

LEGISLATIVE DRAFT

HBMC 8.40

8.40.020 Definitions

“A-weighted decibel (dBA)” shall mean the overall frequency-weighted sound level in decibels that approximates the frequency response of the human ear as represented by the A-weighted network. The reference pressure is 20 micropascals.

“Decibel (dB)” shall mean a unit 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 10 times the logarithm to the base 10 of this ratio.

“Domestic power tool” means a mechanically-powered saw, sander, drill, grinder, lawn or garden tool, snow blower, leaf blower or similar device that is used in residential areas for work that is typically done by or for residential occupants.

“Equivalent Continuous Sound Level (Leq)” shall mean the value of an equivalent, steady sound level which, in a stated time period, has the same sound energy as the time-varying sound. Thus, the Leq metric is a single numerical value that represents the equivalent amount of variable sound energy received at a location over the specified duration.

“Fixed noise source” shall mean a stationary device or point source which creates sounds while fixed or motionless, including but not limited to, industrial and commercial machinery and equipment, pumps, fans, compressors, generators, air conditioners and refrigeration equipment, or an area source such as a special event on a property. That is, all sources that are non-mobile transportation sources (e.g., vehicle traffic on public roads and aircraft).

“Impulsive noise” shall mean sound of short duration, usually less than one second, with an abrupt onset and rapid decay.

“Industrial property” shall mean a parcel of real property which is developed and used in part or in whole for manufacturing purposes including research and development uses.

“Leaf blower” shall mean any machine, however powered, used to blow leaves, dirt and other debris off sidewalks, driveways, lawns and other surfaces.

“Maximum Sound Level (Lmax)” shall mean the highest RMS sound level measured during the measurement period.

“Motorboat” shall mean any vessel which operates on water and which is propelled by a motor, including but not limited to, boats, barges, amphibious craft, water ski towing devices and hover craft.

“Noise level” shall mean the “A” weighted sound pressure level in decibels obtained by using a sound level meter at slow response with a reference pressure of 20 micropascals (micronewtons per square meter). The unit of measurement shall be designated as dB(A)dBA.

“Noise-Sensitive Land Uses” shall mean residential, hotels, motels, schools, hospitals, churches, cultural land uses, public parks, recreational, and the active outdoor use areas of commercial and office uses (such as courtyards). Industrial and manufacturing uses are not considered noise sensitive.

“Parcel” shall mean an area of real property with a separate or distinct number or other designation shown on a plat recorded in the office of the County Recorder. Contiguous parcels owned by the same individual or entity shall be considered one parcel for purposes of this section.

“Predominant-Simple tone noise” shall mean a noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished. In case of dispute, a simple tone noise shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

“Root-mean-square sound level (RMS)” shall mean the square root of the average of the square of the sound pressure over the measurement period.

“Sound amplifying equipment” shall mean any machine or device for the amplification of the human voice, music, or any other sound, excluding standard automobile stereos when used and heard only by the occupants of the vehicle and, as used in this chapter, warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used for traffic safety purposes.

“Sound pressure level” of a sound, in decibels, shall mean 20 times the logarithm to the base of 10 of the ratio of the pressure of the sound to a the reference pressure of 20 micropascals, which reference pressure shall be explicitly stated.

“Vibration decibel (VdB)” shall mean a measure of vibration expressed on a logarithmic scale with the reference velocity of 1 micro-inch per second (1×10^{-6} in/sec).

“Vibration-sensitive use” shall mean residential, hotels, motels, schools, hospitals and medical offices with vibration-sensitive equipment, churches, cultural land uses, commercial, office and government uses. Outdoor areas with no buildings and industrial and manufacturing uses are not considered vibration sensitive.

