



Legislation Passed April 14, 2015

The Tacoma City Council, at its regular City Council meeting of April 14, 2015, adopted the following resolutions and/or ordinances. The summary of the contents of said resolutions and/or ordinances are shown below. To view the full text of the document, click on the bookmark at the left of the page.

Resolution No. 39167

A resolution appointing Sheryl Ellis to the Tacoma Area Commission on Disabilities.
[Doris Sorum, City Clerk; Elizabeth Pauli, City Attorney]

Resolution No. 39168

A resolution appointing Halley Knigge to the Tacoma Arts Commission.
[Doris Sorum, City Clerk; Elizabeth Pauli, City Attorney]

Resolution No. 39169

A resolution awarding a contract to 3MW Studio LLP, dba 3Square Blocks, LLP, in the amount of \$225,000, sales tax not applicable, budgeted from the NEP Watershed Grant, 1195-BUILD Fund, to provide assistance in the development of the Tacoma Mall Subarea Plan and Environmental Impact Statement, for an initial contract term of approximately 21 months - Specification No. PL14-0428F.
[Elliott Barnett, Associate Planner; Peter Huffman, Director, Planning and Development Services]

Resolution No. 39170

A resolution approving the call of \$122,135,000 in outstanding Tacoma Power 2005 Series B Bonds; and authorizing their redemption using a combination of cash and a reduction of the bond reserve account.
[Bill Berry, Rates, Power, and Analysis Manager; Ted Coates, Superintendent, Tacoma Power]

Resolution No. 39171

A resolution amending the Electric Rate and Financial Policy to address the use of long- and short-term debt to finance capital projects; provide clarification pertaining to use of financial metrics; and provide additional requirements pertaining to the funding of the Rate Stabilization Fund.
[Bill Berry, Rates, Power, and Analysis Manager; Ted Coates, Superintendent, Tacoma Power]

Ordinance No. 28293

An ordinance repealing and reenacting Chapter 8.122 of the Municipal Code, relating to Noise Enforcement, to update the purpose and add a definition for continuous sound; provide clarification regarding variances and appeals; and revise the penalty section to allow for escalation of penalties for repeat offenses within a 12-month period.
[Lisa Wojtanowicz, Community Services Division Manager; Nadia Chandler Hardy, Director, Neighborhood and Community Services]



RESOLUTION NO. 39167

1 BY REQUEST OF COUNCIL MEMBERS CAMPBELL, LONERGAN, AND
2 WOODARDS

3 A RESOLUTION relating to committees, boards, and commissions; appointing an
4 individual to the Tacoma Area Commission on Disabilities.

5 WHEREAS a vacancy exists on the Tacoma Area Commission on
6 Disabilities, and

7 WHEREAS, at its meeting of March 26, 2015, the Public Safety, Human
8 Services, and Education Committee recommended the appointment of Sheryl Ellis
9 to said commission, and

10 WHEREAS, pursuant to City Charter 2.4 and the Rules, Regulations, and
11 Procedures of the City Council, Sheryl Ellis has been nominated to serve on the
12 Tacoma Area Commission on Disabilities; Now, Therefore,

13 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

14 That Sheryl Ellis is hereby confirmed and appointed as a member of the
15 Tacoma Area Commission on Disabilities, to fill an unexpired term to expire
16 August 31, 2017.

17 Adopted _____

18 _____
19 Mayor

20 Attest:
21 _____
22 City Clerk

23 Approved as to form:
24 _____
25 City Attorney



RESOLUTION NO. 39168

1 BY REQUEST OF DEPUTY MAYOR BOE AND COUNCIL MEMBERS CAMPBELL,
2 MELLO AND WALKER

3 A RESOLUTION relating to committees, boards, and commissions; appointing an
4 individual to the Tacoma Arts Commission.

5 WHEREAS a vacancy exists on the Tacoma Arts Commission, and

6 WHEREAS, at its meeting of March 31, 2015, the Economic Development
7 Committee recommended the appointment of Halley Knigge to said commission,
8 and

9 WHEREAS, pursuant to City Charter 2.4 and the Rules, Regulations, and
10 Procedures of the City Council, Halley Knigge has been nominated to serve on the
11 Tacoma Arts Commission; Now, Therefore,

12 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

13 That Halley Knigge is hereby confirmed and appointed as a member of the
14 Tacoma Arts Commission, to the At-Large No. 8 position, to fill an unexpired term to
15 expire December 31, 2015, followed by a three-year term to expire December 31,
16 2018.

17 Adopted _____

18 _____
19 Mayor

20 Attest: _____
21 _____
22 City Clerk

23 Approved as to form:
24 _____
25 City Attorney



RESOLUTION NO. 39169

1 A RESOLUTION related to the purchase of materials, supplies or equipment, and
2 the furnishing of services; authorizing the execution of a contract with
3 3MW Studio LLP, dba 3Square Blocks, LLP, in the amount of \$225,000,
4 sales tax not applicable, budgeted from the NEP Watershed Grant,
5 1195-BUILD Fund, for providing assistance to the City in the development of
6 the Tacoma Mall Subarea Plan and Environmental Impact Statement,
7 pursuant to Specification No. PL14-0428F.

8 WHEREAS the City has complied with all applicable laws and processes
9 governing the acquisition of those supplies, and/or the procurement of those
10 services, inclusive of public works, as is shown by the attached Exhibit "A,"
11 incorporated herein as though fully set forth, and

12 WHEREAS the Board of Contracts and Awards has concurred with the
13 recommendation for award as set forth in Exhibit "A"; Now, Therefore,

14 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

15 Section 1. That the Council of the City of Tacoma concurs with the
16 Board of Contracts and Awards to adopt the recommendation for award as set
17 forth in the attached Exhibit "A."

