeal period has not expired. Any person who believes they are impacted may comment during the appeal period, in which case the procedures outlined in (e) shall be followed. In the absence of such comments the temporary permit shall become final at the end of the 14 day appeal period.

(2) If comments have been received the procedures outlined in (e) below shall be followed.

(e) Permit process when comments are received.

(1) The administrator may call one or more administrative conferences with the applicant and persons submitting comments on the application to better understand the issues at hand. Administrative conferences shall be informal in nature, designed to elicit neighbors' concerns and reach an accommodation between the applicant and those with concerns. Notice of the administrative conference shall be provided to the applicant and any persons who commented on the application. The administrator shall have the authority to recommend that the parties make use of a dispute resolution service.

(2) Permits shall be issued when:

(a) The administrator has determined that no person has demonstrated that the issuance of the permit shall create an undue noise burden or

(b) The administrator has placed conditions upon the permit which in his/her judgment mitigate the concerns expressed by those opposed.

(f) When issuing the permit the administrator may place conditions regarding use including, but not limited to, restrictions on time of day, location on the lot, days of the week, and total hours of use per week.

(g) Final permits shall be for a period of one year, and may be renewed. The one year period shall begin at the end of the 14 day appeal period. Renewals shall be automatic unless complaints have been received by the noise administrator, in which case the same process shall be followed for renewals as for the original permit, except that written notice of the renewal shall be provided to all complainants.

(h) Fees. All initial applications for a permit shall be subject to a \$150 non-refundable application fee. In the event complaints have been received and the renewal is not automatic, the fee for the renewal of a permit shall be \$150. There shall be no fee for automatic renewals.

(i) Expiration. Unless otherwise authorized by the Snohomish County Council, the provision for granting public disturbance exemptions under 10.01.050 (6) shall expire June 30, ((1998)) 1999.

(7) Other exemptions. Street construction or repair projects, which for reasons of public safety require that the work be done at night, shall be exempt from SCC 10.01.030 and 10.01.040 provided:

(a) That a single neighborhood is not impacted for longer than four weeks, and

(b) That those persons residing adjacent to the street which is to be worked on shall receive notice of the project at least one week in advance of the beginning of work.

10.01.060 Modified Standards Permit

(1) Any person who owns or is in possession of any property, use, process or equipment from which sound can emanate may apply to the administrator for a Modified Standards Permit (MSP) to provide relief from the requirements of SCC 10.01.030 or rules or regulations adopted under SCC 10.01.030 governing the quality, nature, duration or extent of discharge of noise. A MSP may apply to all noise sources of a particular class or type. The application shall be accompanied by such information and data as the administrator may require. The administrator has authority to rule on the application, subject to the provisions of this section and to any rules and regulations adopted under this section.

(2) Criteria. The administrator may grant a MSP if the administrator finds that:

(a) The noise occurring or proposed to occur does not endanger public health, welfare, or safety; and

(b) In considering the relative interests of the applicant, other owners or possessors of property likely to be affected by the noise, and the general public the MSP is warranted; and

(c) The MSP, if granted, will further a public interest; and

(d) The applicant demonstrates the requirements for a temporary, technical or economic MSP under sub-section SCC 10.01.060 (3) are met.

(3) Categories of MSPs.

(a) Temporary. The administrator may grant a temporary MSP, not to exceed fourteen days, for any activity, use, process or equipment which the administrator determines is temporary in nature. All such determinations shall be made in accordance with the procedures outlined in SCC 10.01.060 (2).

(b) Technical. The administrator may grant a technical MSP on the ground that there is no practical means known or available for the adequate prevention, abatement or control of the noise involved. The duration of a technical MSP shall be until such practical means for prevention, abatement or control become known or available. A technical MSP shall be subject to the holder's taking of any alternative measures that the administrator may prescribe. The holder of a technical MSP shall make reports to the administrator on a yearly or more frequent basis, as required by the administrator, detailing actions taken to develop a means of noise control or to reduce the noise involved, and must relate these actions to pertinent current technology.

(c) Economic. The administrator may grant an economic MSP on the ground that compliance with the particular requirement or requirements for which the MSP is sought will require the taking of measures which, because of their extent or cost, must be spread over a period of time. The duration of the MSP 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 MSP shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on the applicant's adherence to the timetable.