8.40.030 Noise Level Measurement Criteria

Any noise level measurements made pursuant to the provisions of this chapter shall be performed using a sound level meter which meets at least American National Standards Institute (ANSI) Type 2 standards, or similar device that accurately measures noise levels and produces data that may be used in administrative or judicial proceedings. While the exterior noise standards in 8.40.050 are applied to the property line of the receiving use, the location for measuring noise levels may be at any legally accessible vantage point where a reasonable person would conclude the noise may exceed this chapter’s noise standards. All noise level measurements shall be performed in accordance with the procedures established by the City and shall be at a height of at least 4 feet, at least 4 feet away from reflective surfaces, and for a duration of at least 15 minutes, where feasible. The measurement shall be made using the A-weighting network (dBA) with “slow” meter response. Impulsive or impact noises shall be measured using “fast” meter response. The purpose of the measurement is to determine if the alleged noise violation exceeds the standards established in 8.40.050. If for any reason the alleged offending noise cannot be turned off, shut down or

temporarily removed from the area, then the ambient noise shall be estimated by performing a representative measurement in the same general area of the source but at a sufficient distance such that the noise source is inaudible.

8.40.040 Designated Noise Zones

The properties hereinafter described, whether within or without the City, are hereby assigned to the following noise zones:

- A. ~~Noise Zone 1. All residential properties.~~
- B. ~~Noise Zone 2. All professional office and public institutional properties.~~
- C. ~~Noise Zone 3. All commercial properties with the exception of professional office properties.~~
- D. ~~Noise Zone 4. All industrial properties.~~

8.40.050 Exterior Noise Standards

A. The following exterior noise standards, unless otherwise specifically indicated, shall apply to all residential property within a designated noise zone the applicable land use. It shall be unlawful for any person at any location within the incorporated area of the City to create any noise due to a fixed noise source (or any mobile source not pre-empted by state or federal laws), or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, which causes the noise level when measured at the property line of any residential, hotel, motel, public institutional, recreational, or commercial property, either within or outside the City, to exceed the applicable noise standards:

Exterior Noise Standards

Noise Zone	Noise Level	Time Period
1	55 db(A)	7 a.m. – 10 p.m.
-	50 db(A)	10 p.m. – 7 a.m.
2	55 db(A)	Anytime
3	60 db(A)	Anytime
4	70 db(A)	Anytime

<u>Land Use</u>	<u>Leq Noise Level</u> <u>dba</u>	<u>Lmax Noise Level</u> <u>dba</u>	<u>Time Period</u>
<u>Low-Density Residential</u>	<u>55</u>	<u>75</u>	<u>7 a.m. - 10 p.m.</u>
	<u>50</u>	<u>70</u>	<u>10 p.m. - 7 a.m.</u>
<u>Medium-, High-Density Residential, Hotels, Motels</u>	<u>60</u>	<u>80</u>	<u>7 a.m. - 10 p.m.</u>
	<u>50</u>	<u>70</u>	<u>10 p.m. - 7 a.m.</u>
<u>Schools</u>	<u>55</u>	<u>75</u>	<u>Hours of Operation</u>
<u>Hospitals, Churches, Cultural, Museum, Library, Public Park, Recreational</u>	<u>60</u>	<u>80</u>	<u>Hours of Operation</u>
<u>Commercial/Office</u>	<u>65</u>	<u>85</u>	<u>Hours of Operation</u>

B. The above standard does not apply to the establishment of multi-family residence private balconies and patios. Multi-family developments with balconies or patios that do not meet CNEL noise standards are required to provide occupancy disclosure notices to all future tenants regarding potential noise impacts.

C. The above daytime (7 a.m. – 10 p.m.) standards for hotels, motels and commercial uses shall apply only to active outdoor use areas such as a pool or outdoor courtyard.

B-D. In the event the alleged offensive noise consists entirely of impact or Impulsive Nnoise, Ssimple Ttone Nnoise, speech, music, or any combination thereof, each of the above noise levels shall be reduced by 5 five dBA.

E. If the alleged offense affects a property outside the City's jurisdiction, the exterior noise standards shall be enforced at the City boundary.

F. In the event the measured ambient Noise Level exceeds any of the noise limit categories above, the noise limit shall be increased to reflect said ambient Noise Level.

G. In the event that the noise source and the affected property are within different land use categories, the noise standards of the affected property shall apply.

