

COUNCIL DECISION REQUEST

SUBJECT: Noise

MEETING DATE: August 5, 2010

PAYSON GOAL: NEW: EXISTING:

ITEM NO.:

TENTATIVE SCHEDULE:

SUBMITTED BY: Legal Department

AMOUNT BUDGETED:

SUBMITTAL TO AGENDA

EXPENDITURE REQUIRED:

APPROVED BY TOWN MANAGER

CONT. FUNDING REQUIRED:



EXHIBITS (If Applicable, To Be Attached):

**Town Code Sections 73.05, 90.04, 90.19, 111.09, 130.18, and 130.20
Code Provisions from Sedona, Sierra Vista, Phoenix, Yuma, and Mesa**

POSSIBLE MOTION See Council Options under Section III below.

SUMMARY OF THE BASIS FOR POSSIBLE MOTION:

The Town has received several complaints recently dealing with noise. The purpose of this CDR is to (1) provide an overview of the provisions of the Town Code that address noise; (2) provide examples of how other municipalities have addressed this issue; and (3) seek Council direction. Council direction could take three forms - (a) make no changes to the current Code; (b) make modifications to the current Code provisions addressing noise; or (c) revamp the Town Code's approach to noise.

I. Overview of the Town Code Provisions Relating to Noise.

The Town Code has multiple provisions regulating noise. Some of the provisions have criminal penalties, while others are merely civil violations. The table on the next page summarizes the current Town Code provisions. A copy of each section referenced is attached.

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SECTION	CONDUCT REGULATED	PENALTY
73.05	Mufflers are required on Motorized Play Vehicles	civil
90.04, 90.19	“Public Nuisance Animals” are prohibited. A Public Nuisance Animal is one that “makes disturbing noises . . . in such a manner as to disturb the peace and quiet of any person.”	civil
111.09	Peddlers and Solicitors are prohibited from using a cry, horn, bell, or other sound device to attract attention.	criminal
130.18	Outdoor construction and repair activities (and their associated noises) are not permitted during the nighttime hours.	criminal
130.20(A)	Music and entertainment is prohibited (during specified nighttime hours) that is audible 300 feet away, and is loud or unreasonable, so as to disturb the slumber, peace and quiet, or otherwise interfere with the comfortable enjoyment of life.	criminal
130.20(B)	‘Sound trucks’ and the like are prohibited. Historically these type vehicles were used for political candidates, etc.	criminal
130.20(C)	Proper mufflers are required on vehicles to “prevent excess or unusual noise.”	criminal
130.20(D)	Squealing vehicle tires is prohibited.	criminal
130.20(E)	Engine braking, commonly referred to as ‘jake brakes,’ are prohibited.	civil

Note - In extreme cases State Statutes (A.R.S. 13-2904(A)(2), Disorderly Conduct) can be utilized to address noise issues. This section prohibits a person from disturbing the peace or quiet of a neighborhood, family or person by making “unreasonable noise.” In at least one case, a person has been criminally charged in the Magistrate Court under this section for having unreasonable noise, i.e., the radio, coming from their residence. This extreme case followed repeated warnings to the defendant and extremely loud music during the nighttime hours.

II. Examples of Code Provisions From Other Municipalities. (copies of the sections are attached)

Sedona Sedona utilizes decibel standards that are time and location specific. Sedona even has a ‘sound control administrator’ who coordinates all noise control activities and reviews Sedona’s code as it relates to noise at least every three years. Additionally, Sedona has specific provisions relating to construction/landscaping, burglar alarms, animals, broadcast vehicles, and boom boxes.

All violations are civil.

Sierra Vista Sierra Vista has one portion of its code that is based upon object decibel levels according to land use category and time of day. Section 91.10. But another part of its code provides a subjective standard making “any loud, unnecessary, or unusual noise which disturbs the peace or quiet of any neighborhood” unlawful. Section 93.01. This Section provides 12 specific factors to be considered. Sierra Vista also has a specific section for animals. Section 90.01.

