

**WENATCHEE PLANNING COMMISSION**  
**SCHEDULED MEETING**  
**May 15, 2019**  
**WENATCHEE CITY HALL COUNCIL CHAMBERS**  
301 Yakima Street, 2<sup>nd</sup> Floor  
Wenatchee, WA 98801

<b>AGENDA</b>
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**I. CALL TO ORDER AND WELCOME**

**II. ADMINISTRATIVE AFFAIRS**

- A. Approval of the minutes from the last regular meeting on April 17, 2019.
- B. Review of 2019 work plan and schedule.

**III. PUBLIC COMMENT PERIOD**

Comments for any matters not included on the agenda.

**IV. OLD BUSINESS**

None

**V. NEW BUSINESS**

- A. Work session: Potential City Code amendments for structured parking facilities - Steve King, Economic Development Director.
- B. Work session: Interim Control on neighborhood centers, auditoriums, places of public assembly, and places of public worship in the residential zoning districts enacted by Ordinance 2019-13.
- C. Work session: Interim Control on neighborhood centers, auditoriums, places of public assembly, and places of public worship in the residential zoning districts enacted by Ordinance 2019-13.

**VI. OTHER**

- A. None

**VII. ADJOURNMENT**

***In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Mayor's office at (509) 888-6204 (TTY 711). Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1.)***

MINUTES

**I. CALL TO ORDER**

Vice Chair Ace Bollinger called the meeting to order at 5:33 p.m. with the following members in attendance: Rani Sampson, Susan Albert, Josh Jorgensen, and Richard Erickson. Absent were Commissioners Scott Griffith and Joe Gamboni.

City Planning staff was represented by: Glen DeVries, Community Development Director; Stephen Neuenschwander, Planning Manager; Matt Parsons, Senior Planner; Brooklyn Holton, Community and Housing Planner. Also present were Rob Jammerman, Public Works Director; Jessica Shaw, Environmental Manager; and John Ricardi, Utilities Manager.

**II. ADMINISTRATIVE AFFAIRS**

A. Approval of the minutes from the regular meeting on February 20, 2019.

**Commissioner Rani Sampson moved to approve the minutes from the February 20, 2019 regular meeting. Commissioner Richard Erickson seconded the motion. The motion carried.**

**III. PUBLIC COMMENT PERIOD**

Comments for any matters not included on the agenda.

There was no public comment.

**IV. OLD BUSINESS**

None

**V. NEW BUSINESS**

Vice Chair Ace Bollinger provided the explanation of public hearing procedures.

A. CDBG Annual Action Plan Amendments

Brooklyn Holton, Community and Housing Planner, presented the staff report.

Commissioners asked questions of staff.

Vice Chair Bollinger opened the hearing for public comment. There was none.

Bollinger closed the hearing and opened deliberations of the Commission.

**Commissioner Albert moved to forward to Council a recommendations for approval of the proposed amendments as presented by Holton. Commissioner Erickson seconded the**

**motion. The motion carried.**

**WENATCHEE PLANNING COMMISSION**

**MINUTES**

B. Public Hearing: Proposed Land Surface Modification Code

Jessica Shaw, Environmental Manager, and John Ricardi, Utilities Manager, presented the staff report.

Commissioners asked questions of staff.

Vice Chair Ace Bollinger opened the hearing for public comment. There was none.

Bollinger closed the hearing and opened deliberations of the board.

**Commissioner Bollinger moved to recommend to Council that the application and fee schedule should be no permit for 0 to 200 yards; from 201 to 500 yards there should be an over the counter application, map and site plan that is required and a fee of \$200.00; and for 501 yards and above it should be the same, but the City may ask for an engineered site plan or storm water pollution plan to be included and there would be a fee of \$500.00. Commissioner Jorgensen seconded the motion. There were four votes for the motion and 1 against by Commissioner Erickson. The motion carried.**

Commissioner Erickson explained that he wasn't necessarily against the plan or proposal, but that he did not feel there had been enough discussion on the matter to make a recommendation.

Vice Chair Bollinger advised Erickson that he could make another motion to have the matter come back before the Commission if the Council felt it appropriate.

**Bollinger advised that there was a motion from Erickson to ask City Council to send the matter back to the Planning Commission for another public hearing or workshop and asked the Commission if there was a second. Commission Sampson seconded the motion. The motion carried.**

Staff explained to the Commission that they needed to provide one formal recommendation to Council and that if they were going to change their mind and want another public hearing or work session, then the first motion would need to be rescinded. Or they advised that the original motion could proceed and that staff could document the additional conversation about concern for more time to be spent in discussion on the matter.

The Commissioners were in agreement to keep the first motion and to have staff advise Council of the additional concern noted by Commissioner Erickson.

C. Public Hearing: Wenatchee City Code amendments – WCC 10.10.020 District Use Chart – Historic/Entertainment Overlay pertaining to restaurants with a drive in or drive thru; and WCC 12.08.080(3) Critical Areas – General provisions – Exemptions

Stephen Neuenschwander, Planning Manager, presented the staff report.

Commissioners asked questions of staff.

Vice Chair Ace Bollinger opened the hearing for public comment. There was none.

Bollinger closed the hearing and opened deliberations of the board.

**Commissioner Bollinger moved to forward a recommendation to Council for the approval of the proposed Wenatchee City Code amendments based on the findings of fact and conclusions of law as presented by staff. Commissioner Erickson seconded the motion. The motion carried.**

**VI. OTHER**

None

**VII. ADJOURNMENT**

With no further business to come before the Planning Commission, Vice Chair Ace Bollinger adjourned the meeting at 6:46 p.m.