8.40.060 Exterior Noise Levels Prohibited

A.— It shall be unlawful for any person at any location within the incorporated area of the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, which causes the noise level when measured on any residential, public institutional, professional, commercial or industrial property, either within or without the City, to exceed the applicable noise standards:

- 1.— For a cumulative period of more than 30 minutes in any hour;
- 2.— Plus five db(A) for a cumulative period of more than 15 minutes in any hour;
- 3.— Plus 10 db(A) for a cumulative period of more than five minutes in any hour;

- 4.— Plus 15 db(A) for a cumulative period of more than one minute in any hour; or
- 5.— Plus 20 db(A) for any period of time.

B.— In the event the ambient noise level exceeds any of the first four noise limit categories above, the cumulative period applicable to said category shall be increased to reflect said ambient noise level. In the event the ambient noise level exceeds the fifth noise limit category, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.

8.40.070 Interior Noise Standards

A.— The following noise standards, unless otherwise specifically indicated, shall apply to all real property within a designated noise zone:

Interior Noise Standards

Noise Zone	Noise Level	Time Period
1	55 db(A)	7 a.m. – 10 p.m.
-	45 db(A)	10 p.m. – 7 a.m.
2, 3, 4	55 db(A)	Anytime

B.— In the event the alleged offensive noise consists entirely of impact noise, simple tone noise, speech, music, or any combination thereof, each of the above noise levels shall be reduced by five db(A).

8.40.080 Interior Levels of Noise Prohibited

A.— It shall be unlawful for any person at any location within the incorporated area of the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, which causes the noise level when measured within any other structure on any residential, public institutional, commercial, or industrial property to exceed:

- 1.— The noise standard for a cumulative period of more than five minutes in any hour;
- 2.— The noise standards plus five db(A) for a cumulative period of more than one minute in any hour; or
- 3.— The noise standard plus 10 db(A) for any period of time.

B.— In the event the ambient noise level exceeds either of the first two noise limit categories above, the cumulative period applicable to said category shall be increased to reflect said ambient noise level. In the event the ambient noise level exceeds the third noise level, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.

C.— Each of the noise limits specified above shall be reduced by five db(A) for impact or predominant tone noises, or for noises consisting of speech or music.

D.— In the event that the noise source and the affected property are within different noise zones, the noise standards of the affected property shall apply.

8.40.090 Special Provisions

B. Activities otherwise lawfully conducted permitted in public parks, public playgrounds and public or private school grounds.

C. Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle or City work including City contractors.

D. Noise sources associated with construction, repair, remodeling, or grading of any real property; provided that: (i) the City has issued a building, grading, or similar permit for such activities a permit has been obtained from the City as provided herein; and provided (ii) said activities do not take place between the hours of 8:00 7:00 p.m. and 7:00 a.m., Monday through on weekdays, including Saturday, or at any time on Sunday or a federal holiday; (iii) the average construction Noise Levels do not exceed 80 dBA Leq at nearby Noise-Sensitive Land Uses. If outdoor construction activities are permitted by the City after 7:00 p.m. or before 7:00 a.m., the average construction Noise Levels at nearby Noise-Sensitive Land Uses shall be limited to 50 dBA Leq.

E. ~~All mechanical devices, apparatus or equipment which are utilized for the protection or harvest of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions.~~

F. ~~Mobile noise sources associated with agricultural operations provided such operations do not take place between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sunday or a federal holiday.~~

GE. Mobile noise sources associated with agricultural pest control through pesticide application, provided that the application is made in accordance with restricted material permits issued by or regulations enforced by the Agricultural Commissioner.

HE. Noise sources associated with the maintenance of real property and use of domestic power tools provided said activities take place between the hours of 8:00 a.m. and ~~8:00~~ 7:00 p.m. ~~on any day except Sunday~~ Monday through Saturday or between the hours of 9:00 a.m. and 6:00 p.m. on Sunday or a federal holiday. Noise from typical and occasional property maintenance and the use of domestic power tools which does not require a building permit shall not be subject to the noise limits in 8.40.090(D).

IG. Leaf blower noise shall be governed by Section 8.40.095.

