

Ordinance No. 1450

**Chapter 9.70 Noise Ordinance for Transportation and New Construction**

**9.070.010 Purposes.**

The City Council declares and finds that excessive noise levels are detrimental to the public health, welfare and safety and contrary to the public interest as follows:

- A. By interfering with sleep, communication, relaxation and the full use of one's property;
- B. By contributing to hearing impairment and a wide range of adverse physiological and psychological stress conditions; and
- C. By adversely affecting the value of real property.

It is the intent of this chapter to protect people from excessive levels of noise within or near a residence, school, church, hospital or public library and to warn people of the hazards of excessive noise in places of public entertainment in relation to increases in transportation noise or new construction development.

**9.070.020 - Definitions.**

The following words, phrases and terms as used in this chapter shall have the following meanings:

"Agricultural property" means land used for or devoted to the production of crops and livestock.

"Ambient noise level" means the composite of noise from all sources excluding the alleged offensive noise. In this context it represents the normal or existing level of environmental noise at a given location for a specified time of the day or night.

"A' weighted sound level" means the sound level in decibels as measured with a sound level meter using the "A" weighted network (scale) at slow meter response. The unit of measurement is referred to herein as dB(A) or dBA.

"Construction" means construction, erection, enlargement, alteration, conversion or movement of any building, structures or land together with any scientific surveys associated therewith.

"Cumulative period" means an additive period of time composed of individual time segments which may be continuous or interrupted.

"Decibel" means a unit for measuring the amplitude of a sound, equal to twenty times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micro pascals.

"Emergency work" means the use of any machinery, equipment, vehicle, manpower or other activity in a short-term effort to protect, or restore safe conditions in the community, or work by private or public utilities when restoring utility service.

"Fixed noise source" means a device or a machine which creates sounds while fixed or stationary, including but not limited to residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

"Hospital" means any building or portion thereof used for the accommodation and medical care of sick, injured or infirm persons and includes rest homes and nursing homes.

"Impulsive noise" means a noise of short duration, usually less than one second, with an abrupt onset and rapid decay.

"Intruding noise level" means the sound level created, caused, maintained or originating from an alleged offensive source, measured in decibels, at a specified location while the alleged offensive source is in operation.

"Ldn" Day-Night Average Noise Level (Ldn) describes noise exposure over a 24-hour period. It is calculated by adding a 10-decibel penalty to sound levels at night (10:00 p.m. to 7:00 a.m.) to compensate for the increased sensitivity to noise during the quieter evening and nighttime hours.

"Mobile noise source" means any noise source other than a fixed noise source.

"Noise disturbance" means any sound which violates the quantitative standards set forth in this chapter.

"Noise sensitive use" means residential, educational, health care, religious, and other uses where noise interferes with normal activities associated with the use.

"Outdoor activity area" means an exterior area associated with a noise sensitive land use where noise-sensitivity exists and where relatively high noise levels would interfere with the use of the activity area.

"Residential property" means a parcel of real property which is developed and used either in whole or in part for residential purposes.

"School" means public or private institutions conducting regular academic instruction at preschool, kindergarten, elementary, secondary or collegiate levels.

"Simple tone noise" means any noise which is distinctly audible as a single pitch (frequency) or set of pitches as determined by the health officer.

"Sound level meter" means an instrument meeting American National Standard Institute's Standard S1.4-1971 for Type I or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

**9.070.030 - Noise measurement criteria.**

Any noise measurement made pursuant to the provisions of this chapter shall be made with a sound level meter using the "A" weighted network (scale) at slow meter response. Fast meter response shall be used for impulsive type sounds. Calibration of measurement equipment utilizing an acoustic calibrator shall be performed periodically according to the equipment manufacturer recommendations.

The exterior noise levels shall be measured within fifty feet of the affected residence, school, hospital, church or public library. Where practical, the microphone shall be positioned three to five feet above the ground and away from reflective surfaces.