Respectfully submitted,

CITY OF WENATCHEE  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
*Kim Schooley, Administrative Assistant*

# 2019 Long Range Planning Schedule

	7-Jan	14-May	15-May	20-May	18-Jun	19-Jun	20-Jun	25-Jun	26-Jun		7/?	11-Jul	17-Jul		7-Aug		15-Aug	21-Aug
Housing Code						PC/Committee Workshop				Developer Forum (Date?)			PC Workshop	Start 60-Day Review		Developer Forum (Date?)	CC Workshop	Drop-in Open House
Sign	Conference Call	City tour, committee meeting						Open House	Committee meeting	Developer Forum (Date?)							CC Workshop	PC Workshop w/ Makers; Drop-in Open House
College					Workshop w/Makers								PC Workshop					Drop-in Open House
Crypto			PC Workshop			PC Hearing	Council Workshop?					City Council Hearing						
Assembly			PC Workshop															PC Workshop
Capfac																		PC Workshop
Highland District				Neighborhood meeting							HPB Workshop/ Open House				HPB Hearing			

		12-Sep	18-Sep	19-Sep	10-Oct	16-Oct	17-Oct		20-Nov	6-Dec	18-Dec
Housing Code			PC Hearing	CC Workshop	CC Hearing						
Sign	Start 60-Day Review					PC Hearing	CC Workshop	CC Hearing (Date?)			
College	Start 60-Day Review					PC Hearing	CC Workshop	CC Hearing (Date?)			
Crypto											
Assembly									PC Workshop		PC Hearing
Capfac	Start 60-Day Review								PC Hearing	CC Hearing	
Highland District		CC Hearing									
Ped Plan									PC Workshop		



**City of  
Wenatchee**

**DEPARTMENT OF  
COMMUNITY DEVELOPMENT**

Public Services Center  
1350 McKittrick Street, Suite A  
Wenatchee, WA 98801

(509) 888-3200  
Fax (509) 888-3201

To: City of Wenatchee Planning Commission  
From: Community Development Staff  
Date: May 8, 2019  
RE: Interim control on Places of Assemble and outdoor amplification

The Wenatchee City Council initiated an interim control by Ordinance 2019-13 on February 28, 2019 and set a set date for March 14, 2019. The interim control addresses two specific issues: (1) assembly uses in the residential zoning districts and (2) the impacts of outdoor amplification associated with assembly uses in residential zoning districts.

**Assembly uses:** The city code authorizes neighborhood centers and places of assembly in residential zoning districts with the approval of a conditional use permit. The definition of a neighborhood center is the location where activities occur for social, cultural, economic, or education nature. Places of assemble include a building uses in whole or in part for the gathering of people for deliberation, entertainment, amusement, or awaiting transportation. These definitions are overly broad and could lead to uses proposed that would be incompatible with their surrounding neighborhoods.

**Outdoor amplification:** The city code does not include specific development or performance standards to adequately address and mitigate the impact of amplified sound generated by non-residential uses in residential districts. Outdoor events are becoming increasingly popular and without appropriate mitigation measures, negative impacts to existing neighborhoods will occur.

The Wenatchee Urban Area Comprehensive Plan includes goals and policies that require non-residential uses to be designed and operated in a compatible manner with the neighborhoods. The interim ordinance is necessary to give city staff and the planning commission to study the land use impacts and the appropriate development standards.

The schedule for the planning commission and public process are outlined in the table below.

<b>Time period</b>	<b>Action</b>
March 2019 - June 2019	Topic/issue research by City of Wenatchee staff.
July 2019 - October 2019	Public engagement and code/policy development with the Planning Commission.
November 2019 - March 2020	Proposed code and/or policy amendments move through the review and approval process including final hearings before the Planning Commission and City Council.

City staff is researching the topic in preparation for future discussions and workshops with the planning commission. Issue that staff will be researching include:

- Refined definition of places of assembly;
- Review of the district use chart in section 10.10 of the city code;
- Appropriate hours of operation;
- Noise impacts and potential mitigation measures such as landscaping and building design;
- Parking and access standards; and
- Outdoor verses indoor assembly uses;

If there are additional issues/topics that you would like city staff to review, please come prepared at the meeting to suggest them. The purpose of this workshop is to introduce the planning commission to the issues, to outline the schedule, and research topics. Attached is Ordinance 2019-13.

## ORDINANCE NO. 2019-13

**AN ORDINANCE**, adopting a twelve (12) month interim control within the City of Wenatchee on the permitting of neighborhood centers, auditoriums, places of public assembly, and places of public worship in the RF, RS, RL, RM and RH zones.

**WHEREAS**, the Wenatchee Urban Area Comprehensive Plan in Policy 6 of Goal 12 and Policy 4 of Goal 15 in the Land Use/Urban Growth Element requires new non-residential development in existing residential neighborhoods to be designed and operated in a compatible manner; and

**WHEREAS**, places of assembly are defined in the Wenatchee City Code as "...a building used in whole or in part for the gathering together of persons for such purposes as deliberation, entertainment, amusement, or awaiting transportation"; and

**WHEREAS**, neighborhood centers are defined in the Wenatchee City Code as "...an area wherein an activity occurs which provides services of a social, cultural, economic or educational nature to the neighborhood in which it is located"; and

**WHEREAS**, the definitions of places of assembly and neighborhood center are overly broad and may have negative impacts such as noise, traffic, lighting, and hours of operation, if sited in existing residential neighborhoods; and

**WHEREAS**, the Wenatchee City Code does not include specific development or performance standards to adequately address and mitigate the impact of amplified sound generated by non-residential uses in residential districts; and



**WHEREAS**, City staff needs time to study the land use impacts of auditoriums, places of public assembly, and places of worship on residential zones, and any desired development standards to appropriately handle those impacts; and

**WHEREAS**, the Wenatchee City Council hereby finds that an interim control to preserve the status quo is necessary until the City can study the appropriate land use and/or permitting regulations to address the impacts of auditoriums, places of public assembly, and places of worship on residential zones; and

**WHEREAS**, RCW 36.70A.390 authorizes the City Council to adopt an interim control for a period of up to twelve (12) months if a public hearing on the proposal is held within at least 60 days of its adoption and a work plan is developed for related studies; and

**WHEREAS**, the City Council desires to impose a twelve (12) month interim control on the permitting of auditoriums, places of public assembly, and places of public worship in residential zones; and

**WHEREAS**, interim controls enacted under RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new regulations will not be rendered moot by intervening development; and