18 Section 2. That the proper officers of the City are hereby authorized to
19 enter into a contract with 3MW Studio LLP, dba 3Square Blocks, LLP, in the
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amount of \$225,000, sales tax not applicable, budgeted from the NEP Watershed Grant, 1195-BUILD Fund, for providing assistance to the City in the development of the Tacoma Mall Subarea Plan and Environmental Impact Statement, pursuant to Specification No. PL14-0428F, consistent with Exhibit "A."

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

City Attorney



TO: Board of Contracts and Awards
FROM: Peter Huffman, Director, Planning and Development Services Department
Elliott Barnett, Associate Planner, Planning and Development Services Department
COPY: City Council, City Manager, City Clerk, SBE Coordinator, LEAP Coordinator, and
Chuck Blankenship, Finance/Purchasing
SUBJECT: Tacoma Mall Subarea Plan and Environmental Impact Statement (EIS), Request for
Qualifications Specification No. PL14-0428F – April 14, 2015
DATE: March 30, 2015

SUMMARY:

Planning and Development Services Department recommends a contract be awarded to *3MW Studio LLP, dba 3 Square Blocks, LLP*, Seattle, Washington, in the amount of \$225,000, sales tax not applicable, for providing assistance to the City in the development of the Tacoma Mall Subarea Plan and EIS, for an initial contract term of approximately 21 months, for a projected contract amount of \$225,000.

STRATEGIC POLICY PRIORITY:

- Foster neighborhood, community, and economic development vitality and sustainability.

The Tacoma Mall Subarea is important to the City and region in many ways. Already a major center of population and commerce, the area is planned to grow substantially in both jobs and housing. This effort will ensure that growth is served by transportation choices, adequate infrastructure and services, and attractive neighborhood amenities. Concentrating growth within designated City and regional growth centers is a core strategy that helps to achieve multiple goals, and is central to achieving Tacoma’s policy direction regarding neighborhood, community and economic vitality and sustainability.

BACKGROUND:

Building on the success of the three downtown Subarea Plans/EIS’s, the City is initiating a similar planning and environmental review effort for the 485-acre Tacoma Mall Regional Growth Center. This community-driven project will develop a vision, goals and actions to achieve the area’s potential as a thriving, multi-modal growth center. The effort will result in programmatic environmental approval that will help catalyze development in the area, and will fulfill Tacoma’s obligation under Vision 2040 to plan for designated Regional Centers.

The effort is being funded by a \$250,000 National Estuaries Program Watershed Protection Grant, administered by the State Departments of Ecology and Commerce. As part of this scope of work, the consultants will conduct technical analysis of transportation, environmental, economic and other issues, support the City in public and stakeholder engagement, and develop the Subarea Plan and EIS documents. In addition, separate from this scope, \$25,000 of the grant funds will be used to conduct a stormwater infiltration assessment. This assessment will be an important input into the area-wide stormwater strategy, and will facilitate an emphasis on Low Impact Development strategies.

On January 28, 2015 the Council Infrastructure, Planning and Sustainability Committee discussed and provided preliminary direction on the project. Should Council approve the contract, staff will work with the consultants to develop the schedule and approach for this high profile planning effort. Staff will bring regular updates to the City Council as the project progresses. The preliminary schedule is for work to be complete in the Summer of 2016.



ISSUE: Planning for and initiating action steps to promote sustainable, high density growth within the Tacoma Mall Subarea is strategic to the City in many ways. Staff are seeking Council authorization for this action, as required by the City’s professional services procedures for consultant budgets in excess of \$200,000.

ALTERNATIVES: Staff recommend authorizing this consultant services contract in order to bring the benefit of *3 Square Blocks*’ expertise and qualifications to fulfill the requirements of the grant. Alternatively, the Council could direct staff to develop other recommendations including selection of a different firm. Without consultant services, the City may be forced to return the grant.

COMPETITIVE SOLICITATION: Request for Qualifications Specification No. PL14-0428F was opened October 28, 2014. Seventeen companies were invited to bid in addition to normal advertising of the project. Three submittals were received. The City convened a Selection Advisory Committee (SAC), which included City staff as well as representatives from Metro Parks Tacoma, the Tacoma Pierce County Health Department, and the South Tacoma Neighborhood Council. The SAC recommended *3 Square Blocks* as the preferred consultants on November 20, 2014.

<u>Respondent</u>	<u>Location (city and state)</u>	<u>Rank</u>
3 Square Blocks, LLP	Seattle, Washington	1
Via Architecture, Inc	Seattle, Washington	2
BERK Consulting, Inc	Seattle, Washington	3

CONTRACT HISTORY: New contract.

SUSTAINABILITY: The goals and objectives of this effort are deeply rooted in the principles of sustainability. The effort seeks to promote sustainable, concentrated, multi-modal growth in urban areas as an alternative to suburban development, thus reducing the overall impacts on natural systems and the Puget Sound.

SBE/LEAP COMPLIANCE: Not Applicable.

RECOMMENDATION:

Staff recommend authorizing this consultant services contract in order to fulfill the requirements of the grant agreement between the City and the Washington Department of Commerce, and to bring the benefit of *3 Square Blocks*’ expertise and qualifications to this important effort.

FISCAL IMPACT:

See below.



