

CITY OF COSMOPOLIS
ORDINANCE NO. 1385

AN ORDINANCE PERTAINING TO NOISE, AMENDING SECTIONS 9.48.010, 9.48.020, 9.48.050, 9.48.060, 9.48.150, AND 9.48.190 OF THE COSMOPOLIS MUNICIPAL CODE.

BE IT ORDAINED by the City Council of Cosmopolis as follows:

SECTION 1. Section 9.48.010 of the Cosmopolis Municipal Code is hereby amended, to read as follows:

9.48.010 Declaration of policy – Nuisance declared.

(a) In order to control unnecessary, excessive and annoying noises in all of the areas of the city, it is declared to be the policy of the city to prohibit such noises generated from all sources as specified in this chapter.

(b) It is determined that certain noise levels are detrimental to the public health, welfare and safety, and contrary to public interest, and therefore the city council does ordain and declare that creating, maintaining, causing or allowing to be created or maintained any noise in a manner prohibited by or not in conformity with the terms of this chapter is a public nuisance and shall be punishable as such.

(c) It is unlawful for any person to cause or any person in possession or control of property to allow to originate from the property, sound that is a public nuisance noise. It shall be a rebuttable presumption that any activities enumerated in this chapter disturb the peace, comfort, or repose of others when they take place between the hours of eleven p.m. and six a.m.

SECTION 2. Section 9.48.020 of the Cosmopolis Municipal Code is hereby amended to read as follows:

9.48.020 - Definitions.

The following words, phrases and terms, unless the context otherwise clearly indicates, shall have the meaning as indicated below:

(1) "Ambient noise level" means the lowest noise level in dBA as determined by employing a sound level meter and excluding transient peak sound conditions during a specified sample period using a specific procedure.

(2) "A weighted sound level" means the total sound level in decibels, or all noises as measured with a sound level meter using the "A" weighting network (scale). The unit of measurement shall be defined as "dBA."

(3)"Decibel (dB)" means a unit of level which denotes the ratio between two quantities which are proportional to power; the number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm to the base ten of this ratio.

(4)"Emergency machinery, vehicles or work" means any machinery, vehicle or work used, employed or performed in the efforts to protect, provide, prevent or restore safe conditions in the community or for the citizenry, or work by private or public utilities when restoring utility service.

(5)"Microbar" means a unit of pressure commonly used in acoustics and is equal to one dyne per square centimeter.

(6)"Motor vehicle" means and includes, but shall not be limited to, motorcycles, motor-driven cycles, minibikes, and go-carts, automobiles and trucks.

(7)"Noise level" means sound level, as defined in this chapter.

(8)"Person" means a person, firm, association, co-partnership, joint venture, corporation or any entity, public or private in nature.

(9)"Residential area" means all parcels of real property within a quarter-mile section map which are zoned for residential purposes or which, if zoned for agricultural, commercial or industrial uses, are actually used for residential purposes as a legal nonconforming use.

(10)"Sound amplifying equipment" means any machine or device, mobile or stationary, used for amplifying music, the human voice, or any sound.

(11)"Sound level" means the noise level in decibels and is the weighted sound pressure level obtained by using a sound level meter whose weighting characteristics are specified in the American National Standard Institute's (ANSI) Standard S1-4-1961 for sound level meters with a reference pressure of 0.0002 microbars.

(12)"Sound level meter" means an instrument including an omnidirectional microphone, amplifier, output meter and meeting the ANSI Standard S1-4-1961.

(13)"Sound pressure level" means the sound pressure level in decibels of a sound which is twenty times the logarithm to the base ten of the ratio of the pressure of this sound to a reference pressure, which reference pressure shall be explicitly stated.

(14) "Public disturbance noise" means:

(a) sound from motor vehicle audio sound equipment installed in the vehicle or merely carried therein, to be operated at a volume as to be plainly audible by human ear at a distance of fifty feet or more from the vehicle itself;

(b) sound from portable audio equipment which is operated at such a volume so as to be plainly audible by the human ear at a distance of fifty feet or more from the source of the sound;

(c) 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;

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

(e) yelling, shouting, hooting, whistling, or singing on or near the public streets, at any time and place so as to unreasonably disturb or interfere with the peace, comfort, and repose of owners or possessors of real property;

(f) the creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within a residential area or near any human service facilities.

SECTION 3. Section 9.48.050 of the Cosmopolis Municipal Code is hereby amended to read as follows:

9.48.050 - Noise performance standards.