(4) Application fee. Application for a MSP or for renewal of a MSP shall be accompanied by payment of a nonrefundable fee as follows:

(a) Temporary MSP.....	\$100.00
(b) Technical or economic MSP,.....	\$250.00

In addition to this nonrefundable fee, applicants for technical or economic MSPs shall pay all additional costs not covered by the fee. Such costs include, but are not limited to:

(1) Consultant charges for acoustical or economic studies;

(2) Field inspections;

(3) All hearing costs;

(4) Any time in excess of 5 hours required to review the original application. All such charges shall be based upon actual costs paid by the county when an outside contractor is used to perform the work. When the work is performed by county staff the charge shall be \$40/hour.

(5) MSP not held as a right. A MSP or its renewal shall not be a right of the applicant or holder of the MSP or renewal, but shall be at the reasonable discretion of the administrator. The administrator shall retain jurisdiction over all MSPs. Upon a petition for review being filed by any person affected by a MSP or by any public official, the administrator may, in his/her discretion, call an administrative conference for the purpose of reviewing that MSP. Procedures governing such administrative conferences shall be in accordance with SCC 10.01.060 (6). Upon accepting a petition for review the administrator may, for good cause shown, temporarily stay the force and effect of all or any part of the MSP until the review is finally adjudicated. The administrator may reaffirm, modify or rescind all or any part of the MSP being reviewed, provided that permanent modifications or rescission may only take place following an administrative conference.

(6) Administrative procedures.

(a) The administrator shall adopt rules and regulations governing the application for and granting of MSPs, including provision for notice and/or administrative conferences. The administrator shall have authority to:

- (1) Receive and examine available information,
- (2) Make decisions,
- (3) At his/her discretion, hold administrative conferences for the settlement or simplification of the issues,
- (4) Dispose of procedural requests or similar matters, and
- (5) Take any action authorized by or necessary to carry out this section.

(b) No technical or economic MSP may be granted without due notice to the public and opportunity to comment. If comments in opposition to the granting of the MSP are received, no technical or economic MSP may be granted until after an administrative conference has been held.

(c) Temporary MSPs may be granted by the administrator upon application.

(d) Notice of a MSP request and/or administrative conference shall be as provided in 18.72.160 except that the time and place for the administrative conference shall be set by the administrator and the notices shall be mailed to all property owners and residents within 500 feet of the property line of the lot containing the noise source, provided that if the MSP being requested is related to a mining use or operation the notice shall be provided to all property owners and residents within 1,500 feet.

The administrator's decision shall be final and may be appealed in the manner provided in sub-section 10.01.060 (9).

(8) Renewal. MSPs, except temporary MSPs, granted under chapter 10.01 may be renewed on terms and conditions and for periods which would be appropriate on the initial granting of a MSP. No renewal of a technical or economic MSP shall be granted except on application made at least sixty days prior to the expiration of the MSP.

(9) Appeals. Any person aggrieved by the denial, granting or the terms and conditions of the grant of a noise MSP by the administrator may appeal such decision to the hearing examiner under the following procedures:

(a) Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC.

(b) At the hearing, the appellant shall have the burden of proof, which burden shall be met by a preponderance of the evidence.

(c) The decision of the examiner shall be final and conclusive with an optional right of reconsideration as provided in SCC 2.02.167 and may then be reviewable by an action for writ of review filed in Snohomish county superior court as provided in chapter 2.02 SCC; except as may be limited by chapters 43.21C RCW, 197-11 WAC and 23.40 SCC.

(10) Suspension of enforcement action. An owner or possessor of a pre-existing use or activity for which a MSP has been requested shall be free from enforcement action regarding the noise covered in the MSP application until such time as the MSP has been granted or denied.

(11) Expiration. Unless otherwise authorized by the Snohomish County Council, this section shall be repealed on June 30, ((1998)) 1999.

10.01.070 Noise Prevention

(1) Applicants for permits for the building of new commercial or industrial structures shall be advised by the Department of Planning and Development Services that Snohomish County has passed and enforces a noise ordinance. The department shall provide them with information regarding Chapter

10.01 SCC. Persons building new commercial or industrial structures are urged to plan to address noise issues in their building and site design, particularly when the noise will impact residential areas in the evening and at night.