JH. Any activity or equipment to the extent that design regulation thereof has been pre-empted by state or federal laws.

KI. Noise sources associated with temporary public or private events located on private or public property provided a permit has been obtained from the City as provided herein.

J. Noise generated outdoors by business operations which are temporarily prohibited from occurring indoors due to City-declared emergency conditions. This applies only to City-approved businesses whose operations would typically occur indoors. Noise generated by Sound Amplifying Equipment such as stereos or megaphones is not exempt.

8.40.095 Leaf Blowers

A. **Definitions.** As used in this section, the following terms shall have meanings as set forth below:

1. "Leaf blower" means any machine, however powered, used to blow leaves, dirt and other debris off sidewalks, driveways, lawns and other surfaces.
2. "Parcel" means an area of real property with a separate or distinct number or other designation shown on a plat recorded in the office of the County Recorder. Contiguous parcels owned by the same individual or entity shall be considered one parcel for purposes of this section.

AB. Unlawful to Propel Debris Beyond Parcel Boundary. It shall be unlawful for any person to use or operate any leaf blower in such a manner as to blow, dispel or make airborne, dust, leaves, grass cuttings, paper, trash or any other type of unattached debris or material, beyond the parcel boundaries of the parcel being cleaned, unless the consent of the adjoining owner or person in possession is obtained. It shall be unlawful for any person to use or operate any Leaf Blower within the City in such a way as to blow leaves, dirt and other debris onto the public rights-of-way or private property and to allow such debris to remain there in excess of 30 minutes.

BC. Special Prohibitions. It shall be unlawful for any person to operate a Leaf Blower within a residential zone or within 100 feet of a residential zone of the City of Huntington Beach, except under the following conditions:

1. **Time Restriction.** Noise sources associated with the maintenance of real property provided said activities take place between the hours of 8:00 a.m. and ~~8:00~~ 7:00 p.m. ~~on any day except Sunday~~ Monday through Saturday or between the hours of 9:00 a.m. and 6:00 p.m. on Sunday or a federal holiday.

2. **Distance Restriction.** Leaf blowers shall not be operated within a horizontal distance of 10 feet of any operable window, door, or mechanical air intake opening or duct.

3. **Duration of Use Restriction.** Leaf blowers shall not be operated for more than 15 minutes per hour, per day, on parcels less than one-half acre and no more than 30 minutes per hour on parcels greater than one-half acre up to one acre. Leaf blowers shall not be operated for more than two hours on parcels of one acre or more.

4. **Number Restriction.** No person shall operate more than one leaf blower per parcel on one-half acre, no more than two leaf blowers on parcels greater than one-half acre and no more than three leaf blowers on parcels greater than one acre or more.

5. The maximum decibel level of ~~70 db(A)~~ 75 dBA as measured 10 feet from the leaf blower shall not be exceeded.

8.40.100 Schools, Hospitals and Churches – Special Provisions

It shall be unlawful for any person to create any noise which causes the Noise Level at any school, hospital or church while same is in use, to exceed the noise limits specified for exterior noise standards in Section 8.40.050 ~~this chapter~~, or which Noise Level unreasonably interferes with the use of such institutions, ~~including, or which~~ unreasonably disturbs or annoys persons at a school, hospital or church patients in the hospital, provided conspicuous signs are displayed in three separate locations within one-tenth of a mile of the institution indicating the presence of a school, hospital or church.

~~8.40.110 Air Conditioning, Refrigeration Special Provisions~~

~~During a one-year period following the effective date of the ordinance codified in this chapter, the noise level standards specified in Section 8.40.050 this chapter shall be increased by five db(A) ~~5 dBA~~ where the alleged noise source is an air conditioning apparatus or refrigeration system, which was installed prior to the effective date of this chapter.~~

8.40.111 Prohibited Noises

A. ~~Notwithstanding any other provisions of this chapter and in addition thereto, it~~ shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud,

unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

B. ~~The standard which may be considered in~~ determining whether a violation of the provisions of this section, the City will determine ~~exists may include, but not be limited to,~~ the following:

1. The level of the noise;
- ~~2. Whether the nature of the noise is usual or unusual;~~
- ~~3. Whether the origin of the noise is natural or unnatural;~~
4. The level and intensity of the background noise, if any;
5. The proximity of the noise to residences residential sleeping facilities;
- ~~6. The nature and zoning of the area within which where the noise emanates;~~
- ~~7. The density of the inhabitation of the area within which the noise emanates;~~
- ~~8. The time of the day and night the noise occurs;~~
9. The duration of the noise and its tonal content; and
- ~~10. Whether the noise is recurrent, intermittent or constant; and~~
- ~~11. Whether the noise is produced by a commercial or noncommercial activity.~~

8.40.112 Loud Noises

It shall be unlawful for any person to:

A. Use, operate, or permit to be operated any radio, receiving set or device, television set, musical instrument, phonograph, digital music player, CD, DVD, tape player, juke box, or other ~~machine or~~ sound-amplifying device for producing or reproducing sound in such a manner as to disturb the peace, quiet, and comfort of other persons.

B. Make or allow to be made any noise which continues for more than a five-minute period between the hours of 10:00 p.m. and 7:00 a.m. if such noise is audible for 50 feet or more from the source of the noise.

C. Maintain, manage, or control any business or residential property in violation of subsections A or B of this section.

D. When within 200 feet of residences, load, unload, open, close or other handling of boxes, crates, containers, building materials, refuse handling or similar objects between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to cause a noise disturbance across a noise-sensitive property line. This includes, but is not limited to, noise disturbances related to commercial delivery operations, vehicle idling, vehicle queuing, vehicle backup alarms, and vehicle refrigeration equipment.

E. Repair, rebuild, modify, or test any motor vehicle, motorcycle, or Motorboat in such a manner as to cause a noise disturbance across a noise-sensitive property line.

F. Operate, play or permit the operation of any Sound Amplifying Equipment in any place of public entertainment at a sound level greater than 90 dBA as read by the slow response on a sound level meter at any point that is normally occupied by customers, unless a conspicuous and legible sign is located immediately outside of near the public entrance stating, "Warning: Sound Levels Within May Cause Permanent Hearing Impairment."

G. Sound or permit the sounding of any amplified signal from such as a bell, chime, siren, whistle, vehicle horn or similar device, intended primarily for non-emergency purposes which causes a noise disturbance across a noise-sensitive property line. Devices used in conjunction with school and place of worship shall be exempt from this provision.

H. Operate or permit the operation of any Motorboat in such a manner to cause a noise disturbance across a noise-sensitive property line.

I. Operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation. No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.

~~DJ. Own, maintain, control, operate, take care or custody of, or otherwise provide any premises, and allow noise to continue after being informed, anytime within the preceding 30 days by the Police Department or Community Development Department, that a violation of this chapter has been committed on said premises.~~

~~E-K. Violations of this section are hereby declared a nuisance.~~

8.40.113 Vibration

Notwithstanding other sections of this chapter, it shall be unlawful for any person to create, maintain or cause any operational ground vibration on any property which exceeds 72 VdB at nearby vibration-sensitive land uses. The vibration limit at vibration-sensitive uses with high sensitivity such as operations conducting medical research and imaging shall be 65 VdB.

8.40.120 Manner of Enforcement

A. The Director of ~~Planning and Building~~ Community Development (“~~D~~irector”) or Police Chief and his or her duly authorized representatives are directed to enforce the provisions of this ~~C~~hapter. The ~~D~~irector or Police Chief and their duly authorized representatives are authorized pursuant to Penal Code Section 836.5 to arrest any person without a warrant when they have reasonable cause to believe that such person has ~~committed a misdemeanor~~ violated a provision of this Chapter in their presence.

B. If the ~~D~~irector or Police Chief and their duly authorized representatives conduct ~~db(A)~~ noise monitoring tests or other noise measurement readings for purposes of enforcement, and the noise level is found to exceed ~~those~~ the noise levels ~~stipulated as permissible~~ in this ~~C~~hapter, the property owner or operator of the noise source shall be required to pay the City’s cost of the ~~db(A)~~ noise monitoring tests or readings.