Some violations are civil and others are misdemeanors.

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Phoenix Phoenix prohibits “unreasonably, loud, disturbing, and unnecessary noise.” Section 23-12. The code then lists specific examples that are per se violations of the “unreasonably, loud, disturbing, and unnecessary noise” standard. Section 23-14.

All violations are class 1 misdemeanors.

Yuma Yuma follows the same pattern as Phoenix, i.e., a general prohibition followed by certain per se violations. Sections 113-02 and 113-03.

All violations are class 3 misdemeanors.

Mesa Mesa prohibits certain activities if they (1) produce loud, unnecessary, or unusual noise that is excessive, disruptive, and/or annoying; AND (2) are at least 15 minutes in duration or occur between 10:00 pm and 6:00 am; AND (3) are plainly audible beyond the property line; AND (4) they disturb the peace and quiet of a neighborhood or a reasonable person of normal sensibilities. Section 6-12-2.

All violations are civil.

III. Council Options.

The Council has three options in response to this CDR -

- 1) Make no changes to the Town Code at this point and continue enforcement of the current Town Code provisions.
- 2) Direct Staff to make modifications/changes to the current Town Code provisions. If the Council chooses this option, staff would request that the Council provide specific direction as to what problems staff should attempt to resolve through such Code amendment.
- 3) Direct Staff to scrap the current Town Code provisions and bring forth an entire new section addressing noise. If the Council selects this option, there are four basic models the new section could follow. Staff would request direction on which model the Council would like presented to them.
 - a) An entirely *subjective* ordinance. The current Town provisions, Mesa provisions, and the state law provision generally follow this pattern.
 - b) A *subjective* ordinance that is supplemented by *per se violations*. This is the model used by Yuma and Phoenix.
 - c) A strictly *objective* standard that utilizes decibel (dB) levels and distance measurements. This type of model provides a bright line standard, but can be costly to implement because of the required equipment and training.
 - d) An *objective* standard supplemented with *additional prohibited noises*. This general model is used by Sierra Vista and Sedona.

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PROS: _____

CONS:

PUBLIC INPUT (if any): If the Council requests a Code change, such change would take place by Ordinance which would have two readings/public hearings.

BOARD/COMMITTEE/COMMISSION ACTIONS/RECOMMENDATIONS (if any) (give dates and attach minutes):

FUNDING:

Acct:	Budget:	Available:	Expense:	Remaining:
Acct:	Budget:	Available:	Expense:	Remaining:
Acct:	Budget:	Available:	Expense:	Remaining:

3A: _____ Date: _____

Selected Town Code Provisions

73.05, 90.19/90.04, 111.09, 130.18, and 130.20

§ 73.05 GENERAL RESTRICTIONS ON MOTORIZED PLAY VEHICLES.

(A) No minor under 18 years of age shall operate a motorized play vehicle on any town right-of-way, including streets, roadways, and alley ways, or on any town owned property, including, but not limited to Town Hall and town parks, unless such minor possesses at all times while operating the motorized play vehicle a written consent of the minor's parent or legal guardian. The written consent shall be signed by the parent or legal guardian, whose signature shall be notarized, and shall contain the following:

- (1) The name and date of birth of the minor;
- (2) The residential address of the minor and parent/guardian;
- (3) The residential and work telephone number of the parent/guardian; and
- (4) The following statement:

“I am the parent/guardian of the minor named herein and hereby authorize said minor to operate a motorized play vehicle in the Town of Payson. I have read and discussed with said minor the Town of Payson regulations (Payson Town Code) Chapter 73, §§ 73.01 through 73.08 regarding the operation of motorized play vehicles in the Town of Payson and have assured myself that said minor understands these regulations.”

(B) No person shall operate a motorized play vehicle in excess of the speed that is reasonable and prudent under existing circumstances, or the lawfully posted limit, whichever is the least.