**WHEREAS**, in conformity with the responsibilities of the City of Wenatchee to meet public safety, property or welfare requirements and provide zoning and land use regulations pursuant to state law, and the City's authority to regulate land use activities within its corporate limits, the City intends to develop appropriate zoning and permitting requirements for the permitting of auditoriums, places of public assembly, and places of public worship in residential zones; and

**WHEREAS**, the Wenatchee City Council initially adopted an interim control by Ordinance 2018-35 on November 8, 2018 and set a set date for January 10, 2019; and

**WHEREAS**, the City inadvertently failed to properly advertise the public hearing for January 10, 2019 rendering Ordinance 2018-35 null and void; and

**WHEREAS**, the City desires to reinstate the interim control as previously adopted by Ordinance 2018-35.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WENATCHEE, WASHINGTON, DO ORDAIN** as follows:

**SECTION I**  
**Findings**

The recitals set forth above are hereby adopted as the City Council’s findings in support of the moratorium imposed by this Ordinance.

**SECTION II**  
**Interim Control Imposed**

Pursuant to Washington State law, an interim control is hereby enacted by amending WCC 10.10.020 and 10.65.080 to read as follows:

**10.10.020 District Use Chart**

Use	Residential				
	RF	RS	RL	RM	RH
Auditoriums and places of assembly	☒	☒	☒	☒	☒
Neighborhood Center	☒	☒	☒	☒	☒

**10.65.080 Auditoriums/places of public assembly, and places of worship.**

- (1) Maximum building height, RS, RL and RM: 40 feet. Other districts: same as the height limitation of the zoning district for other buildings.
- (2) Minimum Setback Distance.
  - (a) Front yard: same as required in the underlying zoning district;
  - (b) Rear and side yard: same as required in the underlying zoning district, plus one-half foot for each foot by which the building height exceeds 20 feet where a rear or side yard adjoins an RF, RS, RL or RM district.
- (3) Signs, when located in the RF, RS, RL, and RM zoning districts, shall comply with the following:
  - (a) One nonilluminated sign for each street frontage;
  - (b) Signs shall not exceed 12 square feet in area;
  - (c) Signs located in required setback areas shall observe the maximum height requirements that apply to fences;
  - (d) Any proposed reader boards/electronic message centers shall be reviewed as part of the conditional use permit.
- (4) Landscaping and Screening. Off-street parking shall comply with Chapter 10.62 WCC, Landscaping and Screening, as amended.
- (5) Architectural Scale. New nonresidential buildings in the RF, RS, RL, RM, and RH zoning districts shall meet WCC 10.48.080(4). Deviations to these standards may be considered where the applicant can demonstrate that the change or deviation in design is either necessary due to the inherent function of the facility, and/or the change provides for equal or greater compatibility with the character of the surrounding neighborhood. Consideration of such a deviation shall include an informal design review workshop recommendation of the planning commission, where input from the surrounding neighborhood shall be solicited, and incorporated in staff analysis before the hearing examiner.
- (6) Outdoor sound amplification for new or existing facilities, when located in the RF, RS, RL, RM, and RH zoning districts, shall not be allowed. Outdoor events consistent with the land use approval for the development may be authorized where no sound amplification is used.

**SECTION III**  
**Effective Period for Interim Control**

The interim control set forth in this Ordinance shall be in effect for a period of twelve (12) months from the date this Ordinance is passed and shall automatically

expire at the conclusion of that twelve (12) month period unless the same is extended by the City as provided in state law or unless terminated sooner by Ordinance.

**SECTION IV**  
**Work Plan**

The Mayor and other responsible staff are hereby authorized and directed to study and address issues related to the impacts of auditoriums, places of public assembly, and places of public worship in residential zones, and to propose solutions to such impacts, if necessary, for inclusion in the City's land use regulations. The Mayor and/or staff shall report their findings to city council within nine months of the date hereof.

**SECTION V**  
**Public Hearing**

A public hearing on the interim control imposed herein shall be held on March 14, 2019, at 5:15 p.m., upon notice, in order to take testimony and to consider adopting further findings.

**SECTION VI**  
**Severability**

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance or its application to any other person or situation.

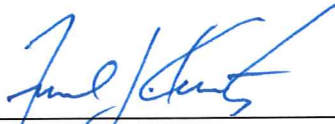
**SECTION VII**  
**Effective Date**

This Ordinance, shall take effect thirty (30) days from and after passage and publication as provided by law.

**PASSED BY THE CITY COUNCIL OF THE CITY WENATCHEE,**


at a regular meeting thereof, this 28<sup>th</sup> day of February, 2019.

**CITY OF WENATCHEE,**  
a Municipal Corporation

By:   
FRANK KUNTZ, Mayor

ATTEST:

By:   
TAMMY L. STANGER, City Clerk

APPROVED:  
By:   
STEVE D. SMITH, City Attorney



**City of  
Wenatchee**

**DEPARTMENT OF  
COMMUNITY DEVELOPMENT**

Public Services Center  
1350 McKittrick Street, Suite A  
Wenatchee, WA 98801

(509) 888-3200  
Fax (509) 888-3201

To: City of Wenatchee Planning Commission  
From: Community Development Staff  
Date: May 8, 2019  
RE: Cryptocurrency/Data Center code update

At the January 10, 2019 City Council hearing on cryptocurrency, the Council voted unanimously not to accept the Planning Commission recommendation citing concerns over allowing the use in residential zoning districts, public safety, and noise and directed city staff to prepare an ordinance extending the interim control. The interim control was extended effective February 23, 2019 for a period of six (6) months.

The Planning Commission and Council met jointly on January 17, 2019 in a workshop to further discuss these issues. The council and planning commission discussed the possibility of touring a cryptocurrency mining facility. A memorandum was sent May 7, 2019 identifying the location of a currently operating facility and an invitation to visit the site to experience the ambient noise.