The interior noise levels shall be measured within the affected dwelling unit, at points at least four feet from the wall, ceiling or floor nearest the noise source, with windows in the normal seasonal configuration. The reported interior noise level shall be determined by taking the arithmetic average of the readings taken at the various microphone locations.

**9.070.040- Exterior noise standards.**

- A. Transportation noise sources should not exceed 65 Ldn 50-feet from the centerline of the roadway as measured within an outdoor activity area associated with a noise sensitive use.

**TABLE 9.070.01 ACCEPTABLE**

<b>Normally Acceptable</b>	<b>Conditionally Acceptable</b>	<b>Normally Unacceptable</b>	<b>Clearly Unacceptable</b>
50-65 dBA	66-70 dBA	71-75 dBA	76-85 dBA

- B. Construction related Noise Near Noise Sensitive Uses.** Construction work or related activity which is adjacent to or across a street or right of way from a noise sensitive use, except between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, or between 8:00 a.m. and 7:00 p.m. on Sunday and Saturday shall not exceed a noise standard of 65 Ldn. However, at the discretion of the Community Development Director or his/or her designee, the hours and/or days of operations may be extended on a case-by-case basis (i.e., excessive heat, etc.) for not more than 15-days per project. No such construction is permitted on major Federal holidays (New Years Day, President's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas holidays). As used in this Article, "construction" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public or private right-of-way, streets, structures, utilities, facilities, or other similar property for new development. It is not subject to existing business operations or manufacturing already approved/occurring. Construction activities carried on in violation of this Article may be enforced as provided in Section 09.090. of the Municipal Code *Police Response to Loud and Unreasonable Noise* and may also be enforced by issuance of a stop work order and/or revocation of any or all permits issued for such construction activity.
- C. Conflicts with Noise Sensitive Uses.** Subject to the restrictions on construction contained in subdivision (b), the sustained operation or use between the hours of 9:00 p.m. and 8:00 a.m. shall not exceed 65 Ldn. Noise generating uses includes any electric or gasoline powered motor or engine or the repair, modification, reconstruction, testing or operation of any automobile, motorcycle, sweeper, vacuum, public address system, whistle muffler, motorized scooter, machine or mechanical device or other contrivance or facility.
- D. In the event the measured ambient noise level exceeds the applicable noise level standard in any category above, the applicable standard shall be adjusted so as to equal the ambient noise level.
- E. Each of the noise level standards specified above shall be reduced by five dB(A) for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.
- F. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards.

#### **9.070.050- Acoustic Study.**

1. An acoustic study shall be required for any proposed project which could create or be subject to noise exposure in excess of the standards set by Table 9.070.2. Noise attenuation measures determined from the results of the acoustic study shall be applied in order to meet said standards.
2. Any required acoustic study shall be paid for by the project applicant and shall be prepared by a qualified acoustical consultant as determined by, and managed under the supervision of, the City.

**9.070.060 Transportation Noise Standards.** The standards listed in Table 9.070.2 represent maximum allowable noise exposure from transportation-related (vehicles and trains) noise sources.

**TABLE 9.070.02  
NOISE EXPOSURE FROM TRANSPORTATION NOISE SOURCES**

Noise-Sensitive Land Use	Maximum Exterior Noise Level	Maximum Interior Noise-Level
	(Ldn/CNEL, dB)	(Leq, dB)
Residential	65	45
Transient Lodging	65	45
Medical Care Facility	65	45
Religious Assembly Facility, Meeting Hall	65	45
Theatre, Auditorium	-	45
Office Building	-	45

Noise-Sensitive Land Use	Maximum Exterior Noise Level	Maximum Interior Noise-Level
	(Ldn/CNEL, dB)	(Leq, dB)
School, Library, Museum	-	45

**A. Best Available Technology.** New noise sources shall use the best available control technology to minimize noise emissions.

**B. Noise Attenuation Measures.** Any project subjected to an acoustic study may be required, as a condition of approval, to incorporate noise attenuation measures deemed necessary to ensure that noise standards are not exceeded.