EXPENDITURES:

FUND NUMBER & FUND NAME *	COST OBJECT (CC/WBS/ORDER)	COST ELEMENT	TOTAL AMOUNT
NEP Watershed Grant, 1195-BUILD, Misc Planning Grants	753200	5330100	\$225,000
TOTAL			\$225,000

* General Fund: Include Department

REVENUES:

FUNDING SOURCE	COST OBJECT (CC/WBS/ORDER)	COST ELEMENT	TOTAL AMOUNT
NEP Watershed Grant, 1195-BUILD, Misc Planning Grants	753200	4333261	\$225,000
TOTAL			\$225,000

POTENTIAL POSITION IMPACT:

POSITION TITLE	PERMANENT/ PROJECT TEMPORARY POSITION	FTE IMPACT	POSITION END DATE
TOTAL			

This section should only be completed if a subsequent request will be made to increase or decrease the current position count.

FISCAL IMPACT TO CURRENT BIENNIAL BUDGET: \$250,000

ARE THE EXPENDITURES AND REVENUES PLANNED AND BUDGETED? No

IF EXPENSE IS NOT BUDGETED, PLEASE EXPLAIN HOW THEY ARE TO BE COVERED.

A budget modification will be required. Please include this appropriation on the next budget modification request.



RESOLUTION NO. 39170

1 A RESOLUTION relating to the City of Tacoma, Department of Public Utilities, Light
2 Division (dba "Tacoma Power"); approving the call of \$122,135,000 in
3 outstanding Tacoma Power 2005 Series B Bonds and authorizing their
4 redemption using a combination of cash and a reduction of the bond reserve
5 account.

6 WHEREAS the Public Utility Board ("Board"), by Utility Board Resolution
7 No. U-9987, requested the City Council to issue revenue and refunding bonds in
8 2005, and

9 WHEREAS, pursuant to Ordinance No. 27403 (the "Bond Ordinance"), the
10 City Council authorized the issuance and sale of the City's Electric System
11 Revenue Bonds, 2005 Series A (the "Series A Bonds") and the Electric System
12 Revenue Refunding Bonds, 2005 Series B (the "Series B Bonds"), in the principal
13 amount of not to exceed \$250,000,000 (together, the "2005 Bonds"), and

14 WHEREAS Section 3.5 of the Bond Ordinance reads that the "Council may
15 determine that all or a portion of the 2005 Bonds shall be subject to redemption
16 prior to their stated maturities at the option of the City, in whole or in part, on any
17 date and at the respective redemption prices specified in the Bond Sale
18 Resolution," and

19 WHEREAS the City Council, through Substitute Resolution No. 36644
20 ("Bond Sale Resolution"), Section 2, reserved the right to redeem the outstanding
21 2005 Bonds maturing on and after January 1, 2016, in whole or in part on
22 July 1, 2015, or on any date thereafter, at par, plus accrued interest to the date of
23 redemption, and
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WHEREAS the City of Tacoma, Department of Public Utilities, Light Division (d.b.a. "Tacoma Power"), has retained Montague DeRose and Associates ("Financial Consultant") to review its outstanding revenue bonds, debt service coverage ratios, liquidity, and current financial markets, and

WHEREAS the Financial Consultant, Tacoma Power, and City's Finance Department have determined it would be advantageous to redeem \$122,135,000 of outstanding 2005 Series B Bonds, and

WHEREAS the redemption of \$122,135,000 of outstanding 2005 Series B Bonds will result in excess funds in the bond reserve account created pursuant to Ordinance No. 23514; therefore, it is recommended that this fund be reduced by \$12,000,000 and the proceeds be used in combination with cash to pay for the contemplated redemption, and

WHEREAS, pursuant to Tacoma City Charter § 4.11, the Board is required to initiate and approve all matters related to the incurrence of indebtedness or the issuance of bonds on behalf of the Department of Public Utilities ("TPU"), and then forward such matters to the City Council for approval, and

WHEREAS the authority to call and redeem outstanding bonds must be delegated to the Board through the Bond Ordinance; otherwise, such actions are subject to the requirements of the Tacoma City Charter § 4.11, and

WHEREAS the Bond Ordinance did not expressly delegate to the Board the authority to call and redeem outstanding bonds, and



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WHEREAS it is in the best public interest that the redemption of
\$122,135,000 in outstanding Tacoma Power 2005 Series B Bonds be authorized
as set forth above to accomplish said purposes; Now Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the proper officers of the City are hereby authorized to call for the
redemption and retirement of \$122,135,000 of outstanding 2005 Series B Bonds
prior to their fixed maturity dates; and that the reduction of the bond reserve
account created pursuant to Ordinance No. 23514, in the amount of \$12,000,000,
and the use of the bond reserve proceeds and cash to pay for the contemplated
redemption, are hereby approved.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Chief Deputy City Attorney

Requested by Public Utility Board
Resolution No. U-10764



RESOLUTION NO. 39171

1 A RESOLUTION relating to the Department of Public Utilities, Light Division
2 (d.b.a. "Tacoma Power"); amending the Electric Rate and Financial Policy to
3 address the use of long- and short-term debt to finance capital projects;
4 provide clarification pertaining to use of financial metrics; and provide
5 additional requirements pertaining to the funding of the Rate Stabilization
6 Fund.

