



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning & Development

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CITY OF SEATTLE

ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT

SEPA Threshold Determination for revisions to Chapter 25.08, Noise Control, of the Seattle Municipal Code

Project Sponsor: City of Seattle Department of Planning and Development (DPD)

Location of Proposal: The proposed amendments would apply citywide.

Scope of Proposal: The proposed amendments would:

- Allow the Administrator to grant noise variances for “major public project construction;”
- Allow the DPD Director to grant noise variance extensions for previously granted variances (with public notice) except for temporary variances;
- Modify the time limits (set a 7 PM limit rather than a 10 PM limit) for noisy site development activities in Lowrise, Midrise, Highrise and Neighborhood Commercial zones when residences are nearby.

The following proposed amendments are not subject to environmental review:

- Update the code to acknowledge current sound measuring methods and devices;
- Update and strengthen enforcement procedures to provide for stop work orders, revocation of variances, citations, civil penalties and the possibility of duration limits and the modification of variance terms at the Administrator’s discretion; and
- Implement non-substantive changes to the code, such as correcting incorrect references and updating inaccurate or outdated language.

This proposal would not:

- Address noise issues related to Downtown nightclubs or conflicts with drinking establishments and residential uses.
- Change any sound level limits.

BACKGROUND

The Director's Report submitted by Land Use Policy staff states that the proposal to amend noise variance capabilities of City regulations responds to the anticipated extent of affected area and the long timeframe of major transportation projects in the city. Existing provisions exist in the code allow "technical" and "economic" variances, as well as temporary variances of two-week duration. However, these variance types either are very difficult to obtain due to their criteria, or create procedural inefficiencies in the application and review processes due to their limited term and poor relationship to planning for construction of complex public projects.

Proposal Description

The City is proposing the following amendments to the Seattle Municipal Code, Chapter 25.08 – Noise Control that are briefly summarized as:

1. Allow the Administrator to grant noise variances for "major public project construction;"
2. Allow the Administrator to grant noise variance extensions for previously granted technical, economic or major public project construction variances;
3. With noise variances for major public projects, require a "noise management and mitigation plan (NMMP)." This type of plan would need to contain the following components:
 - A description of the permissible exterior sound levels expected to be exceeded and the amount and duration by which those levels are expected to be exceeded;
 - Measures and provisions that are planned to be taken in order to avoid exceeding the permissible exterior sound levels;
 - Provisions to mitigate sounds that exceed the permissible exterior sound levels and that can't otherwise be avoided; and
 - A process for informing the public about the provisions of the variance;
4. Set a 7 PM rather than a 10 PM limit on noisy site development activities that affect residents in higher density areas such as Lowrise, Midrise, Highrise and Neighborhood Commercial zones.

ANALYSIS - OVERVIEW

The following describes the analysis conducted to determine if the proposal is likely to result in *probable significant adverse environmental impacts*. This threshold determination is based on:

- the proposal, as described above;
- the information contained in the *SEPA checklist*;
- additional information, including the attached director's report; and
- the experience of DPD analysts in reviewing similar documents and actions.

The analysis addresses at a programmatic level of detail the potential for additional environmental impacts as a consequence of the proposed amendments. It does not evaluate the development-related impacts of any particular future project. In many cases, major public projects would likely undergo the environmental impact statement (EIS) process, which would enable government agencies and interested citizens to review and comment on the project-related impacts of future proposed major public project actions.

“Major public project” means, for purposes of this chapter, a project for a public facility as defined in SMC Title 23, the construction of which the Administrator determines is likely to be of at least six months duration, and is likely to have a substantial impact on the public safety, health and welfare and the provision of public services, including transportation services. In making this determination the Director shall consider factors such as the expected size, complexity or cost of the proposed construction or reconstruction; the expected duration of the proposed construction or reconstruction, which must be a minimum of six months; the magnitude of the expected impacts on traffic and transportation; and/or the degree of impact on the provision of public services during the proposed construction or reconstruction.

ELEMENTS OF THE ENVIRONMENT

Adoption of the proposed amendments would result in no immediate adverse short-term environmental impacts because the adoption would be a non-project action. Additional evaluation of the potential for long-term environmental impacts is provided below.

A. Natural Environment

Earth, Water, Plants/Animals Air Quality—Climate, Energy/Natural Resources

No direct significant adverse impacts to elements of the natural environment are anticipated from this non-project proposal. The proposal is not likely to affect the physical geographic coverage of construction activity for future major projects, and so no increases in earth movement, alteration of drainage patterns or damage to plant and animal habitats are identified. Future project-related SEPA reviews would afford the opportunity to identify and mitigate site-specific impacts, as anticipated in SMC 25.05.330. See the Built Environment discussion below for more evaluation of the potential for adverse noise-related effects.