1. Noise attenuation measures identified in an acoustic study shall be incorporated into the project to reduce noise impacts to satisfactory levels.
2. Emphasis shall be placed upon site planning and project design measures.
3. Operation-related measures may be incorporated, such as regulating the hours of operation, deliveries, etc.
4. The use of noise barriers (i.e. walls) shall be considered only after all feasible design-related and operation-related noise measures have been incorporated into the project.

**9.070.070 Noise Barriers.** When noise attenuation measures require the construction of a noise barrier to reduce overall noise levels, it shall comply with the following standards:

1. The noise barrier shall be a masonry block or concrete wall. The City may approve new wall materials that become available in the future for use as an alternative to a masonry block or concrete wall based on its proven comparable properties for durability, sound, light, and glare attenuation.
2. Topography, berming, and other alternative methods of mitigating the nuisance of noise and light might be considered and required at time of project review.
3. The additional standards represented in Table 9.070.3 shall apply for noise barriers that are used to mitigate noise from vehicles and trains.

**TABLE 9.070.03**

**NOISE BARRIER MINIMUM STANDARDS**

Overall Height of Wall	Earth Berm	Setback from Major Streets and railroad tracks (all streets require a min. 10 ft. setback. This standard shall be added to the minimum)
Less than 9 ft.	No requirement	No additional setback
9 ft. or taller (max. of 15 ft.)	6 inches for every ft. of wall height above 9 ft.	Additional ft. for every ft. that exceeds 10 ft.

**9.070.080- Interior noise standards.**

- A. The interior standard for interior residential buildings is 45 Ldn:
- B. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level can be measured, the noise level measured while the source is in operation shall be compared directly to the noise level standards.

**9.070.090 - Noise source exemptions.**

The following activities shall be exempted from the provisions of this chapter:

- A. **Public Parks.** Activities conducted in public parks, public playgrounds, and public or private school grounds, including but not limited to: Bryant Field, school athletic and school entertainment events;
- B. **Emergency Activities.** Any mechanical device, apparatus or equipment used, related to or connected with emergency activities or emergency work;
- C. **Residential Properties** Noise sources associated with the maintenance of residential property provided such activities take place between the hours of six a.m. and nine p.m. on any day except Saturday or Sunday, or between the hours of seven a.m. and nine p.m. on Saturday or Sunday;
- D. **Commercial Activities.** Noise sources associated with a lawful commercial or industrial activity caused by mechanical devices or equipment, including air conditioning or refrigeration systems, installed prior to the effective date of this chapter;

- E. **Utilities.** Noise sources associated with work performed by private or public utilities in the maintenance or modification of its facilities;
- F. **Municipal Solid waste Collection.** Noise sources associated with the collection of waste, recycling, vegetative waste by the City or under contract with the City;
- G. Any activity to the extent regulation thereof has been preempted by state or federal law.
- H. **Warning Devices.** Warning devices necessary for the protection of public safety, such as police, fire and ambulance sirens.
- I. **Public Works Construction Projects, Maintenance, and Repair.** Street, utility, and similar construction projects undertaken by or under contract to the City, or the State of California or a public utility regulated by the California Public Utilities Commission, as well as maintenance and repair operations conducted by such parties, including street sweeping, debris and litter removal, removal of downed wires, restoring electrical service, repairing traffic signals, unplugging sewers, vacuuming catch basins, repairing of damaged poles, removal of abandoned vehicles, repairing of water hydrants and mains, gas lines, oil lines, sewers, storm drains, roads, and sidewalks.
- J. **Schools.** School bells and school-sanctioned outdoor activities such as pep rallies, sports games, and band practice.
- K. **Religious Assembly Facilities and Other Similar Organizations.** Unamplified bells, chimes, or other similar devices used by religious assembly facilities and other houses of religious worship, as such devices are played between the time period of 7 a.m. and 10 p.m. and the playing period does not exceed five minutes in any one hour.
- L. **Agricultural.** Noise resulting from Crop Cultivation.
- M. **Public Utility Facilities.** Facilities including, but not limited to, 60-cycle electric power transformers and related equipment, sewer lift stations, municipal wells, and pumping.