7 WHEREAS the City of Tacoma, Department of Public Utilities, Light
8 Division (d.b.a. "Tacoma Power"), desires to revise its Electric Rate and Financial
9 Policy ("Policy"), most recently amended in 2013 pursuant to Public Utility Board
10 Resolution U-10597 and City Council Resolution No. 38629, and

11 WHEREAS the proposed amendments provide guidance for using long-
12 and short-term debt to finance capital projects; provide clarification pertaining to
13 use of financial metrics; and provide additional requirements pertaining to the
14 funding of the Rate Stabilization Fund, and

15 WHEREAS proposed amendments to the Policy include the following:

16 (1) Aligning the "Purpose" statement with the 2015 Financing Plan;

17 (2) Clarifying that Tacoma Power shall, prior to committing to capital
18 investments and other commitments that would significantly affect costs, rates,
19 and prices, evaluate the incremental impacts on costs and revenues (Section I.D);

20 (3) Clarifying the requirement that taxes levied by various jurisdictions will
21 be incorporated into the rate classes of those jurisdictions' customers (Section I.E);

22 (4) Adding "Maintain Tacoma Power's financial strength" as a specific rate
23 and price design criteria (Section III);
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(5) Revising the title of Section IV from “Rate Setting Practices” to “Financial Targets and Rate Setting Practices”;

(6) Adding a new rate-setting practice statement that relates to maintaining or improving credit ratings (Section IV);

(7) Clarifying that Tacoma Power must keep a minimum of 90 days of projected cash balances when setting rates and prices (Section IV.A.1);

(8) Requiring Tacoma Power to maintain sufficient liquidity to support operational objectives, preserve financial and management flexibility, maintain or improve credit ratings, and allow for the unused portion of dedicated bank lines, Rate Stabilization Fund, and other short-term debt agreements to qualify as liquidity (Section IV.A.2);

(9) Adding a new Subsection V.B.1, requiring Tacoma Power to evaluate, at the end of each fiscal year, whether the Rate Stabilization Fund has sufficient amounts to meet the forecast difference between critical and adverse water conditions over the next two fiscal years;

(10) Adding a new Subsection V.B.2, requiring Tacoma Power to take steps if the Rate Stabilization Fund is inadequate to meet the criteria under new Subsection V.B.1 by proposing budgets that will generate sufficient net revenue to replenish the Fund over a four-year period while still meeting the other goals related to the Fund; and



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(11) Adding a new Subsection V.B.6, requiring that deposits into the Fund should be done in a manner consistent with the goal to maintain or improve credit ratings, and

WHEREAS Tacoma Power and the Public Utility Board believe it is in the best interest of the public to approve said amendments to the Policy; Now,

Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA

That the proposed revisions to the Electric Rate and Financial Policy, as set forth in the proposed document on file in the office of the City Clerk, are hereby approved.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Chief Deputy City Attorney

Requested by Public Utility Board
Resolution No. U-10768



ORDINANCE NO. 28293

1 AN ORDINANCE relating to noise enforcement; repealing and reenacting
2 Chapter 8.122 of the Tacoma Municipal Code to incorporate updates in the
3 chapter, including updating the purpose and adding a definition; providing
4 clarification regarding variances and appeals; and revising the penalty
5 section to allow for escalation of penalties for repeat offenses within a
6 12-month period.

7 WHEREAS, in 2008, the City Council enacted Tacoma Municipal Code
8 (“TMC”) Chapter 8.122, Noise Enforcement, and

9 WHEREAS, over the past several months, staff has worked with various
10 internal and external partners to update the Code, and has compared the Code with
11 that in other cities within Washington State and across the country to ensure that
12 the City’s noise code provides a comprehensive approach to noise issues, and

13 WHEREAS, additionally, the City utilized the services of an expert consultant
14 to review the TMC and provide recommendations for best practices on issues such
15 as port industrial areas, the use of stationary noise-monitoring equipment and noise
16 metering phone applications, and

17 WHEREAS the proposed code includes (1) the addition of a new
18 Section 8.122.005, “Purpose,” to clarify the general purpose of the Code; (2) the
19 addition of a definition for “Continuous Sound”; (3) clarification that variances are to
20 be considered for a limited duration; (4) the addition of a provision to appeal the
21 Director’s decision regarding variances; and (5) changes to the penalty portion of
22 the Code allow for escalation of penalties for repeat offenses within a 12-month
23 period, and

24 WHEREAS, on December 1, 2014, the Neighborhoods and Housing
25 Committee approved the proposed code for consideration by the City Council, and
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WHEREAS the Washington State Department of Ecology was notified of the proposed code and did not have any objections; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

That Chapter 8.122 of the Tacoma Municipal Code is hereby repealed and reenacted to read as set forth in the attached Exhibit "A."

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



EXHIBIT "A"

Chapter 8.122
NOISE ENFORCEMENT

Sections:

- 8.122.005 Purpose
- 8.122.010 General definitions.
- 8.122.020 General powers of the Director.
- 8.122.030 Testing by order of the Director.
- 8.122.040 Inspection.
- 8.122.050 Procedures for the determination of sound levels.
- 8.122.060 General provisions.
- 8.122.070 Construction.
- 8.122.080 Music.
- 8.122.090 Variances.
- 8.122.100 Penalty for violation.
- 8.122.110 Notice of Violation and civil penalty.
- 8.122.120 Noise control plan.
- 8.122.130 Hearing by the Hearing Examiner.
- 8.122.140 Exemptions.
- 8.122.150 Nuisance Regulations not prohibited.

8.122.005 Purpose

The purpose of this chapter is to mitigate the adverse impact of noise so as to preserve, protect, and promote the public health, safety and welfare, and the peace and quiet for the citizens of the City, while recognizing the economic value of construction, industry and commercial enterprise. This chapter is further intended to prevent injury to life, and property, foster convenience and comfort for the City's citizens, and facilitate the enjoyment of the natural attractions of the City.

