


CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: January 10, 2022

AGENDA ITEM:	
An ordinance of the City Of Marysville, Washington, amending sections 6.76.020, 6.76.040, and 6.76.060 of the Marysville Municipal Code (MMC) to reduce the construction hours of operation.	
PREPARED BY:	DIRECTOR APPROVAL:
Haylie Miller, Community Development Director	
DEPARTMENT:	
Community Development	
ATTACHMENTS:	
1. Adopting Ordinance	
BUDGET CODE:	AMOUNT:
N/A	N/A
SUMMARY: In response to several complaints, the City is proposing to limit construction operation hours from the current requirement from 7 a.m. to 10 p.m. to 7 a.m. to 9 p.m. on weekdays and between 9 a.m. and 9 p.m. on weekends and legal holidays. During the work session on January 3, 2022, the City Council suggested reducing the hours of construction to 7 a.m. to 9 p.m. on weekdays and weekends. The ordinance has been revised accordingly. The Community Development Director will be able to consider variances (per MMC 6.76.080) to deviate from the standard hours under limited and/or unique circumstances related to private and/or public construction projects. An example would be work on State Highways or heavily traveled local roadways. As requested by the City Council on January 3, 2022, noise regulations for neighboring Cities are included below: <ol style="list-style-type: none">1. Arlington– temporary construction noise is generally permitted between 7:00 a.m. and 10:00 p.m. per AMC 7.05.040.k.42. Everett – temporary construction is generally permitted between 7:00 a.m. and 10:00 p.m., 8:00 a.m. – 6:00 p.m. weekends per EMC 20.08.110.3. Lake Stevens - temporary construction is generally permitted between 7:00 a.m. and 9:00 p.m. and between 9 a.m. and 9 p.m. on weekends per LMC 9.56.050.	
RECOMMENDED ACTION:	
Approve the DRAFT amendments to the Marysville Municipal Code related to construction hours of operation.	
RECOMMENDED MOTION:	
Move to adopt Ordinance No. _____, approving amendments to sections 6.76.020, 6.76.040, and 6.76.060 of the Marysville Municipal Code (MMC) to reduce the construction hours of operation.	

Chapter 6.76 NOISE REGULATION

Sections:

- [6.76.010 Declaration of policy.](#)
- [6.76.020 Definitions.](#)
- [6.76.030 Identification of environments.](#)
- [6.76.040 Maximum permissible environmental noise levels.](#)
- [6.76.050 Exemptions.](#)
- [6.76.060 Public nuisance and disturbance noises.](#)
- [6.76.070 Motor vehicle noise levels.](#)
- [6.76.080 Variances.](#)
- [6.76.090 Penalty for violation.](#)

6.76.010 Declaration of policy.

It is hereby declared to be the policy of the city of Marysville to minimize the exposure of citizens to the harmful, physiological and psychological effects of excessive noise. It is the express intent of the city to control the level of noise in a manner which promotes commerce, the use, value and enjoyment of property, sleep and repose, and the quality of the environment. (Ord. 1419 § 1, 1985).

6.76.020 Definitions.

All technical terminology used in this chapter, not otherwise defined, shall be interpreted in conformance with Chapters [173-60](#) and [173-62](#) WAC. The following words and phrases shall have the meanings indicated below:

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

~~(4)~~ (2) "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure of 20 micropascals.

~~(2)~~ (3) "EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.

~~(3)~~ (4) "Noise" means the intensity, duration and character of sounds, from any and all sources.

(4) (5) "Person" means any individual, corporation, partnership, association, governmental body, state agency or other entity whatsoever.

~~(5)~~ (6) "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.

~~(6)~~ (7) "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.

~~(7)~~ (8) "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the America National Standards Institute Specification S1.4-1971. (Ord. 1419 § 2, 1985).

6.76.030 Identification of environments.

(1) Class A EDNA. Lands where human beings reside and sleep, including all properties in the city which are zoned in single-family residential or multiple-family residential classifications.

(2) Class B EDNA. Lands involving uses requiring protection against noise interference with speech, including all properties in the city which are zoned in neighborhood business, community business, general commercial, mixed use, business park, public/institutional, downtown core, main street and flex classifications.

(3) Class C EDNA. Lands involving economic activities of such a nature that higher noise levels than experienced in other areas are normally to be anticipated. Persons working in these areas are normally covered by noise control regulations of the Department of Labor and Industries. Such areas shall include all properties in the city which are zoned in light industrial and general industrial classifications. (Ord. 3193 § 1, 2021; Ord. 2898 § 11, 2012; Ord. 1419 § 3, 1985).

6.76.040 Maximum permissible environmental noise levels.

No person shall cause or permit noise to intrude into the property of another person which noise exceeds the maximum permissible noise level set forth in WAC [173-60-040](#), which section is hereby adopted by reference. (Ord. 1419 § 4, 1985).