**9.070.100 - Air conditioning and refrigeration.**

Notwithstanding the provisions of this section where the intruding noise source when measured as provided in [Section 9.070.030](#) is an air conditioning or refrigeration system or associated equipment installed prior to adoption of this Ordinance, the exterior noise level shall not exceed fifty-five dBA, except where such equipment is exempt from the provisions of this chapter. The exterior noise level shall not exceed fifty dBA for such equipment installed or in use after December 1, 2023.



### **9.070.110- Warning signs in places of public entertainment.**

It is unlawful for any person to operate or permit the operation or playing of any loudspeaker, musical instrument, motorized racing vehicle, or other source of sound for public entertainment within a building or structure wherein the noise level exceeds ninety-five dBA as read on the slow response of a sound level meter at any point normally occupied by a customer, without a conspicuous and legible sign stating: "WARNING! SOUND LEVELS WITHIN MAY CAUSE HEARING IMPAIRMENT."

### **9.070.120 - Variances.**

The owner or operator of a noise source which the Chief of Police and/or the Community Development Director or designee, has determined violates any of the provisions of this chapter may apply for variance from strict compliance with any particular provisions of this chapter were such variance will not result in a hazardous condition or a nuisance and strict compliance would be unreasonable in view of all the circumstances. The owner or operator shall set forth all actions taken to comply with such provisions, and the reasons why immediate compliance cannot be achieved. A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership or fixed sources under common ownership on a single property may be combined into one application.

Upon receipt of the application and within thirty days, the Chief of Police and/or the Community Development Director or designee, shall either (1) approve such request in whole or in part, or (2) deny the request for action thereon in accordance with the provisions of this chapter. In the event the variance is approved, reasonable conditions may be imposed which may include restrictions on noise level, noise duration and operating hours, an approved method of achieving compliance and a time schedule for its implementation.

Factors which the City staff or the reviewing body must consider shall include but not be limited to the following:

- Uses of property within the area affected by the noise;
- Factors related to initiating and completing all remedial work;
- Age and useful life of the existing noise source;
- The general public interest, welfare and safety.

The City of Marysville may grant variances from provisions of this chapter subject to such terms, conditions and requirements and may be deemed reasonable to achieve compliance with the provisions of this chapter. The Community Development Director or his/her duly appointed representative shall act as secretary of the board of review during its consideration of a variance from the provisions of this chapter.

Within fifteen days following the decision of the City on an application for a variance, the applicant may appeal the decision to the City Council for a hearing de novo by filing a notice of appeal with the City Clerk. The City Council shall either affirm, modify or reverse the decision of the board of review. Such decision shall be final and shall be based upon the considerations set forth in this section.

**9.070.130- Violation—Enforcement.**

The violation of any of the provisions of this chapter shall be an infraction punishable as provided in Section 09.90 of this code. The provisions of this chapter may also enforce an injunction issued out of the superior court upon suit of the county. Any violation of the provisions of this chapter shall be deemed to be a public nuisance.

The Chief of Police shall enforce the provisions of this chapter. Right of entry for inspection shall be as provided 09.50.050 of this code.

**Effective Date:**

This Ordinance shall take effect thirty (30) days after its adoption by the Marysville City Council. The foregoing Ordinance is passed by the City Council of the City of Marysville on the 21<sup>st</sup> day of November 2023 by the following votes:


- Ayes:           Stuart Gilchrist, Dominique Belza, Brad Hudson, Bruce Buttacavoli and Chirs Branscum
- Noes:           None
- Absent:       None
- Abstain:      None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 21<sup>st</sup> of November 2023.

By:   
Nicole Moe, City Clerk

Attestation Date: 11/29/23

City of Marysville  
By its City Council

By:   
Chris Branscum, Mayor