(C) The operator of a motorized play vehicle, approaching a sidewalk, bicycle path, bicycle lane, or multi-use path in order to cross such, shall yield the right-of-way to all other users.

(D) No operator of a motorized play vehicle shall allow passengers to ride upon such vehicle when the motorized play vehicle is in motion.

(E) No person operating or riding upon a motorized play vehicle shall attach themselves or the motorized play vehicle in any manner to any other vehicle.

(F) No person shall operate a motorized play vehicle while carrying any package, bundle or article which prevents the operator from keeping at least one hand on the steering mechanism at all times.

(G) No person shall operate a motorized play vehicle in a cross walk. Motorized play vehicles shall be walked across crosswalks.

(H) No person shall operate a motorized play vehicle while towing or pulling another person, or object.

(I) No person shall operate a motorized play vehicle at any time upon town right-of-way, including streets, roadways and alley ways, without a muffler upon the exhaust in good working order and in constant operation to prevent excessive or unusual noise.

§ 90.19 DECLARATION OF NUISANCE.

It shall be unlawful for any person or persons owning or having the care, custody, or control of any animal to permit such animal to become a public nuisance animal, as defined in § 90.04.

http://www.amlegal.com/nxt/gateway.dll/Arizona/payson/titleixgener...

§ 90.04

PUBLIC NUISANCE ANIMAL. Any animal that unreasonably annoys or endangers the life or health of persons or domestic animals, or which disturbs the peace and quiet of any person. The term ***PUBLIC NUISANCE ANIMAL*** shall include, but not be limited to the following:

(1) Any animal that makes disturbing noises, including but not limited to, repeated howling, barking, whining or other utterances in such a manner as to disturb the peace and quiet of any person or deprive any person or persons of the quiet and peaceful enjoyment of their property.

(2) Any animal that is found running at large.

(3) Any animal that damages, soils, defiles or defecates on any property other than that of its owner.

(4) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.

(5) Any animal in heat that is not confined so as to prevent attraction or contact with other animals.

(6) Any animal that, without provocation, molests, attacks or otherwise interferes with the freedom of movement of persons in a public right-of-way.

(7) Any animal that chases motor vehicles, bicycles, or other vehicles in a public right-of-way.

(8) Any animal that attacks domestic animals.

§ 111.09 UNDUE NOISE PROHIBITED.

No licensee nor any person in his behalf shall make any outcry, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound-amplifying system, upon any of the streets, alleys, parks or other public places of the town, or upon any private premises in the town where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the public thoroughfares for the purpose of attracting attention to any goods, wares or merchandise which the licensee proposes to sell.

(`82 Code, § 8-3-10) Penalty, see § 10.99

§ 130.18 CONSTRUCTION OF BUILDINGS AND OTHER PROJECTS.

(A) *Noise limitations.* It is be unlawful for any person to operate equipment or perform any outside construction or repair work on buildings, structures or projects, operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, concrete truck or any other construction type device or any other device, equipment or vehicle utilized for the purposes of construction except within the time periods specified in this section.

(B) *Construction start/stop times.* From June 1 to September 1, inclusive, all construction or repair work shall not begin prior to 5:00 a.m. and must stop by 10:00 p.m. each day. From September 2 to May 31, inclusive, all construction or repair work shall not begin prior to 6:00 a.m. and must stop by 10:00 p.m. each day.

(C) *Weekends and holidays.* Notwithstanding anything to the contrary herein, construction, repair, industrial and manufacturing work shall not begin prior to 6:00 a.m. and must stop by 10:00 p.m. on Saturday, Sunday or state or federal holiday.

(D) *Penalties.* Any person convicted of violating any provision in this section shall be guilty of a class one misdemeanor and shall be punishable as provided in A.R.S. §§ 13-707, 13-802 and 13-902, as amended from time to time.

(E) *Exemptions.* The following activities or sources are exempt from the regulations and standards set forth in this section:

- (1) Refuse collection vehicles.
- (2) Construction or routine maintenance of public service utilities.
- (3) The emission of sound for the purpose of alerting to the existence of an emergency, or the emission of sound in the performance of emergency work.