Attached are draft revisions to the city code that reflect the concerns of the council and include the following:

- Cryptocurrency mining as an accessory use has been removed from all residential districts. The Council was very clear that cryptocurrency mining in residential districts would not be acceptable.
- In subsection (5), there is some clarification and measurable distance for occupancy of commercial store frontage. Through the housing code update, the consultants are suggesting that this section of the use chart be updated to provide a measurable dimension for uses prohibited from occupying the immediate storefront. The suggested depth of 50 feet is consistent with their recommendation.
- For clarity, a new subsection (6) was inserted to draw attention to the blank wall standards that were previously combined in a earlier subsection.
- New subsection (7) was updated regarding compliance with the city and state noise standards.
- New subsection (8) was added to address the issue of noise compliance. Both the planning commission and the city council struggled with how to ensure compliance with adopted noise standards and to minimize negative impacts to adjacent properties. In order to establish a baseline of compliance, staff is proposing that within 30 day of beginning business of a data center or cryptocurrency mining operation, the proponent be required to submit to the city in an affidavit certifying the following information:
  - Name and qualifications of the person who measured the decibel levels

- Equipment used
- Location of the noise measurements depicted on a scaled site plan. The points of measurement shall be at all property lines and generally at the points on those property lines most susceptible to noise from the applicable equipment.
- Decibel levels measured at each property line
- A description of the operating conditions of the applicable equipment when the measurements were taken.
- Time and duration of measurements
- A statement attesting to the accuracy of the information provided and a guarantee that the project proponent will not run their equipment at a more intense or noisier state than when they made the measurements.

This information would then be on-file demonstrating that the equipment at the beginning of operations was in compliance with the decibel levels in the WAC.

In order to meet the deadline established in the interim control extension ordinance, the planning commission will hold a public hearing in June and the Council will receive your recommendation and hold a hearing in July. Please read through the proposed revisions and come prepared at the workshop to discuss the matter in preparation for a public hearing and formulation of a recommendation to the council.

Attached to this memorandum are the following documents:

1. Draft revisions to the city code;
2. An updated memorandum on common noise levels
3. A copy of WAC 173-60
4. A copy of WCC 6A.40 Public Disturbance Noises

## Proposed Amendments to the Wenatchee City Code

WCC10.08.050 Definitions “C”:

“Cryptocurrency mining” means the operation of specialized computer equipment for the primary purpose of adding, securing, or verifying transactions to a blockchain or mining one or more blockchain-based cryptocurrencies such as Bitcoin. This activity typically involves the solving of algorithms as part of the development and maintenance of a blockchain which is a type of distributed ledger maintained on a peer-to-peer network. Typical physical characteristics of cryptocurrency mining include specialized computer hardware; High Density Load (HDL) electricity use; a high Energy Use Intensity (EUI) where the operating square footage as determined by the Utility is above 250kWh/ft<sup>2</sup>/year and with a high load factor in addition to the use of equipment to cool the hardware and operating space. For the purposes of the associated regulations, cryptocurrency mining does not include the exchange of cryptocurrency or any other type of virtual currency nor does it encompass the use, creation, or maintenance of all types of peer-to-peer distributed ledgers.

10.08.055 Definitions “D”

“Data Center” – A facility where the primary use is to house and operate networked computer systems and associated components that include, but may not be limited to, power supply, data communications connections, environmental controls, and security devices. Facilities or operations that meet the definition of “Cryptocurrency mining” will be regulated under that land use designation.

### 10.10.020 District Use Chart.



**District Use Chart**

**P = Permitted use**

**P1 = Permitted, not to occupy grade level commercial street frontage**

**AU = Accessory use**

**C = Conditional use**

**C1 = Permitted, not to occupy grade level commercial street frontage**

**~ = Prohibited use**

**M = Permitted use in a corridor mixed use project within the MRC overlay**

Uses	Commercial Districts				Mixed Use Districts			Residential Districts					Overlay Zones					
	CBD	NWBD/SWBD	CN	I	WMU	OMU	RMU	RF	RS	RL	RM	RH	HEO	CSO	MRC	IO	PO	RRO
<b>Industrial</b>																		
Cryptocurrency Mining	P1	P1	~	P	~	~	~	AU	AU	AU	AU	AU	P1	P1	~	~	~	~
Data Center	P1	P1	~	P	P1	P1	~	~	~	~	~	~	P1	P1	~	P	~	~

**10.48.310 Cryptocurrency mining and Data Centers**

All cryptocurrency mining operations where allowed by Chapter 10.10 WCC, District Use Chart, shall meet the following standards unless otherwise regulated within this code:

- (1) Applications for a business license shall be processed as a Type II administrative review with public notice under WCC 13.09.040.
- (2) The use of cargo containers, railroad cars, semi-truck trailers and other similar storage containers for any component of the operation is strictly prohibited.
- (3) Prior to approving the business license, the applicant shall provide written verification from the Chelan County Public Utility District (PUD) stating the following:
  - i. Adequate capacity is available on the applicable supply lines and substation to ensure that the capacity available to serve the other needs of the planning area are consistent with the normal projected load growth envisioned by the PUD.
  - ii. Utility supply equipment and related electrical infrastructure is sufficiently sized and can safely accommodate the proposed use; and