8.122.010 General definitions.

As used in this chapter, the following terms shall have the meanings set forth in this section, unless a different meaning is clearly indicated by the context in which the term is used:

- A. "Activity" means any act or combination of acts, which actually results in the production of sound.
- B. "Ambient" sound means the sound level at a given location that exists as a result of the combined contribution in that location of all sound sources, excluding the contribution of a source or sources under investigation for violation of this code and excluding the contribution of extraneous sound sources. For purposes of the enforcement of this code, the ambient sound level of a given location may be determined based upon measurements taken at a comparable site (which includes but is not limited to comparable physical locations and time of day) in the nearby area.
- C. "ANSI" means the American National Standards Institute, which serves as the administrator and coordinator of the United States private sector voluntary standardization system.
- D. "Apparatus" means any mechanism that prevents, controls, detects, measures or records the production of sound.
- E. "Building" means a structure as defined in Section 2.01.040 of the Tacoma Municipal Code.
- F. "Construction" or "construction work" means any or all activity necessary or incidental to the erection, demolition, assembling, altering, installing, or equipping of buildings, public or private highways, roads, premises, parks or utility lines, including land clearing, grading, excavating, and filling.
- G. "Construction device" means any device designed and intended for use in construction including, but not limited to any air compressor, pile driver, sledgehammer, bulldozer, pneumatic hammer, steam shovel, derrick, crane, steam or electric hoist, construction vehicle, or pneumatic or electric tool.



1 H. "Continuous sound" is sound that is measured by the slow response of a sound level meter and which lasts one second or longer. Impulsive sounds that are rapidly repetitive and have a duration of one second or longer shall be measured as continuous sound.

2 I. "dB (A)" means the sound level as measured with a sound level meter using the "A" weighting network. This frequency- weighting network for the measurement of sound levels shall comply with standards established by the American National Standards Institute current S1.4 specifications for sound level meters .

3 J. "dB(C)" level means the sound level as measured with a sound level meter using the "C" weighting network. This frequency-weighting network for the measurement of sound levels shall comply with standards established by the American National Standards Institute specifications for sound level meters S1.4-1971, as amended or S1.4-1983, as amended.

4 K. "Decibel" means the practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure to the pressure of a reference sound (20 micropascals); abbreviated "dB."

5 L. "Device" means any mechanism that is intended to or that actually produces sound when operated or handled.

6 M. "Department" means the Department of Neighborhood and Community Services.

7 N. "Director" means Director of Neighborhood and Community Services Department, or authorized representative.

8 O. "Dwelling" means any building lawfully occupied in whole or in part as the temporary or permanent residence of one or more natural persons.

9 P. "Emergency" means a public calamity or an exposure of any person or property to imminent danger.

10 Q. "Emergency energy release device" means a device used specifically to release excess energy on a nonscheduled basis as necessary for purposes of safety, and not as a part of routine process control.

11 R. "Emergency signal device" means any gong, siren, whistle, air horn or any similar device used on authorized emergency vehicles.

12 S. "Extraneous sound" means a sound that is relatively intense, intermittent, and of short duration and is neither part of the ambient sound, nor comes from the sound source under investigation. These sources of sound are noted but excluded from all measurements.

13 T. "Frequency" means the time rate of repetition of sound waves in cycles per second, reported as Hertz (Hz). "Frequency" is sometimes colloquially referred to as "pitch." Low frequency sounds can correspond to the bass notes in music. Low frequency sound waves travel farther and penetrate structures more efficiently than high frequency sound waves.

14 U. "Impulsive sound" is sound that is of short duration where each peak of sound lasts one second or less. The sound is characterized by abrupt onset and rapid decay. As used in this code, the term impulsive sound shall not include music.

15 V. "Lmax" means the maximum measured sound level at any instant in time.

16 W. "Owner" means and includes the owner of the property or premises, or a lessee, tenant, or agent of any owner, a lessee of a device or his or her agent, a tenant, operator, or any other person who has regular control of a device or an apparatus.

17 X. "Person" means any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration, or department, or any other group of individuals, or any officer or employee thereof.

18 Y. "Plainly audible sound" means any sound for which any of the content of that sound, such as, but not limited to, comprehensible musical rhythms, is communicated to a person using his or her unaided hearing faculties. For the purposes of the enforcement of this code, the detection of any component of sound, including, but not limited to, the rhythmic bass by a person using his or her unaided hearing faculties is sufficient to verify plainly audible sound. It is not necessary for such person to determine the title, specific words or artist of music, or the content of any speech.

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1 Z. "Public right-of-way" includes the area of land, the right of possession of which is secured by the City for
right-of-way purposes, and includes the traveled portion of the public streets and alleys as well as the border
area, which includes, but is not limited to, sidewalks, driveway approaches, planting strips, traffic circles,
parkways or medians, or the area between the sidewalk and curb line.

2 AA. "Receiving property" means real property, including, but not limited to, buildings, grounds, offices and
dwelling units from which sound levels from sound sources outside such property may be measured.
3 Individual offices or dwelling units within a building may constitute a receiving property.

4 BB. "Sound" means an oscillation in pressure, stress, particle displacement, particle velocity, etc., in a
medium with internal forces (e.g., elastic, viscous) or the superposition of such propagated oscillation that
5 evokes an auditory sensation.

6 CC. "Sound level meter" means any instrument including a microphone, an amplifier, an output meter, and
frequency weighting networks for the measurement of noise and sound levels in a specified manner and that
7 complies with standards established by the American National Standards Institute specifications for sound
level meters S1.4-1971, as amended, or S1.4-1983, as amended.