(2) The standards provided in Chapter 10.01 SCC represent the minimum protections for citizens from noise which are deemed appropriate. The county is aware of technologies and techniques which would reduce the impact of noise on citizens even further, but has chosen not to require them due to the impact on existing commercial and industrial uses. The fact that a new commercial or industrial use will meet the requirements of this code does not preclude other steps for noise abatement being required by the county when considering Conditional Use Permits and making SEPA determinations.

(3) New residential structures. In situations where the general conditions within a residential plat or short plat applied for after the effective date of this chapter indicate that noise from existing airports or interstate freeways may cause the exterior noise level anywhere within the proposed plat to exceed an Ldn of 60 dB(A), buffering or other mitigating measures may, prior to the approval of the preliminary plat, be required to be incorporated into the design and construction plans of the site and structure which are capable of reducing sound inside each home (with windows closed) to a level no higher than a Ldn of 40 dB(A). The following factors shall be considered in making a determination to require such mitigation measures:

- (a) Whether reasonable noise mitigation measures are available, and
- (b) Whether the financial impacts of the mitigation measures are disproportionate to the overall cost of the project, and
- (c) Whether the benefit outweighs the cost.

(4) Arterial street improvements. In residential districts where arterial street improvements will be constructed in a new location or there is physical alteration of an existing arterial which significantly changes either the horizontal or vertical alignment or increases the number of through-traffic lanes, the county shall consider having a noise analysis done by a qualified person if, when measured:

- (a) The existing noise level (maximum hourly Leq) exceeds 67dBA, or
- (b) The projected noise level (maximum hourly Leq) is expected to increase beyond 67dBA, or
- (c) The exterior noise level is expected to increase by 10 dBA or more as a result of the project.

In determining and measuring noise impacts, measurements should be taken from those exterior areas where frequent human use occurs.

(5) In deciding whether spending on noise mitigation measures related to arterial street improvements will be approved, the council and county administrative agencies shall consider the following factors:

- (a) Whether reasonable noise mitigation measures are available, and
- (b) Whether the financial impacts of the mitigation measures are disproportionate to the overall cost of the arterial improvement project, and
- (c) Whether benefited property owners contribute to the cost, and
- (d) Whether the benefited community is supportive of mitigation measures, and
- (e) Whether the existing noise level was near or above 67dB(A) before or after the proposed arterial street improvements, and
- (f) Whether a cost-benefit analysis shows the benefit to outweigh the cost.

- (6) Violations of this section shall not be subject to enforcement under SCC 10.01.080 (2) and (3).

10.01.080 Enforcement and appeals.

(1) Administrative and enforcement personnel. The administrator or a person designated by the administrator is authorized and directed to administer and enforce the provisions of chapter 10.01 SCC pertaining to quantitative standards and MSPs, except for SCC 10.01.030 (5). The administrator shall also be responsible for the issuance of all exemptions under SCC 10.01.050 (6) and (7). The Sheriff or any duly appointed deputy sheriff is authorized and directed to administer and enforce the provisions of chapter 10.01 SCC pertaining to public disturbance noise and SCC 10.01.030 (5). The Department of Public Works is authorized and directed to ensure the carrying out of the provisions of SCC 10.01.070 (4) and (5). The Department of Planning and Development Services is authorized to enforce the provisions of SCC 10.01.070 (1), (2), and (3). All county departments are authorized to assist the administrator, the Sheriff, the Department of Planning and Development Services, and the Department of Public Works in the administration and enforcement of chapter 10.01 SCC.

(2) Quantitative standards enforcement.

(a) Whenever the administrator has reason to believe that a violation of any of the quantitative standards in section SCC 10.01.030, other than 10.01.030 (5), has occurred, the administrator may initiate enforcement action. Enforcement action shall include, at the administrator's discretion, the issuance of an administrative notice and order and/or the issuance of a notice of civil infraction under the provisions of chapter 7.80 RCW. In issuing an administrative notice and order the administrator shall follow the procedures outlined in chapters 28.12 and 28.20 SCC.

(b) Any person charged with a civil infraction under the provisions of section 10.01.030 (excluding 10.01.030 (5)) shall respond to the notice of infraction in the manner set forth in chapter 7.80 RCW.