An analysis of potential impacts on air quality and energy/natural resource consumption hinges on whether the proposal would likely facilitate a shorter total length of construction (in days) compared to construction using the existing noise variance techniques. The proposal sponsor’s submitted information suggests that construction would be the same under either existing or proposed variance methods. If that is so, no differences in air-quality-affecting pollutants (such as particulates, carbons, etc.) or consumption of non-renewable resources are identified, meaning no adverse environmental impacts of these types.

In contrast however, if the proposal to unify noise evaluation, management and mitigation planning into a single variance and associated NMMP is an effective tool, it could reduce chances of delay that a lengthy series of individual two-week variances could generate. The most probable scenario is that the proposal could contribute to overall shorter construction periods at least for some major public projects. This could contribute to fewer days of increased

traffic congestion and associated vehicle-related pollutant emissions and consumption of non-renewable resources. In this sense, the proposal could result in net positive impacts on air quality, due to lesser potential for secondary air-quality or resource-consumption impacts of congestion. The absolute extent of such potential positive impacts cannot be predicted at this time because the probable efficiencies of future projects are not known.

Also in terms of long-term operations of the future “major public projects” (assumed to be expanded highway or mass-transit facilities), in most cases they would provide increased opportunity for efficient transit operations, increased operational efficiency of roadways, and/or a diminution of traffic congestion that contributes to lesser efficiency in the operation of individual motor vehicles. These factors also suggest that if the “major public project” variance assists in the more expeditious delivery of major public transportation project improvements, the proposal would result in net positive impacts on air pollutant emissions and consumption of non-renewable resources, compared to retaining existing regulations on noise variances.

Therefore, no adverse or significant adverse impacts of the proposal on air quality (including contribution to greenhouse gases) or on natural resource consumption are identified. Further in-depth assessment of atmospheric “greenhouse” impacts would be hindered by scientific uncertainty regarding the appropriate methodologies to make such judgments. However, the lead agency may proceed even without such judgments (SMC 25.05.080).

B. Built Environment

Environmental Health—Noise, Construction Impacts

The nature and contents of the proposal relate to variances for major public project constructions, which include the possibility of accommodating some construction activities during night-time hours. While such activity would generate noise, the noise management and mitigation plan would ensure that noise mitigation is actively implemented and enforced along construction sites to conform to the relevant noise limits. This includes prescribing limits and types of mitigation strategies that would be implemented, in a manner that would directly relate to the existing conditions and ambient noise levels observed along future construction project areas. Also, the proposal adds tools such as stop-work orders and variance revocation that would increase the City’s enforcement tools and consequently the probable effectiveness of enforcement. Review of the proposal leads to a conclusion that it would be at least as effective, and probably more effective, in controlling noise from major public construction projects than variance methods currently in use. Therefore, the probability of significant adverse noise impacts related to this proposal is minimal.

In addition, the proposed changes would likely allow for shorter construction schedules for major public project construction. This could ultimately result in fewer days when noise-generating construction would occur, which would be a positive impact. Future project-related SEPA reviews would afford the opportunity to identify and mitigate site-specific impacts, as anticipated in SMC 25.05.330.

For site development activities in Lowrise, Midrise, Highrise and Neighborhood Commercial zones, the amendment setting an earlier time limit of 7 PM rather than the current 10 PM limit would provide more noise protection in these areas, with no significant adverse impacts of this change identified.

Land and Shoreline Use

As defined by the City's SEPA rules in SMC 25.05, land use and shoreline use impacts relate to compatibility among land uses. The proposal, which updates noise regulations and provides strategies for noise control planning and enforcement, would not contribute to increased incompatibilities among land uses. No probable significant adverse impacts of this proposal on land use or shoreline use are identified.

Transportation, Parking, Public Services and Utilities

No significant adverse transportation, parking, public service or utility impacts are anticipated from the proposed code amendments. If shorter construction schedules for major public project construction are realized as a result of the proposal, net positive transportation impacts could occur through a reduction in the total days of traffic congestion experienced along affected transportation systems, compared to project construction timing under current regulations.

DECISION

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

Signature: (signature on file)
Cliff Portman, Principal Planner
Department of Planning and Development

Date: June 16, 2008