8 DD. "Sound level" (decibels) means an expression of the acoustic pressure calculated as 20 times the
logarithm to the base 10 of the ratio of the root mean square of the pressure of the sound to the reference
9 pressure, 20 micropascals.

10 EE. "Sound source" means any activity or device that emits sound.

11 FF. "Total sound level" means that measured sound level that represents the combined sound level of the
source or sources under investigation and the ambient sound level. Total sound level measurements shall
12 exclude extraneous sound sources.

13 **8.122.020 General powers of the Director.**

14 A. Subject to the provisions of this code, the Director may take such action as may be necessary to abate a
sound source that causes or may cause, by itself or in combination with any other sound source or sources, an
15 unreasonable or prohibited noise.

16 B. The Director may promulgate such rules as are necessary to effectuate the purposes of this code, including,
without limitation, rules setting forth specifications for the operation, installation, best available technology,
17 or manufacture of sound generating equipment or devices, or sound mitigation equipment or devices.

18 C. The Director may promulgate such rules as are necessary with regard to standards and procedures to be
followed in the measurement of sound pressure levels governed by the provisions of this code.

19 D. The Police Department, as well as other agencies of the City designated by the Director, shall have the
20 authority to enforce the provisions of this code.

21 **8.122.030 Testing by order of the Director.**

22 A. If the Director has reasonable cause to believe that any device is in violation of this code, the Director may
order the owner of the device to conduct such tests as are necessary in the opinion of the Director to determine
23 whether the device or its operation is in violation of this code and to submit the test results to the Director
24 within 30 calendar days after the tests are ordered.

25 B. Such tests shall be conducted in a manner approved by the Director. If any part of the test is conducted at a
place other than the site where the device is located, that part of the test shall be certified by a laboratory
26 acceptable to the Director. The Director may require that the entire test results shall be reviewed and certified
by (i) a professional engineer with acoustical experience or (ii) a noise consultant with related education
and/or acoustical experience.

C. If, in the opinion of the Director, tests by the department are necessary, the Director may order the owner
to provide such access to the device as the Director may reasonably request, to provide a power source
suitable to the points of testing, and to provide facilities as necessary. These provisions shall be made at the
expense of the owner of the device. The owner shall be furnished with copies of the analytical results of the
data collected.



8.122.040 Inspection.

1 A. The Director may inspect at any reasonable time and in a reasonable manner any device that creates or
2 may create unreasonable or prohibited noise including, but not limited to, the premises where the device is
3 used.

4 B. The Director may inspect at any reasonable time and in a reasonable manner any record relating to a use of
5 a device that creates or may create unreasonable or prohibited noise.

6 **8.122.050 Procedures for the determination of sound levels.**

7 Unless otherwise specifically provided, sound levels shall be determined as follows:

8 A. The sound level shall be measured with a sound level meter. The sound level meter and calibrator must be
9 recertified annually at a laboratory approved by the Director. A field check of meter calibration and batteries
10 must be conducted before and after every set of measurements, and at least every hour as necessary.

11 B. Total and ambient sound level measurements shall be conducted in accordance with procedures for
12 training approved by the Director. Calculation of source sound levels shall conform to accepted practice.

13 C. Ambient sound level measurements shall be conducted on the A-weighting network or the C-weighting
14 network, as appropriate.

15 D. Impulsive sound levels shall be measured in the A-weighting network with the sound level meter set to
16 fast response, and shall be measured from any point within the receiving property. The requirement for A-
17 weighted measurements shall not apply to impulsive sounds arising from amplified sound sources, when
18 measured indoors.

19 E. All sound level measurements under this code shall be taken in LMax, as equipment allows.

20 F. Total sound level measurements shall be conducted for a minimum of three 30-second intervals within a
21 30-minute period, unless the duty cycle of the sound source precludes multiple measurements.

22 **8.122.060 General provisions.**

23 A. No person shall make, continue, or cause or permit to be made or continued any continuous sound
24 attributable to any source that increases the total sound level above the ambient sound level by the limits in
25 Table 1 when measured at or within a receiving property:

26 Table 1. Maximum permissible sound level in excess of the ambient sound level:

	<u>Outdoors</u>	<u>Indoors</u>
<u>7:00 a.m. to 10:00 p.m.</u>	<u>10 dBA</u>	<u>6 dBC</u>
<u>10:00 p.m. to 7:00 a.m.</u>	<u>5 dBA</u>	<u>3 dBC</u>

27 B. No person shall make, continue, or cause or permit to be made or continued any impulsive sound,
28 attributable to the source, that increases the total sound level by 15 dB(A) or more above the ambient sound
29 level, when there are less than ten impulses per hour between the hours of 7:00 a.m. and 10:00 p.m., less than
30 four impulses within one hour between the hours of 10:00 p.m. and 7:00 a.m. If the number of impulses
31 exceeds that set forth in this subsection, the sound level limits in Table 1 of subsection A shall apply.

32 C. Where a particular sound source or device is subject to decibel level limits and requirements specifically
33 prescribed for such source, device or activity elsewhere in this code, the decibel level limits set forth in this
34 section shall not apply to such sound source, device, or activity.

35 D. Construction activities shall be governed under Section 8.122.070.

36 **8.122.070 Construction.**

37 A. All construction devices used in construction and demolition activity shall be operated with a muffler if a
38 muffler is commonly available for such construction device.