(a) The following standards, unless otherwise specifically indicated, shall apply to all property their assigned noise zones (as specified in Section 9.48.030) and such standards shall constitute the maximum permissible noise level within the respective zones:

<u>Noise zone</u>	<u>Noise Standard</u>	
	<u>Day (maximum)</u>	<u>Night (maximum)</u>
	6:00 a.m. to 11:00 p.m.	11:00 p.m. to 6:00 a.m.
I	50 dBA	45 dBA
II	65 dBA	55 dBA
III	80 dBA	5 dBA

(b) The maximum permissible noise level standards established for each of the respective noise zones shall be adjusted during the daytime (6:00 a.m. to 11:00 p.m.) periods by the inclusion of the following noise corrective factors when applicable:

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| (1) Noise source operated less than 12 mm/hour | + 5 dBA* |
| (2) Noise source operated less than 3 mm/hour | +10 dBA* |
| (3) Noise source operated less than 1 mm/hour | +15 dBA* |
| (4) Noise source of impulsive character (bang, hammer) | - 5 dBA |
| (5) Noise source of periodic character (hum, screech) | - 5 dBA |

* apply only one plus factor.

SECTION 4. Section 9.48.060 of the Cosmopolis Municipal Code is hereby amended to read as follows:

9.48.060 - Noise monitoring procedures.

The following procedures shall be employed for monitoring and evaluating exterior noise nuisances in ~~the community~~ Zone II and Zone III unless otherwise specified in this chapter, but Zone I violations will be determined pursuant to the definition of "Public Disturbance Noise" as set forth in Section 9.48.020(14), above.

- (1) The evaluation shall be conducted any time of the day or night when the suspect noise source is being operated.
- (2) The location selected for monitoring shall be on any residential property adjoining the suspect property at a point approximately ten feet from any building, wall, or obstruction (trees, bushes, etc.) or on any property line, provided there are no walls, buildings, or obstructions within ten feet of the sampling location.
- (3) The sound level meter shall be equipped with an omnidirectional microphone.
- (4) No individual other than the operator shall be within ten feet of the sound level meter during the sample period.
- (5) The ambient noise level shall be determined with the noise source not in operation prior to or after a measure to determine a violation. The ambient noise level shall be determined as follows:(A)Allow time for the sound level meter to warm up;(B)Calibrate the sound level meter in accordance with the manufacturers s instructions;(C)Get the sound level meter on the "A" weighted network at slow response;(D)Without the noise source in operation, set the microphone in a vertical position with the microphone head approximately four feet above the ground. The operator shall face the noise source and record the meter' s instantaneous response (reading) observed at fifteen-second intervals for a period of fifteen minutes. The lowest reading is interpreted as the ambient noise level of that sampling point. If this reading is at any level above the standard set for the noise zone, steps must be taken to determine the source or sources of the intruding high-level noise followed by the appropriate control action before continuing the survey. If the reading is equal to or below the standard, continue the survey.
- (6) With the noise source in operation, the operator shall again record the instantaneous response at fifteen- second intervals for a fifteen-minute period. Or, for a noise source of less than fifteen minutes, the operator shall record the instantaneous response at fifteen-second intervals for the time the noise source is in operation. The lowest response level recorded while the noise source is in operation is interpreted as the intruding noise level.
- (7) Apply the noise corrective factors as set forth in Section 9.48.050 to the noise standard established for the specific noise zone.

(8) Compare the intruding noise levels with the standard. If the noise level generated from the noise source exceeds the standard, the noise source is generating noise levels in excess of the allowable standards set for the noise zone.

SECTION 5. Section 9.48.0150 of the Cosmopolis Municipal Code is hereby amended to read as follows:

9.48.150 - Enforcement.

The chief of police or his duly authorized representatives are empowered, and it shall be their duty, to enforce all provisions of this chapter. The content of the sound will not be considered in determining a violation of this chapter.

SECTION 6. Section 9.48.0190 of the Cosmopolis Municipal Code is hereby amended to read as follows:

9.48.190 - Violation—Manner of prosecution.

~~Violation of this chapter shall be prosecuted in the same manner as other misdemeanor violations of the city's code; provided, however, that in the event of violation of Sections 9.48.070 (2) or (4) and 9.48.100, a written notice of intention to prosecute will be given the alleged violator not less than three calendar days prior to the issuance of a misdemeanor complaint. No complaint shall be issued in the event the cause of violation is removed, the condition abated, or fully corrected within such three-day period. In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required in this section shall be deemed to be given upon mailing such notice by registered or certified mail, to the alleged violator at his last known address or at the place where the violation occurred, in which event the three-day period shall commence at the day following the mailing of such notice.~~

Failure to perform any act required, or the performance of any act prohibited, by this chapter is designated as a civil infraction and shall not be classified as a criminal offense. Any person, firm, company or corporation found to have committed a violation of this chapter shall be subject to the penalties as set forth: First infraction, \$75.00 fine; second infraction, \$150 fine; third or subsequent infraction, \$300.00 fine. Whenever a monetary penalty is imposed by the court under this chapter, the monetary penalty imposed must be paid immediately. Failure to pay the monetary penalty shall constitute a misdemeanor, punishable by a sentence of ninety days in jail and/or a fine of \$1,000.

PASSED AND APPROVED this 20th day of September, 2023

Mayor

Attest:

Finance Director

I, Julie Pope, Finance Director for the City of Cosmopolis, Washington do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1385 of the ordinances of the City of Cosmopolis, Washington, and that the same was passed regularly and according to law on the 20th day of September, 2023.

Finance Director