§ 130.20 NOISE.

(A) It shall be unlawful for any person, firm, or corporation, or owner, operator or person in control of any restaurant, hotel, dance hall, show, store, or any place of public amusement, entertainment, accommodation, or gathering to play or permit to be played, any music or musical instrument or instruments, or operate a loudspeaker, amplifier, or other device for producing or reproducing sound, or to perform or allow to be performed any type of entertainment, whether played or performed by individuals, orchestra, radio, phonograph, compact disc, tape, music box or other mechanical, electric or electronic device or means, between the hours of 11:00 p.m. on Fridays, Saturdays, holidays and at the Payson Multi-Event Center during special events at the Payson Multi-Event Center conducted pursuant to a special use permit for such events and 7:00 a.m. of the following day; between the hours of 12 midnight on Friday and Saturday night during the annual August Rodeo and 7:00 a.m. of the following day; and between the hours of 10:00 p.m. on Sunday through Thursday and 7:00 a.m. of the following day in such a manner so as to create sound or noise which is plainly audible at a distance of three hundred feet from the building, structure, or property from which such sound or noise emanates and is loud or unreasonable so as to disturb the slumber, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person.

(Ord. 634, passed 7-10-03)

(B) It is unlawful to play, operate or use any device known as a sound truck, loud speaker or sound amplifier, radio or phonograph with loud speaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless the person in charge of the vehicle shall have first applied to and received permission from the Chief of Police to operate the vehicle so equipped.

(C) It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it is unlawful for any person operating any motor vehicle to use a cut-out, by-pass or similar muffler elimination appliance.

(D) It is unlawful for any person to operate a motor vehicle so as to squeal the vehicle's tires while accelerating.

(Ord. 304, passed 11-12-87)

(82 Code, § 10-1-13)

(E) It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the town any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle which results in excessive, loud, unusual or explosive noise from such vehicle, otherwise known as engine-braking. The provisions of this division do not apply to public safety vehicles.

**Selected Code Provisions
From Other Municipalities**

Sedona

§ 9-4-1 DECLARATION POLICY.

- A. WHEREAS noise has been proven to have demonstrable adverse physiological, biochemical and psychological impacts on humans; and,
- B. WHEREAS the noxious stimulus of noise has long been used as a laboratory model for producing stress; and,
- C. WHEREAS noise has been clearly implicated in sleep disturbance resulting in a cascade of negative effects; and,
- D. WHEREAS the stress, tension and fatigue associated with long-term exposure to noise has destroyed marriages, cost people their jobs and forced other people to sell their houses at significant losses; and,
- E. WHEREAS a substantial body of science and technology exists by which excessive sound may be substantially abated; and,
- F. WHEREAS the people have a right to, and should be ensured of, an environment free from excessive sound; and,
- G. WHEREAS every citizen has a right to the peaceable enjoyment of their private property, and the usability of their commercial and industrial property.

Now THEREFORE, it is the policy of the City of Sedona to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

(Am. Res. 01-29, passed 7-24-2001)

§ 9-4-2 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"A" WEIGHTED SOUND LEVEL. The sound level as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(A). Sounds measured with the "A" weighting network approximate the response of human hearing when measuring sounds of low to moderate intensity.

ANSI. The American National Standards Institute which serves as the administrator and coordinator of the United States private sector voluntary standardization system. ANSI facilitates development of American National Standards (ANSs) by establishing consensus among qualified groups. ANSs in the fields of acoustics and sound measurement are developed by the Acoustical Society of America in order to standardize practices and equipment.

BOOM BOX. A colloquial term for self-contained, portable, hand-held music or sound amplification or reproduction equipment emitting sound that is audible at distances exceeding the permissible limits established within this article.

BOOM CAR. A colloquial term for a personal or commercial vehicle with music amplification or

reproduction equipment emitting sound that is audible at distances exceeding the permissible limits established within this article.