(c) When a civil infraction is issued each violation shall be subject to a civil penalty of:
(1) \$100 when the violator is not engaged in commercial ventures as defined in SCC 28.08.100 and

(2) \$250 when the violator is engaged in commercial ventures as defined in SCC 28.08.100.

(3) Penalties for an additional separate violation of a like nature by the same person within a three year period shall be double the rates identified in this section.

(d) In cases where the same person has been found to have committed three or more violations of 10.01.030 (excluding 10.01.030 (5)) within a three year period, any subsequent violations of 10.01.030 (excluding 10.01.030 (5)) within one year of the last adjudication shall constitute a misdemeanor. In such cases, the administrator shall have the option of either:

(1) Initiating an administrative notice and order proceeding which may include the imposition of a monetary fine not to exceed \$1,000 for each 24 hour period in which the violation persists, and/or requiring the installation of fixed sound-measuring devices at the violator's property boundary at the violator's expense; or

(2) Transmitting the case records to the prosecutor's office for prosecution as a misdemeanor, or

(3) Any combination thereof.

In the event the installation of fixed sound-measuring devices is required by the administrator the administrator shall also have the authority to require provision of periodic monitoring reports to the county.

(3) Public disturbance enforcement. Any person found to be in violation of the provisions of section SCC 10.01.040 governing public disturbance noise or 10.01.030 (5) shall be deemed to have committed a civil infraction as established in RCW 7.80 and for each violation shall be subject to a civil penalty of \$50; provided that penalties for an additional separate violation of a like nature by the same person within a one year period shall be \$100; and provided further that any second violation within a 24 hour period shall constitute a misdemeanor punishable by incarceration for a period not to exceed 90 days and/or monetary fine not to exceed \$1,000. Any person charged with a civil infraction under the provisions of section SCC 10.01.040 or 10.01.030 (5) shall respond to the notice of infraction in the manner set forth in chapter 7.80 RCW. Where a person has been found to have committed the same offense in violation of SCC 10.01.040 or 10.01.030 (5) three or more times in a one year period, a subsequent charge brought within one year of the last adjudication constitutes a misdemeanor punishable by incarceration for a period not to exceed 90 days and/or a monetary fine not to exceed \$1,000.

(4) Appeals. Appeals from decisions of the administrator regarding violations of quantitative standards or regarding applications for MSPs or MSP renewals, shall be to the hearing examiner under the following procedures, provided that appeals of civil infractions shall be subject to the provisions of chapter 7.80 RCW:

(a) Appeals shall be filed and processed pursuant to the provisions of chapter 2.02 SCC.

(b) At a hearing regarding a violation of the quantitative standards, the administrator shall have the burden of proving the violation, which burden shall be met by a preponderance of the evidence.

(c) At a hearing regarding an appeal of a MSP or MSP renewal, the appellant shall have the burden of proof, which burden shall be by a preponderance of the evidence.

(d) The hearing examiner's decision shall be final and conclusive with an optional right of reconsideration as provided in SCC 2.02.167 and may then be reviewable by an action for writ of review filed in Snohomish county superior court as provided in chapter 2.02 SCC; except as may be limited by chapters 43.21C RCW, 197-11 WAC and 23.40 SCC.


Section 2. Effective date. All sections of this ordinance shall be effective January 1, 1998.

PASSED this 4th day of June, 1997.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chair

ATTEST:

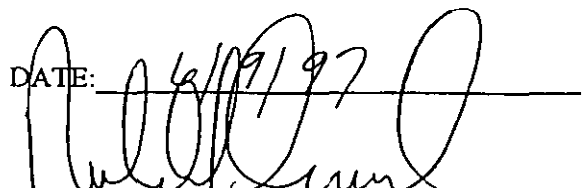

Clerk of the Council, Asst.

(☒) APPROVED

(☐) VETOED

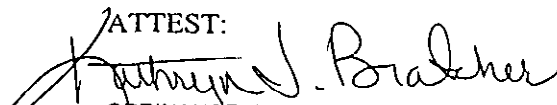
(☐) EMERGENCY

DATE: 6/19/97


County Executive

ROBERT J. DREWEL
County Executive

ATTEST:


ORDINANCE NO. 97-023
Noise Control