



City of Stevenson

Leana Kinley, City Administrator

Phone (509)427-5970
FAX (509) 427-8202

7121 E Loop Road, PO Box 371
Stevenson, Washington 98648

To: City Council
From: Leana Kinley, City Administrator
RE: Noise Ordinance
Meeting Date: October 21, 2021

Executive Summary:

A Public Hearing was held for revisions to the current noise ordinance at the September 16th council meeting. A question came up regarding the allowance of a private right of action to the ordinance (allowing a person to file a private lawsuit against a code violator). Additional comments and questions have arisen and are included in the packet. No changes to the ordinance have been made. Options to address additional comments are outlined below for council to discuss.

Overview:

Since the last council meeting there are a few items for council to discuss as part of the legislation. The first is the allowance of a private right of action, the second is with regards to noise from private events, and the third is about noise from mechanical equipment.

1. In a response from MRSC regarding the allowance of a private right of action, they state:

“From a practical standpoint, for noise complaint situations, noise regulations are typically based on nuisance standards, and a private party could already bring a private nuisance action against a neighbor in violation of a noise ordinance. There may also be less expensive methods to obtain compliance with the city’s noise ordinances through education and traditional enforcement.

Here is a 2019 law review article about the topic of private rights of action in city ordinances:

http://hrlr.law.columbia.edu/files/2019/04/HRLR-50.2-Ferron_Suing-for-the-City_Expanding-Public-Interest-Group-Enforcement-of-Municipal-Ordinances.pdf

I did not read the entire article, but I did find this interesting quote (at page 223):

“It is not clear whether our federalist system allows cities to innovate in this way, and if it does, whether they should.”

2. Noise from private events can include open mic nights at restaurants or special events in a neighborhood. Most public events currently allowed an exemption under proposed section 8.08.070(H) end at 10 pm. A deadline of 10 pm can be extended to private events. Other questions include whether a permit should be requested with input or notification from neighboring properties of a private event, or if this should only apply to the commercial zone.

3. Resident Judith Morrison submitted a concern about the noise emanating from mechanical equipment at the A&J Market (email attached). The current city code regarding maximum environmental noise levels (SMC 8.08.020(B)(3)) would be 57 dBA. At any hour of the day or night, the noise limitations may be exceeded depending on the length of time (WAC attached).

A potential solution would be to make nuisance noise from mechanical equipment unallowable, with reference to the WAC to allow a metric to measure from. I am not able to find examples of codes from other cities which address this issue specifically. Of those I have looked at, about half currently cite the WAC as our current code does, and others are crafted similarly to ours with varying length.

Some draft language is included below for help with options on how to address each item if council chooses to include additional changes in the ordinance. A reminder that any noise ordinance approved by council, which varies from reference to the WAC, will need to also be approved by Ecology before it can be enforced.

Action Needed:

Options for noise ordinance adoption:

1. Approve as is with no changes.
2. Approve with the following:
 - a) Addition of language to allow a private right of action
 - b) Add section 8.08.070(L) Sounds originating from private events between the hours of seven a.m. and ten p.m.
 - c) Add section 8.08.050(H) The creation of frequent, repetitive or continuous sounds in connection with the operation of mechanical equipment connected to a building so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of neighboring real property and in violation of WAC 173-60-040.

No motion for adoption, staff direction on changes to the ordinance for presentation and discussion at the November 18th council meeting.