- iii. The use will not cause electrical interference or fluctuations in line voltage on and off the operating premises.
- (4) Prior to any cryptocurrency mining, a copy of the Washington State Department of Labor and Industries electrical permit and written verification that the electrical work has passed a final inspection shall be provided to the City and the PUD.
- (5) Data centers and Cryptocurrency mining operations shall not occupy ~~the any~~ grade level commercial street frontage to a depth of 50 feet. ~~They may be located behind, below, or above existing or proposed storefronts.~~
- (6) ~~If a n~~New structures ~~is~~ proposed for ~~housing use as~~ a data centers or for ~~cryptocurrency mining~~ ~~it~~ shall meet the blank wall limitation standards found in WCC10.24.050(9), for all zones except within the Industrial and the Industrial Overlay zoning districts.
- (67) All cryptocurrency mining and data center operations, including all ancillary equipment/operations for purposes such as cooling, shall be designed, constructed, operated, and maintained so as ~~to be harmonious and appropriate in appearance with the existing or intended character of the surrounding properties and~~ not to cause the dissemination of dust, smoke, glare, heat, vibration or noise in excess of the maximum environmental noise level established by WCC Title 6A or Chapter 173-60 WAC beyond the property line or affecting adjacent buildings. Violation of these established noise levels will result in revocation of a City Business License pursuant to WCC16.12 and any other applicable penalties.
- (8) ~~Except within the Industrial zoning district, †~~The project proponent shall provide to the City within 30 days of commencing ~~operations~~ ~~a~~operations an affidavit that includes the following information:
- Name and qualifications of the person who measured the decibel levels
  - Equipment used
  - Location of the noise measurements depicted on a scaled site plan. The points of measurement shall be at all property lines and generally at the points on those property lines most susceptible to noise from the applicable equipment.
  - Decibel levels measured at each property line
  - A description of the operating conditions of the applicable equipment when the measurements were taken.
  - Time and duration of measurements
  - A statement attesting to the accuracy of the information provided and a guarantee that the project proponent will not run their equipment at a more intense or noisier state than when they made the measurements.
- ~~noise measurement in decibels (dBA) with a sound level meter.~~

~~The point of measurement shall be at the property line nearest to the cooling equipment. For structures with roof mounted cooling equipment,~~

~~the measurement shall be from the property line with the nearest neighboring structure.~~ The City reserves the right to require independent verification of noise measurements and/or to request additional measurements at different points on the property. All measurements must comply with the noise levels established in Chapter 173-60 WAC and Title 6A Wenatchee City Code.

A list of common noise levels is included in the Department of Ecology's FAQ page at the following link: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Noise-pollution/Noise-pollution-FAQ-for-citizens>

The text from the above mentioned web page has been included below:

**Q:** What are the decibel levels for everyday noises?

**A:** Here is a list of common noise levels.

- Airport plan take-off - 120dB
- Rock concert - 105dB
- Lawn Mower - 100dB
- Blender - 90dB
- Garbage disposal - 80dB
- Traffic noise - 70-80dB
- Vacuum - 70dB
- Office - 60-65dB
- Library - 35dB
- Breathing - 10dB

The National Institute on Deafness and Other Communication Disorders (NIDCD) provides the following examples of decibel levels on their Noise-Induced Hearing Loss information page: <https://www.nidcd.nih.gov/health/noise-induced-hearing-loss#3>

Here are the average decibel ratings of some familiar sounds:

- The humming of a refrigerator - 45 decibels
- Normal conversation - 60 decibels
- Noise from heavy city traffic - 85 decibels
- Motorcycles - 95 decibels
- An MP3 player at maximum volume - 105 decibels
- Sirens - 120 decibels
- Firecrackers and firearms - 150 decibels

Pennsylvania State University and the Federal Aviation Administration maintain a website called "Noise Quest". There are resources on this site about noise levels include the following list of decibel levels: <https://www.noisequest.psu.edu/noisebasics-basics.html>

### **Comparative Sound Levels**

- Saturn Rocket = 200 dB
- Walkman (1/2 volume) = 94 dB
- MD-80 takeoff - 1,500 ft. alt. = 85 dB
- Dial tone = 80 dB
- Talking at 3 feet = 65 dB
- Quiet urban daytime = 50 dB

- Quiet urban nighttime = 40 dB
- Quiet rural nighttime = 25 dB

The website (<https://georgebrazilhvac.com/blog/which-2017-air-conditioner-is-the-quietest>) of a private HVAC contractor lists the following decibel levels as the quietest AC units in 2017:

- York Affinity™ YXV Variable Capacity Air Conditioner: As low as 53 db
- Trane XV20i TruComfort™ Variable Speed: As low as 57 db
- Carrier Infinity® 19 Variable Speed: As low as 56 db
- Lennox XC25 Variable Speed Air Conditioner: As low as 59 db

Staff was unable to find a comparison of commercial HVAC unit noise levels but when reviewing product literature for a random sampling of products found the following sound levels:

Lennox Emergence rooftop Air conditioning unit - as low as 73dBA

[https://resources.lennoxcommercial.com/resources/e3b1c2a0-f54b-40f8-ba2a-64d5cf1f4b7d-Lennox\\_Emergence\\_brochure.pdf](https://resources.lennoxcommercial.com/resources/e3b1c2a0-f54b-40f8-ba2a-64d5cf1f4b7d-Lennox_Emergence_brochure.pdf)

Daikin 12.5 Ton Light Commercial Packaged Air Conditioner – 83dBA

<https://hvacdirect.com/daikin-12-5-ton-light-commercial-packaged-air-conditioner-dcc150xxx4vxxx.html>

Daikin 3 Ton 15.5 SEER Packaged Air Conditioner – 78dBA <https://hvacdirect.com/daikin-3-ton-15-5-seer-packaged-air-conditioner-single-phase-dtc036xxx1dxxx.html>

## Chapter Listing

### Chapter 173-60 WAC

Last Update: 12/6/00

## MAXIMUM ENVIRONMENTAL NOISE LEVELS

### WAC Sections

<b>173-60-010</b>	Authority and purpose.
<b>173-60-020</b>	Definitions.
<b>173-60-030</b>	Identification of environments.
<b>173-60-040</b>	Maximum permissible environmental noise levels.
<b>173-60-050</b>	Exemptions.
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### 173-60-010

#### Authority and purpose.

These rules are adopted pursuant to chapter **70.107** RCW, the Noise Control Act of 1974, in order to establish maximum noise levels permissible in identified environments, and thereby to provide use standards relating to the reception of noise within such environments. Vessels, as defined in RCW **88.12.010**(21) and regulated for noise under chapter **88.12** RCW (Regulation of recreational vessels), shall be exempt from chapter **173-60** WAC.

[Statutory Authority: Chapter **70.107** RCW. WSR 94-12-001 (Order 92-41), § 173-60-010, filed 5/18/94, effective 6/18/94; Order 74-32, § 173-60-010, filed 4/22/75, effective 9/1/75.]