“C” WEIGHTED SOUND LEVEL. The sound level as measured using the “C” weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The “C” weighting network is more sensitive to low frequencies than is the “A” weighting network.

COMMERCIAL FACILITY. Uses located within C1, C2, and C3 zoning districts, as defined in the City of Sedona Land Development Code.

COMMUNITY SERVICE FACILITY. Any non-residential facility used to provide services to the public, including but not limited to:

1. Club meeting halls, offices and facilities;
2. Organization offices and facilities;
3. Facilities for the support and practice of religion;
4. Private and parochial schools;
5. Libraries, hospitals, medical facilities.

CONSTRUCTION. Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

CONTINUOUS SOUND. Any sound with a duration of more than 1 second, as measured with a sound level meter set to the “slow” meter response. Impulsive sounds that are rapidly repetitive and have a duration of 1 second or longer, such as a jack hammer or hammer hoe, shall be measured as continuous airborne sound.

DECIBEL (dB). A relative unit for the measurement of sound pressure. It is based upon a reference pressure of 20 micropascals (zero decibels) which is the average threshold of hearing for a human with acute hearing.

DEMOLITION. Any dismantling, destruction or removal of buildings, structures, or roadways.

EMERGENCY ENERGY RELEASE DEVICE. A device used specifically to release excess energy on a non-scheduled basis as necessary for purposes of safety and not as a part of routine process control.

EMERGENCY WORK. Any work or action necessary to deliver essential public services, including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging or repairing in any floodway or flood hazard area, or abating life-threatening conditions.

ENFORCEMENT AGENCY. The City of Sedona code enforcement officer, Sound Control Administrator, City of Sedona police officer or any other said persons as designated by the Sound Control Administrator, or Police Department.

ENGINE COMPRESSION BRAKING. The action taken by the operator of a diesel truck or bus

ENGINE COMPRESSION BRAKING. The action taken by the operator of a diesel truck or bus to reduce speed by activating a device in order to secure compression braking of the engine.

EXTRANEOUS SOUND. A sound which is relatively intense, intermittent and of short duration and is neither part of the neighborhood residual sound, nor comes from the sound source under investigation. These sources of sound are noted, but excluded from all measurements.

FREQUENCY. 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.

HOLIDAY or **LEGAL HOLIDAY.** Any federal, state or city recognized holiday.

IMPULSIVE SOUND. Either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than 1 second such as a car backfire, dynamite blast or other such single burst.

INDUSTRIAL FACILITY. Any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or non durable goods.

MOTOR VEHICLE. Any vehicle that is propelled other than by human or animal power on land.

MUFFLER. A properly functioning sound dissipative device or system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment. A motor vehicle is not considered to be properly muffled if its muffler is either malfunctioning or if it is equipped with an after market muffler designed to increase the intensity of sound emissions over those of the stock muffler which was installed by the vehicle's manufacturer.

MULTI-DWELLING UNIT BUILDING. Any building comprising 2 or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

MULTI-USE PROPERTY. Any distinct parcel of land that is used for more than 1 category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or

2. A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent.

NEIGHBORHOOD RESIDUAL SOUND LEVEL. That measured value which represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds, and those from the source under investigation. Neighborhood residual sound level is synonymous with background or ambient sound level. Neighborhood residual sounds are differentiated from extraneous sounds by the fact that the former are more steady state, although they may not be continuous.

PLAINLY AUDIBLE. Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, boom box or boom car, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The sound control officer or police officer need not determine the title, specific words, or the artist performing the song and shall not require the use of a sound meter to determine plainly audible.

PRIVATE RIGHT-OF-WAY. Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

PUBLIC RIGHT-OF-WAY. Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

PUBLIC SERVICE FACILITY. Any facility and its related premises, property or equipment used to provide governmental services to the public including, but not limited to:

1. Maintenance centers;
2. Offices and buildings of agencies or instrumentalities of government;
3. Schools, parks, recreation centers;
4. Waste collection centers;
5. Waste recycling centers;
6. Water and sewage facilities.