~~C. No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this chapter while such person is engaged in the performance of his or her duty.~~

8.40.130 Noise Deviation Permit Process

A. ~~An a~~Applications for a temporary permit to deviate from this Chapter (“Noise Deviation Permit”) ~~the provisions herein shall be initiated by submitting an application and data as proscribed by~~ to the ~~D~~irector with all prescribed information and paying the required fees. In part, The application form will be ~~as directed by the director~~ and shall set forth: (i) all facts regarding the request for deviation; (ii) all ~~including any actions the applicant took to comply with the provisions of this C~~hapter; (iii) , the

reasons why compliance with this Chapter cannot be achieved; (iv) any proposed methods to minimize noise during the temporary activity; and (v) any such additional information the Director may require, and a proposed method of achieving compliance, if such method exists. The applicant must demonstrate, at a minimum, the need to deviate from the noise level produces a greater benefit to the community which outweighs the temporary increase in noise level above the requirements of this chapter.

B. ~~Within 10 days after receipt of a complete application, the City director will notify affected property owners within 300 feet of the alleged/proposed noise source of the application for a permit to temporarily deviate from this Code.~~

C. A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership, or several fixed sources on a single property may be combined into one application.

D. In all cases, the Director shall process the application in compliance with the California Environmental Quality Act. Upon receipt of said application and fee, the director may approve, conditionally approve or deny the permit upon finding that the above factors as well as factors included in Section 8.40.111 of this chapter are satisfied. The permit shall become effective five days after action by the director unless appealed as provided herein.

E. The Director may approve, conditionally approve or deny the Noise Deviation Permit no sooner than twenty (20) days after notification was provided to property owners within 300 feet of the proposed noise source of the application. In acting upon the application, the Director shall weigh the factors set forth at Section A above, and those set forth in Section 8.40.111 of this Chapter. The director will provide the applicant as well as the affected property owners notice of decision within 24 hours after the decision is made.

F. The Director's decision on the permit shall be served by mail upon the applicant and all property owners within 300 feet of the proposed noise source. The Director's decision shall be effective eleven (11) days after the mailing of the decision unless an appeal is filed.

G.F. ~~An applicant for a permit shall remain subject to prosecution under the terms of this Chapter until a permit is granted, and all rights to hearing and appeal are exhausted.~~

8.40.150 Noise Deviation Permit Appeals

A. **Notice of Appeal Process.** A person desiring to appeal the ~~D~~director's decision on a noise deviation permit shall file a written notice of appeal with the ~~D~~director within ~~five~~ ten (10) days after the ~~D~~director's decision. Notice of appeal shall be accompanied by a fee as set forth in the City's current fee resolution and shall follow the hearing requirements in Chapter 248 of the Huntington Beach Zoning and Subdivision Ordinance.

B. ~~Form of Notice on Appeal.~~ The notice of appeal shall contain the name and address of the person appealing the action, the decision appealed from and the grounds for the appeal. The Director may provide the form of the notice of appeal. A defect in the form of the notice does not affect the validity or right to an appeal.

C. ~~Action on Appeal.~~ The Director shall set the matter for hearing before a hearing officer and shall give notice of the hearing on the appeal in the time and manner set forth in California Government Code Section 65091.

~~D.—**De Novo Hearing.** The hearing officer shall hear the appeal as a new matter. The original applicant has the burden of proof. The hearing officer may act upon the application, either granting it, conditionally granting it or denying it, irrespective of the precise grounds or scope of the appeal. In addition to considering the testimony and evidence presented at the hearing on the appeal, the hearing officer shall consider all pertinent information from the file as a result of the previous hearings from which the appeal is taken.~~

~~E.—**Decision on Appeal.** The hearing officer may reverse or affirm in whole or in part, or may modify the hearing officer's decision that is being appealed. The decision of the hearing officer is final on the date of its decision.~~

8.40.180 Violations-Misdemeanor

~~Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. The provisions of this chapter shall not be construed as permitting conduct not proscribed herein and shall not affect the enforceability of any other applicable provisions of law.~~