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### 173-60-020

#### Definitions.

(1) "Background sound level" means the level of all sounds in a given environment, independent of the specific source being measured.

(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.

(3) "Department" means the department of ecology.

(4) "Director" means the director of the department of ecology.

(5) "Distribution facilities" means any facility used for distribution of commodities to final consumers, including facilities of utilities that convey water, waste water, natural gas, and electricity.

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

(7) "Existing" means a process, event, or activity in an established area, producing sound subject to or exempt from this chapter, prior to the effective date of September 1, 1975.

(8) "Local government" means county or city government or any combination of the two.

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

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

(11) "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.

(12) "Racing event" means any motor vehicle competition conducted under a permit issued by a governmental authority having jurisdiction or, if such permit is not required, then under the auspices of a recognized sanctioning body.

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

(14) "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.

[Statutory Authority: Chapter **70.107** RCW. WSR 94-12-001 (Order 92-41), § 173-60-020, filed 5/18/94, effective 6/18/94; WSR 83-15-046 (Order DE 82-42), § 173-60-020, filed 7/19/83; Order DE 77-1, § 173-60-020, filed 6/1/77; Order 74-32, § 173-60-020, filed 4/22/75, effective 9/1/75.]

## 173-60-030

### Identification of environments.

(1) Except when included within specific prior designations as provided in subsections (2), (3), and (4) of this section, the EDNA of any property shall be based on the following typical uses, taking into consideration the present, future, and historical usage, as well as the usage of adjacent and other lands in the vicinity.

(a) Class A EDNA - Lands where human beings reside and sleep. Typically, Class A EDNA will be the following types of property used for human habitation:

(i) Residential

(ii) Multiple family living accommodations

(iii) Recreational and entertainment, (e.g., camps, parks, camping facilities, and resorts)

(iv) Community service, (e.g., orphanages, homes for the aged, hospitals, health and correctional facilities)

(b) Class B EDNA - Lands involving uses requiring protection against noise interference with speech. Typically, Class B EDNA will be the following types of property:

(i) Commercial living accommodations

(ii) Commercial dining establishments

(iii) Motor vehicle services

(iv) Retail services

(v) Banks and office buildings

(vi) Miscellaneous commercial services, property not used for human habitation

(vii) Recreation and entertainment, property not used for human habitation (e.g., theaters, stadiums, fairgrounds, and amusement parks)

(viii) Community services, property not used for human habitation (e.g., educational, religious, governmental, cultural and recreational facilities).

(c) Class C EDNA - Lands involving economic activities of such a nature that higher noise levels than experienced in other areas is normally to be anticipated. Persons working in these areas are normally covered by noise control regulations of the department of labor and industries. Uses typical of Class A EDNA are generally not permitted within such areas. Typically, Class C EDNA will be the following types of property:

(i) Storage, warehouse, and distribution facilities.

(ii) Industrial property used for the production and fabrication of durable and nondurable man-made goods

(iii) Agricultural and silvicultural property used for the production of crops, wood products, or livestock.

(d) Where there is neither a zoning ordinance in effect nor an adopted comprehensive plan, the legislative authority of local government may, by ordinance or resolution, designate specifically described EDNAs which conform to the above use criteria and, upon departmental approval, EDNAs so designated shall be as set forth in such local determination.

(e) Where no specific prior designation of EDNAs has been made, the appropriate EDNA for properties involved in any enforcement activity will be determined by the investigating official on the basis of the criteria of (a), (b), and (c) of this subsection.

(2) In areas covered by a local zoning ordinance, the legislative authority of the local government may, by ordinance or resolution designate EDNAs to conform with the zoning ordinance as follows:

(a) Residential zones - Class A EDNA

(b) Commercial zones - Class B EDNA

(c) Industrial zones - Class C EDNA

Upon approval by the department, EDNAs so designated shall be as set forth in such local determination. EDNA designations shall be amended as necessary to conform to zone changes under the zoning ordinance.

(3) In areas not covered by a local zoning ordinance but within the coverage of an adopted comprehensive plan the legislative authority of the local government may, by ordinance or resolution designate EDNAs to conform with the comprehensive plan as follows:

(a) Residential areas - Class A EDNA

(b) Commercial areas - Class B EDNA

(c) Industrial areas - Class C EDNA

Upon approval by the department EDNAs so designated shall be as set forth in such local determination. EDNA designations shall be amended as necessary to conform to changes in the comprehensive plan.

(4) The department recognizes that on certain lands, serenity, tranquillity, or quiet are an essential part of the quality of the environment and serve an important public need. Special designation of such lands with appropriate noise level standards by local government may be adopted subject to approval by the department. The director may make such special designation pursuant to the procedures of the Administrative Procedure Act, chapter **34.04** RCW.

[Order 74-32, § 173-60-030, filed 4/22/75, effective 9/1/75.]

## 173-60-040

### Maximum permissible environmental noise levels.

(1) No person shall cause or permit noise to intrude into the property of another person which noise exceeds the maximum permissible noise levels set forth below in this section.

(2)(a) The noise limitations established are as set forth in the following table after any applicable adjustments provided for herein are applied.

EDNA OF NOISE SOURCE	EDNA OF RECEIVING PROPERTY		
	Class A	Class B	Class C
CLASS A	55 dBA	57 dBA	60 dBA
CLASS B	57	60	65
CLASS C	60	65	70

(b) Between the hours of 10:00 p.m. and 7:00 a.m. the noise limitations of the foregoing table shall be reduced by 10 dBA for receiving property within Class A EDNAs.

(c) At any hour of the day or night the applicable noise limitations in (a) and (b) above may be exceeded for any receiving property by no more than:



- (i) 5 dBA for a total of 15 minutes in any one-hour period; or
- (ii) 10 dBA for a total of 5 minutes in any one-hour period; or
- (iii) 15 dBA for a total of 1.5 minutes in any one-hour period.

[Order 74-32, § 173-60-040, filed 4/22/75, effective 9/1/75.]