PUBLIC SPACE. Any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

REAL PROPERTY LINE. Either:

1. The imaginary line, including its vertical extension that separates 1 parcel of real property from another;
2. The vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or
3. On a multi-use property, the interface between the 2 portions of the property on which different categories of activity are being performed (such as, if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area).

RESIDENTIAL PROPERTY. Property used for human habitation, including, but not limited to:

1. Private property used for human habitation;
2. Commercial living accommodations and commercial property used for human habitation;
3. Recreational and entertainment property used for human habitation;

4. Community service property used for human habitation;
5. Hospitals or long-term care medical facilities.

SOUND CONTROL ADMINISTRATOR. The Development Services Supervisor or designee shall act as the Sound Control Administrator, "SCA," for the purposes of the article.

SOUND CONTROL OFFICER. A government employee who has received noise enforcement training and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a civil citation in order to be considered a sound control officer. The provisions of this code that do not require the use of a sound level meter may be enforced by any code enforcement or police officer.

SOUND REPRODUCTION DEVICE. Any machine or device by which the human voice, music or any other sound is amplified. Sound reproduction device shall not include warning devices on any vehicle traveling to do emergency work or used for traffic safety purposes.

SOUND SENSITIVE. A facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include but are not limited to:

1. Schools;
2. Houses of worship;
3. Out patient medical facilities, hospitals, or nursing home;
4. Library.

SOUND LEVEL METER. An instrument that conforms to ANSI S1.4-1983 or its successors.

STEADY PURE TONE. A sound for which the sound pressure is a simple sinusoidal function of the time and characterized by its singleness of pitch.

TOTAL SOUND LEVEL. That measured level which represents the summation of the sounds from the sound source under investigation and the neighborhood residual sounds which affect a given place at a given time, exclusive of extraneous sound sources.

WEEKDAY. Monday through Friday, inclusive.

WEEKENDS. Saturday and Sunday.

§ 9-4-3 APPLICABILITY.

This code applies to all sound sources within the city unless otherwise exempted.

§ 9-4-4 SOUND CONTROL ADMINISTRATOR.

The Sound Control Administrator shall have the power to:

- A. Coordinate the noise control activities of all departments in the city and cooperate with all other public bodies and agencies to the extent practicable; and
- B. Review the actions of the city and advise of the effect, if any, of such actions on noise control; and
- C. Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this ordinance; and
- D. Promulgate and publish rules and procedures, in accordance with the Sedona City Code, to establish techniques for measuring noise and to provide for clarification, interpretation, and implementation of this chapter; and
- E. Review at least every 3 years the provisions of this chapter and recommend revisions consistent with technology to reduce noise or to address new sound sources within the city.

§ 9-4-5 SOUND CONTROL OFFICERS.

The provisions of the ordinance set forth in this section shall be enforced by sound control officers. A person shall be qualified to be a sound control officer if the person meets the criteria set forth in the definition above and completes, with a passing grade, a sound enforcement certification course and thereafter a biennial re-certification course as offered by the Rutgers Noise Technical Assistance Center, Department of Environmental Science, the State University of New Jersey at Rutgers, or other similar noise enforcement certification course as approved by the Administrator. The provisions of this code that do not require the use of a sound level meter may be enforced by any code enforcement, police officer or designated Police Department employee. Sound control officers shall have the power to:

- A. Investigate and pursue possible violations of the ordinance set forth in this article for sound levels which equal or exceed the sound levels set forth in Table I, when measured at a receiving property located within the designated jurisdiction of the sound control officer, in accordance with § 9-4-6 below;
- B. Cooperate with sound control officers of adjacent jurisdictions in enforcing one another's noise ordinances.

§ 9-4-6 MAXIMUM PERMISSIBLE SOUND LEVELS.