39 B. Construction and demolition activity, excluding emergency work, shall not be performed between the
40 hours of 9:00 p.m. and 7:00 a.m. on weekdays or between the hours of 9:00 p.m. and 9:00 a.m. on weekends
41 and federal holidays, except as otherwise provided in this code.



C. After hours work on weekdays and weekends shall be allowed, provided that no sound created by the work exceeds the limits in Section 8.122.060(a).

1 **8.122.080 Music.**

2 A. No person shall make or cause or permit to be made or caused any music originating from or in connection
3 with the operation of any commercial establishment, enterprise or activities approved through any City permit
4 or license when the level of sound attributable to such music, as measured inside any receiving property
5 dwelling unit:

6 1. causes a 6 dB(A) or more increase in the total sound level above the ambient sound level as measured in
7 decibels in the "A" weighting network; or

8 2. causes a 6 dB(C) or more increase in the total sound level above the ambient sound level as measured in
9 decibels in the "C" weighting network.

10 B. No person shall make or cause or permit to be made or caused any music originating from or in connection
11 with the operation of any commercial establishment or enterprise when the level of sound attributable to such
12 music is plainly audible from a distance of at least 100 feet in any direction from the property line of the
13 commercial establishment.

14 **8.122.090 Variances.**

15 A. Any person who owns or operates a sound source may apply for a variance of limited duration from the
16 Director:

17 B. Applications for a variance shall supply information including, but not limited to:

18 1. The nature and location of the noise source for which such application is made;

19 2. The reason for which the variance is requested, including the hardship that will result to the applicant,
20 his/her client, or the public if the permit of variance is not granted;

21 3. The nature and intensity of noise that will occur during the period of the variance, and;

22 4. A description of interim noise control measures to be taken by the applicant to minimize noise and the
23 impacts occurring therefrom;

24 5. The name, address, and means of contacting a responsible party during the hours of operation for which the
25 permit of variance is issued.

26 C. The Director may charge the applicant a fee to cover expenses resulting from the processing of the
27 variance application.

28 D. In making the determination on granting a variance, the Director shall consider:

29 1. The character and degree of injury to, or interference with the reasonable use of property which is caused
30 or threatened to be caused by the sound to result from the variance.

31 2. The social and economic value of the activity for which the variance is sought.

32 3. The ability of the applicant to apply best practical noise control measures.

33 4. Physical conditions that create a significant financial hardship in complying with the provisions of this
34 chapter.

35 E. The variance shall enumerate the conditions of the variance including:

36 1. Specific dates and times for which the variance is valid;

37 2. Sound level limits which may not be exceeded at the nearest affected residential property.

38 F. The variance may be revoked by the Director if the terms of the variance are violated.

39 G. A variance may be revoked by the Director, and the issuance of future variances withheld, if there is:

40 1. Violation of one or more conditions of the variance;

41 2. Material misrepresentation of fact in the variance application; or,

42 3. Material change in any of the circumstances relied upon by the Director in granting the variance.

43 H. Any person applying for a variance may appeal the Director's decision pursuant to Section 8.122.130.



8.122.100 Penalty for violation.

1 A. Every person who violates any provision of this chapter has committed a civil violation and shall be
2 subject to the provisions herein. The owners, agents, contract buyers, tenants, or lessees of all residential
3 dwellings, commercial establishments, and/or real estate upon which a violation of this article is found shall
4 be jointly and severally responsible for compliance with this article and jointly and severally liable for any
5 penalties costs incurred and awarded under this article.

6 B. The penalties set forth in this chapter are not exclusive. The City may avail itself of any other remedies
7 provided by law.

8.122.110 Notice of Violation and civil penalty.

8 A. Any person who violates any of the provisions of this chapter may, upon a determination that a violation
9 has been committed, be assessed monetary penalties.

10 B. The Notice of Violation will be either:

11 1. Prepared and sent by first class mail to the owner of the property. Notice may also be sent to the person in
12 control of the property, if different; or

13 2. Personally served upon the Owner of the property. Notice may also be personally served on the person in
14 control of the property, if different; or

15 3. Posted on the Property in a prominent location on the premises in a conspicuous manner that is reasonably
16 likely to be discovered.

17 C. The Notice of Violation shall contain the following:

18 1. The address of the site and specific details of the condition that is to be corrected;

19 2. The penalties that may be imposed in the event that the condition is not corrected within 18 calendar days,
20 or as approved by the Director in a noise control plan timeline.

21 3. If required by the Director, a statement that a noise control plan must be submitted within 18 calendar days.

22 4. The appropriate department and/or division investigating the case and the contact person.

23 5. A statement that the person to whom a Notice of Violation is directed may request a hearing by the Hearing
24 Officer. Such notice must be in writing and must be received by the City Clerk no later than 10 calendar days
25 after the Notice of Violation has been issued.

26 D. At the end of the specified timeframe, the site will be reinspected to see if the condition has been corrected
and an acceptable noise control plan submitted.

E. A person who receives a Notice of Violation may request an extension of the compliance deadline. The
Director shall have the discretion to grant any reasonable request for an extension, if it can be demonstrated
that an ongoing good-faith effort is being made to achieve compliance.

F. Penalties.

1. If a person fails to correct the violation, submit an acceptable noise control plan, violates the plan or,
otherwise violates the provisions of this chapter within 12 calendar months of a previous Notice of Violation,
then the City may issue penalties in the following amounts:

a. The first civil penalty shall be \$250.

b. The second civil penalty within 12 months of the Notice of Violation shall be \$500.

c. The third civil penalty within 12 months of the Notice of Violation shall be \$1,000.

d. The fourth and subsequent civil penalties within 12 months of the Notice of Violation shall be \$2,000.