## 173-60-050

### Exemptions.

(1) The following shall be exempt from the provisions of WAC **173-60-040** between the hours of 7:00 a.m. and 10:00 p.m.:

(a) Sounds originating from residential property relating to temporary projects for the maintenance or repair of homes, grounds and appurtenances.

(b) Sounds created by the discharge of firearms on authorized shooting ranges.

(c) Sounds created by blasting.

(d) Sounds created by aircraft engine testing and maintenance not related to flight operations: Provided, That aircraft testing and maintenance shall be conducted at remote sites whenever possible.

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

(2) The following shall be exempt from the provisions of WAC **173-60-040** (2)(b):

(a) Noise from electrical substations and existing stationary equipment used in the conveyance of water, waste water, and natural gas by a utility.

(b) Noise from existing industrial installations which exceed the standards contained in these regulations and which, over the previous three years, have consistently operated in excess of 15 hours per day as a consequence of process necessity and/or demonstrated routine normal operation. Changes in working hours, which would affect exemptions under this regulation, require approval of the department.

(3) The following shall be exempt from the provisions of WAC **173-60-040**, except insofar as such provisions relate to the reception of noise within Class A EDNAs between the hours of 10:00 p.m. and 7:00 a.m.

(a) Sounds originating from temporary construction sites as a result of construction activity.

(b) Sounds originating from forest harvesting and silvicultural activity.

(4) The following shall be exempt from all provisions of WAC **173-60-040**:

(a) Sounds created by motor vehicles when regulated by chapter **173-62** WAC.

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

(c) Sounds created by surface carriers engaged in interstate commerce by railroad.

(d) Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes, and carillons.

(e) Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible.

(f) Sounds created by emergency equipment and work necessary in the interests of law enforcement or for health safety or welfare of the community.

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

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

(i) Sounds emitted from petroleum refinery boilers during startup of said boilers: Provided, That the startup operation is performed during daytime hours whenever possible.

(j) Sounds created by the discharge of firearms in the course of hunting.

(k) Sounds caused by natural phenomena and unamplified human voices.

(l) Sounds created by motor vehicles, licensed or unlicensed, when operated off public highways EXCEPT when such sounds are received in Class A EDNAs.

(m) Sounds originating from existing natural gas transmission and distribution facilities. However, in circumstances where such sounds impact EDNA Class A environments and complaints are received, the

director or his designee may take action to abate by application of EDNA Class C source limits to the facility under the requirements of WAC 173-60-050(5).

(6) Nothing in these exemptions is intended to preclude the department from requiring installation of the best available noise abatement technology consistent with economic feasibility. The establishment of any such requirement shall be subject to the provisions of the Administrative Procedure Act, chapter **34.04** RCW.

[Statutory Authority: Chapter **70.107** RCW. WSR 94-12-001 (Order 92-41), § 173-60-050, filed 5/18/94, effective 6/18/94; WSR 83-15-046 (Order DE 82-42), § 173-60-050, filed 7/19/83; Order DE 77-1, § 173-60-050, filed 6/2/77; Order 75-18, § 173-60-050, filed 8/1/75; Order 74-32, § 173-60-050, filed 4/22/75, effective 9/1/75.]

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## **173-60-060**

### **Nuisance regulations not prohibited.**

Nothing in this chapter or the exemptions provided herein, shall be construed as preventing local government from regulating noise from any source as a nuisance. Local resolutions, ordinances, rules or regulations regulating noise on such a basis shall not be deemed inconsistent with this chapter by the department.

[Order 74-32, § 173-60-060, filed 4/22/75, effective 9/1/75.]

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## **173-60-070**

### **Reserved.**

Reserved.

[Statutory Authority: Chapter **70.107** RCW. WSR 00-24-134 (Order 00-24), § 173-60-070, filed 12/6/00, effective 1/6/01; WSR 94-12-001 (Order 92-41), § 173-60-070, filed 5/18/94, effective 6/18/94; Order DE 77-1, § 173-60-070, filed 6/1/77; Order 74-32, § 173-60-070, filed 4/22/75, effective 9/1/75.]

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## **173-60-080**

### **Variances and implementation schedules.**

(1) Variances may be granted to any person from any particular requirement of this chapter, if findings are made 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 [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.

(2) An implementation schedule for achieving compliance with this chapter shall be incorporated into any variance issued.

(3) Variances shall be issued only upon application in writing and after providing such information as may be requested. No variance shall be issued for a period of more than 30 days except upon due notice to the public with opportunity to comment. Public hearings may be held, when substantial public interest is shown, at the discretion of the issuing agency.

(4) Sources of noise, subject to this chapter, upon which construction begins after the effective date hereof shall immediately comply with the requirements of this chapter, except in extraordinary circumstances where overriding considerations of public interest dictate the issuance of a variance.

[Order 74-32, § 173-60-080, filed 4/22/75, effective 9/1/75.]

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## **173-60-090**

### **Enforcement policy.**

Noise measurement for the purposes of enforcing the provisions of WAC **173-060-040** shall be measured in dBA with a sound level meter with the point of measurement being at any point within the receiving property. Such enforcement shall be undertaken only upon receipt of a complaint made by a person who resides, owns property, or is employed in the area affected by the noise complained of, EXCEPT for parks, recreational areas, and wildlife sanctuaries. For enforcement purposes pursuant to RCW **70.107.050**, each day, defined as the 24-hour period beginning at 12:01 a.m., in which violation of the noise control regulations (chapter **173-60** WAC) occurs, shall constitute a separate violation.

[Order DE 76-5, § 173-60-090, filed 2/5/76; Order 74-32, § 173-60-090, filed 4/22/75, effective 9/1/75.]

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## **173-60-100**

### **Appeals.**

Any person aggrieved by any decision of the department in relation to the enforcement of the maximum permissible noise levels provided for herein, the granting or denial of a variance or the approval or disapproval of a local resolution or ordinance for noise abatement and control may appeal to the pollution control hearings board pursuant to chapter **43.21B** RCW under the procedures of chapter **371-08** WAC.

