



**Department of Community and Economic Development  
Planning Division  
ADMINISTRATIVE POLICY/CODE INTERPRETATION**

**MUNICIPAL  
CODE SECTIONS:**

RMC 8-7-8 Noise Regulations Variances and Appeal

**REFERENCE:**

N/A

**SUBJECT:**

Decision Maker for Noise Variances Requiring a Public Hearing.

**BACKGROUND:**

The Variances and Appeals section of the Noise Regulations (RMC 8-7-8) states that the Community & Economic Development Administrator shall hear and decide requests for variances to the Noise Regulations. Variances to the Noise Regulations require a public hearing for noise variances that exceed two (2) days in duration; the decision is issued by the Community & Economic Development Administrator and is appealable to the Hearing Examiner.

**JUSTIFICATION:**

Decisions on applications which require a public hearing are typically made by the Hearing Examiner and are appealable to the City Council. Administrative decisions are typically issued by the Community & Economic Development Administrator and are appealable to the Hearing Examiner. There is no public hearing process outline in the City's regulations for the Community & Economic Development Administrator. Therefore, to be consistent, the decision maker for noise variance applications which require a public hearing should be the Hearing Examiner and the decision should be appealable to the City Council.

**DECISION:**

Amend RMC 8-7-8 to specify that the decision maker for noise variances which trigger a public hearing shall be the Hearing Examiner, the decision shall then be appealable to the City Council.

**ADMINISTRATOR  
APPROVAL:**

\_\_\_\_\_  
C. E. "Chip" Vincent

**DATE:**

September 2, 2014

**APPEAL  
PROCESS:**

To appeal this determination, a written appeal--accompanied by the required filing fee--must be filed with the City's Hearing Examiner (1055 South Grady Way, Renton, WA 98057, 425-430-6515) no more than 14

days from the date of this decision. Your submittal should explain the basis for the appeal. Section 4-8-110 of the Renton Municipal Code provides further information on the appeal process.

**CODE  
AMENDMENTS  
NEEDED TO  
IMPLEMENT  
DETERMINATIONS:**

**8-7-8 VARIANCES AND APPEAL:**

A. Jurisdiction: The Community and Economic Development Administrator or his/her designee shall hear and decide requests for variances from the requirements of this Chapter, which do not require a public hearing. The Hearing Examiner shall hear and decide requests for variances from the requirements of this Chapter, which require a public hearing.

B. Application: Parties seeking a variance from this Chapter, or a duly authorized representative of the parties seeking the variance, shall file an application for the variance, which application shall set forth fully the grounds therefor and the facts the applicant deems material to justify the granting of such a variance. The applicant for a noise variance must be the owner or jurisdiction in charge of the project. In no cases shall the applicant for the noise variance be the contractor for the construction project.

C. Public Notice And Hearing: A public hearing shall be required for all noise variances which are greater than two (2) days in duration. For those variance requests of two (2) days or less in duration, the variance decision shall be made by the Administrator or his/her designee following the public notice process. If required, the hearing for a noise variance shall be a public hearing, the date of which shall be not more than forty five (45) days from the date of filing and acceptance of the application for the variance. Notice of the time and place of public hearing shall be given in at least one publication in the City's legal newspaper, which publication shall be not less than ten (10) days prior to the date of said public hearing. In addition, three (3) written notices of such public hearing shall be posted at least ten (10) days prior to such hearing within, on or about the location which will generate such noise. Additionally, written notice of the hearing shall be given to any resident or property owner that will experience an increase in noise, or potentially have an increase in noise, such that this variance will increase the quantity of noise received by that property owner or resident. The burden of providing this written notice shall be upon the applicant. ~~The Community and Economic Development Administrator or his/her designee~~ decision maker shall not consider any variance for which written notices have not been given, or grant any variance that would cause an increase in noise levels beyond that permitted in this Chapter unless the affected property owner or resident has been notified.

D. Factors For Granting Variance: The ~~Community and Economic Development Administrator or his/her designee~~ decision maker, in passing upon an application for a variance, shall consider all technical evaluations, all relevant factors and standards specified in other sections of this Chapter, and in addition thereto shall consider the following, none of which is mandatory for the granting of the variance:

1. That the applicant will suffer an undue hardship and the variance is necessary because of special circumstances applicable to the applicant's property or project, and that the strict application of this Chapter will deprive the subject property owner or applicant of rights and privileges enjoyed by others.
2. That the granting of the variance will not be materially detrimental to the public health, welfare or safety, or unduly injurious to the property or improvements in the vicinity of the location for which this variance is sought.
3. That the variance sought is the minimum variance which will accomplish the desired purpose.
4. That the variance contains such conditions deemed to be necessary to limit the impact of the variance on the residence or property owners impacted by the variance. The variance approval may be subject to conditions including, but not limited to, the following:
  - a. Implementation of a noise monitoring program;
  - b. Maximum noise levels;
  - c. Limitation on types of equipment and use of particular equipment;
  - d. Limitation on back-up beepers for equipment;
  - e. Required use of noise shields or barriers;
  - f. Restrictions to specific times and days;
  - g. Specific requirements for documentation of compliance with the noise variance conditions;
  - h. Specific requirements for notification to nearby residents;
  - i. Required cash security to pay for inspection services to verify compliance;
  - j. Required access to the project by the City to verify compliance with the noise variance conditions;

- k. Specific program to allow for temporary hotel vouchers to effected residents;
- l. Requirements for written verification that all workers understand the noise variance conditions for the project; and
- m. Provision allowing the City to immediately revoke the variance approval if the variance conditions are violated.

5. The importance of the services provided by the facility creating the noise and the other impacts caused to the public safety, health and welfare balanced against the harm to be suffered by residents or property owners receiving the increased noise permitted under this variance.

6. The availability of practicable alternative locations or methods for the proposed use which will generate the noise.

7. The extent by which the prescribed noise limitations will be exceeded by the variance and the extent and duration of the variance.

E. Findings And Conclusions ~~Of Community And Economic Development Administrator~~ of the decision maker: ~~The Community and Economic Development Administrator or his/her designee~~ decision maker shall reduce his or her decision to written findings, conclusions and a decision. The written findings, conclusions and decision shall include a section noting the right of appeal from the decision to the City Council.

F. Appeals: Any party participating in the public hearing feeling aggrieved by the decision of the ~~Community and Economic Development Administrator or his/her designee~~ Hearing Examiner may appeal the decision of the ~~Administrator~~ Hearing Examiner to the ~~Hearing Examiner~~ City Council within fourteen (14) days of the decision. The appeal document shall note the errors in findings or conclusions which the appellant believes are material to the appeal. The ~~Hearing Examiner~~ City Council shall consider the appeal and shall affirm the decision of the ~~Administrator~~ Hearing Examiner unless the ~~Hearing Examiner~~ City Council finds that there are material errors in the findings or conclusions, or that the decision is not supportable by the findings and conclusions. If the ~~Hearing Examiner~~ City Council finds such errors it shall reduce its decision to writing specifying the findings and conclusions that are in error or stating that the decision is not supportable by the findings and conclusions. Any party remaining aggrieved by the decision of the ~~Hearing Examiner~~ City Council may further appeal to the King County Superior Court within twenty-one (21) calendar days from the date of the ~~Hearing Examiner's~~ City Council's decision. (Ord. 4330, 10-28-91; Ord. 5156, 9-26-05; Ord. 5551, 9-13-10)