A. *Continuous sound.*

1. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in § 9-4-2. above in such a manner as to create a sound level that exceeds the sound level limits listed in Table I, as measured at any location at or within the property line of the receptor property. Sound pressure levels in excess of those established in Table I shall constitute prima facie evidence that such sound is in violation of this code.

TABLE I

MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS

dB(A)

<i>Residential and all Other Zones 7:00 a.m. - 10:00 p.m.</i>	Residential and all Other Zones 10:00 p.m. - 7:00 a.m.	C1, C2, C3 Zone Districts 24 hours
60	50	65

2. These limits may not be exceeded by any single incident representing the normal, usual operation of the sound source, during any 3 sampling intervals, the duration of which shall be no less than 1/2-minute, within any 1 hour period. If the total duration of the sound under investigation is less than 1-1/2 minutes, the requirement for 3 measurements shall be waived. For example, if a motor fan belt were to squeal for 20 seconds upon starting, but the sound were emitted with regularity from this source, a single measurement shall be sufficient.

3. Nothing in this section supersedes the requirements of employers to comply with the Occupational Noise Exposure Standard of the Occupational Safety and Health Administration (29 C.F.R. Part 1910.95). Compliance will help conserve workers' hearing and reduce potential liability for the source.

B. Impulsive sound.

1. Between 7:00 a.m. and 10:00 p.m., impulsive sounds which occur less than 10 times in an hour shall not equal or exceed 20 decibels above the permissible sound level limits in Table I. Impulsive sound which repeats 10 or more times in any hour shall not exceed the permissible sound level limits in Table I.

2. Between the hours of 10:00 pm and 7:00 a.m., impulsive sounds which occur less than 4 times in an hour shall not equal or exceed 20 decibels above the permissible sound level limits in Table I. Impulsive sound which repeats 4 or more times in any hour shall not exceed the permissible sound level limits in Table I.

C. Amplified sound reproduction device. If the source of sound is an amplified sound reproduction device, and the complainant states that the rhythmic bass component of the music is disturbing within their residence, then the noise enforcement officer may take sound level measurements within the residence of the complainant. No person shall cause, suffer, allow, or permit the operation of any amplified source of sound in such a manner that it raises the total sound levels above the permissible sound level limits set forth in Table II when measured within the residence of a complainant. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response. Such measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms. For the purposes of these measurements, the neighborhood residual sound level is that sound level which is measured in the residence when the sound source under investigation is not prominent, or in a room on the same floor that is relatively unaffected by the sound source under investigation. The C-scale is more sensitive to low frequency sound levels than the A-scale. An increase of 3 dB is perceived by humans as being perceptibly louder, while an increase of 5 dB is perceived as being plainly louder. At the lower bass frequencies of music an increase of 6 dB is perceived as a doubling of loudness.

TABLE II

AMPLIFIED SOUND REPRODUCTION DEVICE MAXIMUM PERMISSIBLE SOUND LEVEL LIMITS INDOOR ACROSS A REAL PROPERTY LINE dB(C) ABOVE NEIGHBORHOOD RESIDUAL SOUND LEVEL

<i>10:00 p.m. to 7:00 a.m.</i>	All Other Times
3 db(C)	5 db (C)

D. *Steady pure tones.* If the sound source under investigation is a mechanical device, and is in the investigating officer's opinion emitting a sound with a steady tonal quality, the permissible sound level limits in Table I shall be reduced by 5 dBA. The sound emissions must be comprised of a single frequency or a narrow cluster of frequencies, which may be referred to as a whine, hum or buzz. The measured sound levels of such a source must not fluctuate by more than plus or minus 3 dB. Such sound sources include, but are not limited to: heating, ventilating or air-conditioning units; refrigeration units; transformers and pumps.

§ 9-4-7 PROCEDURES FOR THE DETERMINATION OF SOUND LEVELS.

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

B. Total and neighborhood residual sound level measurements shall be taken in accordance with procedures approved by the Administrator. Calculation of source sound levels shall conform with accepted practice.