[Order 74-32, § 173-60-100, filed 4/22/75, effective 9/1/75.]

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## **173-60-110**

### **Cooperation with local government.**

(1) The department conceives the function of noise abatement and control to be primarily the role of local government and intends actively to encourage local government to adopt measures for noise abatement and control. Wherever such measures are made effective and are being actively enforced, the department does not intend to engage directly in enforcement activities.

(2) No ordinance or resolution of any local government which imposes noise control requirements differing from those adopted by the department shall be effective unless and until approved by the director. If approval is denied, the department, following submission of such local ordinance or resolution to the department, shall deliver its statement or order of denial, designating in detail the specific provision(s) found to be objectionable and the precise grounds upon which the denial is based, and shall submit to the local government, the department's suggested modification.

(3) The department shall encourage all local governments enforcing noise ordinances pursuant to this chapter to consider noise criteria and land use planning and zoning.

[Statutory Authority: Chapter **70.107** RCW. WSR 87-06-056 (Order 86-40), § 173-60-110, filed 3/4/87; Order 74-32, § 173-60-110, filed 4/22/75, effective 9/1/75.]

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## **173-60-120**

### **Effective date.**

This chapter shall become effective on September 1, 1975. It is the intention of the department to periodically review the provisions hereof as new information becomes available for the purpose of making amendments as appropriate.

[Order 74-32, § 173-60-120, filed 4/22/75, effective 9/1/75.]

## Chapter 6A.40 PUBLIC DISTURBANCE NOISES

Sections:

- 6A.40.010 Purpose.**
- ~~6A.40.020 Content of sound.~~
- ~~6A.40.030 Public disturbance noises.~~
- 6A.40.040 Exceptions.**
- 6A.40.050 Penalty.**

### **6A.40.010 Purpose.**

The purpose of this chapter is to control noise in a manner which promotes commerce; the use, value, and enjoyment of property; sleep and repose; and the quality of the environment. (Ord. 97-23 § 1; Ord. 2864 § 1, 1990)

### **6A.40.020 Content of sound.**

The content of the sound shall not be considered in determining whether a violation of this chapter has occurred. (Ord. 97-23 § 2; Ord. 2864 § 1, 1990)

### **6A.40.030 Public disturbance noises.**

It is unlawful for any person to cause or make, or for any person in possession of property to allow to originate from the property, sound which is a public disturbance noise. Public disturbance noises include the following sounds or combinations of sounds:

- (1) Loud and raucous, or frequent, repetitive, or continuous sounds made by any horn or siren attached to a motor vehicle, except such sounds that are made to warn of danger or that are specifically permitted or required by law.
- (2) Loud and raucous, or frequent, repetitive, or continuous sounds created by musical instruments, audio sound systems, band sessions, or other devices capable of producing, amplifying, or reproducing sound which unreasonably disturbs or interferes with the peace, comfort and repose of another and can be clearly heard by a person of normal hearing at a distance of 50 feet or more from the property from which the sound originates.
- (3) Yelling, shouting, hooting, whistling or singing on or near city streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any other time and place which unreasonably disturbs or interferes with the peace, comfort and repose of another.
- (4) The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle or internal combustion engine within a residential district, so as to unreasonably disturb or interfere with the peace, comfort, and repose of another.
- (5) Sound from a motor vehicle audio system, such as a radio, tape player or compact disc player, which is operated at such a volume that it can be clearly heard by a person of normal hearing at a distance of 50 feet or more from the vehicle itself.
- (6) Sound from portable audio equipment, such as a radio tape player or compact disc player, which is operated at such a volume that it can be clearly heard by a person of normal hearing at a distance of 50 feet or more from the source of the sound.

(7) Sounds from construction activity, including, but not limited to, motorized construction and equipment operation, hammering, blasting, drilling, and sawing, that are audible on residential property beyond the property lines of the property on which the construction activity is conducted between the hours of 10:00 p.m. and 6:00 a.m. Monday through Saturday, and between the hours of 6:00 p.m. and 8:30 a.m. on Sunday; provided, however, that this subsection shall not apply to sounds from construction activity conducted by the city of Wenatchee, or other governmental entities, necessary for the preservation of the public health, safety and welfare; provided further, that this subsection shall not be applicable to commercial areas as established by the city of Wenatchee zoning ordinance.

(8) Habitual howling, yelping, whining, barking, or other oral noises that unreasonably disturb other persons. (Ord. 2013-03 § 1; Ord. 97-23 § 3; Ord. 3004 § 1, 1993; Ord. 2864 § 1, 1990)

#### **6A.40.040 Exceptions.**

(1) The provisions of this chapter shall not apply to:

(a) Regularly scheduled community events conducted on property owned by a governmental agency or public school district and conducted with the express permission of an authorized representative of the property owner; and

(b) Regularly scheduled parades held in the city of Wenatchee and authorized by an appointed representative of the city; and

(c) Preparation for “regularly scheduled community events” as described below.

(2) For the purpose of this section, a “regularly scheduled community event” is:

(a) A public sporting event or public concert held on property owned by a governmental entity or public school district and conducted with the express permission of an authorized representative of the property owner; and

(b) Official public ceremonies sponsored by governmental entity or public school district.

(3) The ordinary and usual ringing of trolley bells by a mass transit carrier, e.g., Link trolley bus.

(4) The exceptions set forth in subsections (1) and (2) of this section shall not apply between 11:00 p.m. and 7:00 a.m. (Ord. 2013-03 § 2; Ord. 2005-13 § 1, 2005; Ord. 97-23 § 4; Ord. 2864 § 1, 1990)

#### **6A.40.050 Penalty.**

Violation of any of the provisions of this chapter may result in the issuance of a notice of infraction or citation for a infraction punishable by a fine with a base penalty of \$250.00, not including statutory assessments. The Infraction Rules for Courts of Limited Jurisdiction with the exception of IRLJ 4.1, 6.2, and 6.6 shall govern. (Ord. 2001-22 § 1; Ord. 97-23 § 5; Ord. 2864 § 1, 1990)

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