2. At such time that two civil penalties have been assessed within a one-year period, any City-issued permits
and/or licenses for the site or site activity may be suspended until such time that an approved noise control
plan has been submitted and fully complied with, as deemed by the Director;

3. Civil penalties will continue to accumulate until the condition is corrected. At such time that the assessed
penalties amount to \$1,000, a Certificate of Complaint may be filed with the Pierce County Auditor to be
attached to the title of the property. A copy of the Certificate of Complaint shall be sent to the Property
Owner and may be sent to parties of interest, if different from the Owner.



G. Each day that a property or person is not in compliance with the provisions of this chapter may constitute a separate violation of this chapter.

H. The Director is authorized to waive monetary penalties upon the Director's finding that the person to whom a Notice of Violation has been issued has either come into compliance or has taken all practicable steps toward coming into compliance.

8.122.120 Noise control plan.

A. Any person who receives a Notice of Violation under this chapter may be required to submit a noise control plan.

B. The noise control plan shall include, but not necessarily be limited to:

1. A description of noise control measures to be taken to insure compliance with this code, addressing the specific device(s) and/or operation(s) which are the source(s) of the noise;

2. A timeline, subject to approval to the Director, for implementation of the noise control plan, including the date when compliance will be achieved with the limits set forth in Section 8.122.060, or the provisions applicable to the particular sound source or device;

3. Sound level limits or hours of operation not to be exceeded at the nearest affected residential property during implementation of the noise control plan and hours of operation, if applicable;

4. Information on the ability of the applicant to apply best practical noise control measures; and

5. The name, address, and means of contacting a responsible party for the noise control plan.

8.122.130 Hearing by the Hearing Examiner.

A. A person to whom a Notice of Violation or civil penalty is issued may request a hearing by filing the request with the City Clerk no later than ten calendar days after said Notice of Violation or civil penalty is issued.

B. If a hearing is requested, the Hearing Examiner, or designee, will conduct the hearing required by this chapter no more than 18 calendar days after the Director issues the Notice of Hearing.

C. If a request for a hearing is received, the Director shall mail a notice giving the time, location, and date of the hearing, by first-class mail to person or persons to whom the Notice of Violation or civil penalty was directed.

D. The Hearing Examiner, or designee, shall conduct a hearing on the Notice of Violation or civil penalty. The Director, as well as the person to whom the Notice of Violation or civil penalty was directed, may participate as parties in the hearing, and each party may call witnesses. The City shall have the burden of proof to establish, by a preponderance of the evidence, that a violation has occurred and that the required corrective action is reasonable.

E. The Hearing Officer shall determine whether the City has established that a violation has occurred and that the required corrective action is reasonable and shall affirm, modify, or vacate the Director's decisions regarding the alleged violation, civil penalty, and/or the required corrective action, with or without written conditions.

F. The Hearing Examiner shall issue a final Order that contains the following information:

1. The decision regarding the alleged violation including findings of facts and conclusion based thereon;

2. The required corrective action, if any;

3. The date and time by which the correction must be completed;

4. A statement of any appeal remedies;

G. If the person to whom the Notice of Violation or civil penalty was directed fails to appear at the scheduled hearing, the Hearing Examiner will enter an Order finding that the violation has occurred.

H. The Order shall be served on the person in the same manner as a Notice of Violation as provided for in Section 8.122.110. A final Order of the Hearing Examiner may be appealed to a court of competent jurisdiction no more than 21 calendar days of its issuance.



8.122.140 Exemptions.

The operational performance standards established in this chapter shall not apply to any of the following noise sources:

A. Agricultural activities.

B. Unamplified bells, chimes, or carillons while being used in conjunction with ongoing religious or school activities, or as a function of a City landmark.

C. Emergency energy release and signal devices;

D. Emergency work conducted at the site of the emergency.

E. National Warning System (“NAWAS”): systems used to warn the community of an attack or imminent public danger, such as flooding, explosion, or hurricane.

F. Noise of aircraft operations.

G. Sounds originating from officially sanctioned parades and other public events when properly permitted under Chapter 11.15 of the Tacoma Municipal Code (“TMC”).

H. Sounds created by animals, which sounds shall be regulated under the provisions of Title 17 TMC.

I. Sounds created by motor vehicles, which sounds shall be regulated under the provisions of Chapter 8.12 TMC.

J. Sounds created by motor boats competing in a regatta or in a boat race, whether on trial runs or on official trial for speed records, authorized by the City under Chapter 9.35 TMC.

K. Sounds generated by a shooting range operated by a law enforcement agency.

L. Sounds generated by trains.

M. Events at City facilities, including, but not limited to, the Greater Tacoma Convention and Trade Center, the Tacoma Dome, the Broadway Center for the Performing Arts, and Cheney Stadium, provided that general or event-specific noise limits shall be set forth in license agreements established for such facilities.

N. Emergency sirens at either a fixed location or on an emergency vehicle, responding to an emergency.

O. Sounds created by portable or stand-by generators during periods when there is no electrical service available from the primary supplier due to natural disaster or power outage.

P. Sounds created by the operation of commercial, non-recreational watercraft engaged in intrastate, interstate, or international commerce, to include all associated loading and unloading activities.

8.122.150 Nuisance regulations not prohibited.

Nothing in this chapter or the exemptions provided herein shall be construed as preventing the regulation of noise from any source as a nuisance. Ordinances or rules regulating noise on such a basis shall not be deemed inconsistent with this chapter.

8.122.160 Severability.

If any section, subsection, subdivision, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of this chapter.

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