6.76.050 Exemptions.

The exemptions to the maximum permissible environmental noise levels set forth in WAC [173-60-050](#) are hereby adopted by reference, however these exemptions shall not apply to the sources of sound identified in MMC 6.76.60. (Ord. 1419 § 5, 1985).

6.76.060 Public nuisance and disturbance noises.

It is unlawful for any person to cause, or for any person in possession of property to allow to originate from said property, sound that is a public nuisance. The following sources of sound are defined to be public nuisances, except to the extent that they may be specifically exempted by other provisions of this chapter:

(1) Frequent, repetitive or continuous noise made by any animal which unreasonably disturbs or interferes with peace, comfort and repose of property owners or possessors, except that such sounds shall be exempt when originating from lawfully operated animal shelters, kennels, pet shops, and veterinary clinics;

(2) The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;

(3) The creation of frequent, repetitive or continuous noise in connection with the starting, operation, repair, rebuilding, or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine within Class A EDNA, so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property;

(4) Yelling, shouting, hooting, whistling or singing on or near the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time and place so as to unreasonably disturb or interfere with peace, comfort and repose of owners or possessors of real property;

(5) The use of a sound amplifier or other device capable of producing or reproducing amplified sound on public streets for the purpose of commercial advertising or sales or for attracting the attention of the public to any vehicle, structure or property or the contents therein, except that vendors whose sole method of selling is from a moving vehicle shall be exempt from this subsection;

(6) The making of any loud and raucous noise which unreasonably interferes with the use of any school, church, hospital, sanitarium, nursing or convalescent facility;

(7) The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment, or condominium which unreasonably interferes with the peace, comfort and repose of owners or possessors of real property, such as sounds from musical instruments, audio sound systems, band sessions, or social gatherings;

(8) Sound from motor vehicle audio systems, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than 75 feet from the source, and if not operated upon the property of the operator;

(9) Sound from audio equipment, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than 75 feet from the source, and if not operated upon the property of the operator; and

(10) The foregoing provisions shall not apply to regularly scheduled events at parks such as public address systems for baseball games or park concerts.

[\(11\) Construction work before 7 a.m. and after 9 p.m.](#)

(Ord. 1958 § 1, 1993; Ord. 1419 § 6, 1985).

6.76.070 Motor vehicle noise levels.

(1) Noise Standards; Violations. No person shall operate any motor vehicle or any combination of such vehicles upon any public highway in violation of standards specified in WAC [173-62-060](#)(1) through (4), which section is hereby adopted by reference. For purposes of this chapter, “public highway” means the entire width between the boundary lines of every road, street, alley, lane, boulevard, parking lot, and every way or place in the city, whether publicly or privately maintained, when any part thereof is open at any time to the use of the public for purposes of vehicular traffic.

(2) Exemptions. The exemptions to motor vehicle noise as stated in WAC [173-62-040](#) are hereby adopted by reference. (Ord. 1419 § 7, 1985).

6.76.080 Variances.

(1) The community development director, or designee, shall have authority to grant variances from the requirements of this chapter. Variance procedures specified in MMC [22G.010.400](#) shall apply. The application fee shall be \$50.00.

(2) Variances may be granted to any person from any particular requirement of this chapter, if findings are made by the community development director, or designee, that immediate compliance with such requirement cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment upon an existing noise source, or because of nonavailability of feasible technology or control methods. Any such variance, or renewal thereof, shall be granted only for the minimum time period found to be necessary under the facts and circumstances.

(3) An implementation schedule for achieving compliance with this chapter shall be incorporated into any variance issued. (Ord. 2968 § 1, 2014; Ord. 1419 § 8, 1985).

6.76.090 Penalty for violation.

(1) Penalty. A person violating this chapter has committed a civil infraction with a penalty amount of \$250.00.

(2) A person violating this chapter within 24 hours of being issued a civil infraction for a violation of this chapter or being warned by a police officer that he or she is violating this chapter is guilty of a misdemeanor.

(3) Separate Offenses. A person violating this chapter after having been cited for a violation has committed a separate civil infraction or a crime. A person may be cited or arrested for repeated violations occurring on the same or separate days.

(4) Supplement to Other Laws. The provisions of this chapter, and the penalties provided herein, shall be cumulative and nonexclusive, and shall not affect any other claim, cause of action, or remedy provided in this code or by common law. (Ord. 3091 § 1 (Exh. A), 2018; Ord. 2951 § 6, 2014; Ord. 2255 § 1, 1999; Ord. 1419 § 9, 1985).

**CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO.**

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING SECTIONS 6.76.020, 6.76.040, AND 6.76.060 OF THE MARYSVILLE MUNICIPAL CODE TO REDUCE THE CONSTRUCTION HOURS OF OPERATION.

WHEREAS, Chapter 6.76 Noise Regulations provides regulations associated with maximum permissible environmental noise levels, exemptions and public nuisance and disturbance noises; and

WHEREAS, the City of Marysville has received several complaints regarding construction hours of operation and the associated nuisances caused to surrounding property owners; and

WHEREAS, the City of Marysville seeks to balance the needs of construction projects while maintaining protections to the quality of life of the citizens; and

WHEREAS, the City proposes to reduce construction operation hours (which are currently 7 a.m. to 10 p.m.) to between 7 a.m. and 9 p.m.; and

WHEREAS, MMC section 6.76.080 ("Variances") will allow for deviations to the construction operation hours for unique circumstances related to private and/or public construction projects; and

WHEREAS, at a public meeting on January 10, 2022 the Marysville City Council reviewed and considered staff's recommendation and the proposed amendments to MMC Sections 6.76.020, 6.76.040, and 6.76.060; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 6.76.020 Definitions, is hereby amended to modify the following definitions read as follows:

6.76.020 Definitions.

All technical terminology used in this chapter, not otherwise defined, shall be interpreted in conformance with Chapters [173-60](#) and [173-62](#) WAC. The following words and phrases shall have the meanings indicated below:

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

~~(1)~~ (2) "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure of 20 micropascals.

~~(2)~~ (3) "EDNA" means the environmental designation for noise abatement, being an area or zone (environment) within which maximum permissible noise levels are established.

~~(3)~~ (4) "Noise" means the intensity, duration and character of sounds, from any and all sources.

~~(4)~~ (5) "Person" means any individual, corporation, partnership, association, governmental body, state agency or other entity whatsoever.

~~(5)~~ (6) "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.

~~(6)~~ (7) "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.

~~(7)~~ (8) "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the American National Standards Institute Specification S1.4-1971. (Ord. 1419 § 2, 1985).

Section 2. 6.76.050 Exemptions, is hereby amended to read as follows:

6.76.050 Exemptions.

The exemptions to the maximum permissible environmental noise levels set forth in WAC [173-60-050](#) are hereby adopted by reference, however these exemptions shall not apply to the sources of sound identified in MMC 6.76.60. (Ord. 1419 § 5, 1985).

Section 3. Section 6.76.060 Public nuisance and disturbance noises, is hereby amended as follows:

6.76.060 Public nuisance and disturbance noises.

It is unlawful for any person to cause, or for any person in possession of property to allow to originate from said property, sound that is a public nuisance. The following sources of sound are defined to be public nuisances, except to the extent that they may be specifically exempted by other provisions of this chapter:

(1) Frequent, repetitive or continuous noise made by any animal which unreasonably disturbs or interferes with peace, comfort and repose of property owners or possessors, except that such sounds shall be exempt when originating from lawfully operated animal shelters, kennels, pet shops, and veterinary clinics;

(2) The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;

(3) The creation of frequent, repetitive or continuous noise in connection with the starting, operation, repair, rebuilding, or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine within Class A EDNA, so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property;

(4) Yelling, shouting, hooting, whistling or singing on or near the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time and place so as to unreasonably disturb or interfere with peace, comfort and repose of owners or possessors of real property;

(5) The use of a sound amplifier or other device capable of producing or reproducing amplified sound on public streets for the purpose of commercial advertising or sales or for attracting the attention of the public to any vehicle, structure or property or the contents therein, except that vendors whose sole method of selling is from a moving vehicle shall be exempt from this subsection;

(6) The making of any loud and raucous noise which unreasonably interferes with the use of any school, church, hospital, sanitarium, nursing or convalescent facility;

(7) The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment, or condominium which unreasonably interferes with the peace, comfort and repose of owners or possessors of real property, such as sounds from musical instruments, audio sound systems, band sessions, or social gatherings;

(8) Sound from motor vehicle audio systems, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than 75 feet from the source, and if not operated upon the property of the operator;

(9) Sound from audio equipment, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than 75 feet from the source, and if not operated upon the property of the operator; and

(10) The foregoing provisions shall not apply to regularly scheduled events at parks such as public address systems for baseball games or park concerts.

(11) Construction work before 7 a.m. and after 9 p.m.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this ordinance.

Section 5. Corrections. Upon approval by the city attorney, the city clerk or the code reviser are authorized to make necessary corrections to this ordinance, including scrivener's errors or clerical mistakes; references to other local, state, or federal laws, rules, or regulations; or numbering or referencing of ordinances or their sections and subsections.

Section 6. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2022.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
DEPUTY CITY CLERK

Approved as to form:

By: _____
JON WALKER, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)