§ 9-4-8 INSPECTIONS.

A. For the purpose of determining compliance with the provisions of this chapter, the administrator or his or her authorized representatives are hereby authorized to make inspections of all noise sources and to take sound level measurements and tests whenever necessary. If any person refuses or restricts entry and free access to any part of a premise, or refuses inspection, testing, or sound level measurement of any activity, device, facility, motor vehicle or process where inspection is sought, the Administrator or their authorized representative may seek from a court of competent jurisdiction a warrant for inspection requiring that such person permit entry and free access without interference, restriction or obstruction (at a reasonable time) for the purpose of inspecting, testing, or measuring sound levels. The court shall have power, jurisdiction and authority to enforce all orders issued under the provisions of this chapter.

B. It shall be unlawful for any person to refuse to allow or permit the Administrator or their authorized representative free access to any premise when he or she or her or his authorized representative is acting in compliance with a warrant for inspection.

C. No person shall hinder, obstruct, delay, resist, prevent or in any way interfere, or attempt to interfere with any authorized person while in the performance of their duties under this chapter.

D. It shall be unlawful for any person to misrepresent or give any false or inaccurate information

D. It shall be unlawful for any person to misrepresent or give any false or inaccurate information or in any way attempt deceive the Administrator or their authorized representative in order to avoid compliance with the provisions of this chapter.

§ 9-4-9 EXCEPTIONS.

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

- A. Unamplified bells, chimes or carillons while being used in conjunction with an ongoing religious service;
- B. Emergency energy release devices; or any emergency or safety warning devices, such as, but not limited to, vehicle horns or back-up beepers;
- C. Emergency work;
- D. National Warning System (NAWAS): systems used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane;
- E. Noise of aircraft operation;
- F. Sound from the locomotion of properly muffled motor vehicles on a public right-of-way or residential driveway;
- G. Sound from any mobile garbage collection vehicle;
- H. Fireworks on Independence day are allowed until 11:00 p.m.

§ 9-4-10 RESTRICTED USES AND ACTIVITIES.

Notwithstanding the provisions of Table I and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below.

A. Non-commercial or non-industrial power tools and landscaping and yard maintenance equipment shall not be operated between the hours of 8:00 p.m. and 7:00 a.m., unless such activities can meet the applicable limits set forth in Table I. All engine driven equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Table I do not apply to non-commercial or non-industrial power tools and landscaping and yard maintenance equipment.

B. Commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, shall not be operated on a residential property or within 250 feet of a residential property line when operated on commercial or industrial property, between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Table I. In addition, commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, utilized on commercial or industrial property shall meet the limits set forth in Table I between the hours of 10:00 p.m. and 6:00 a.m. All engine driven equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Table I do not apply to

commercial or industrial power tools and landscaping and yard maintenance equipment.

C. For construction and demolition activity, the limits set forth in Table I do not apply between the hours of 6:00 a.m. and 9:00 p.m., Monday through Saturday, at all other times the limits set forth in Table I shall apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler. Construction tools or equipment shall be in good working condition and shall be operated properly according to the manufacturers' instructions and applicable federal and state regulations. The delivery, placement and finishing of concrete and stucco may begin ½-hour before sunrise during the period from May 1 through September 30 of each year.

D. An exterior burglar alarm of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within 5 minutes for continuous airborne sound and 15 minutes for impulsive sound after it has been activated. At all times, the limits set forth in Table I do not apply.

E. Domesticated or caged non-farm animals may not bark, squeal, crow, howl or make any other such noises for more than 5 minutes if continuous or more than 15 minutes if intermittent. At all times, the limits set forth in Table I do not apply.

F. Personal or commercial vehicular music amplification or reproduction equipment, including but not limited to vehicles referred to as "boom cars" or "broadcast vehicles," shall not be operated in such a manner as to be plainly audible at a distance of 75 feet in any direction from the equipment between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., such equipment shall not be operated in such a manner that it is plainly audible at a distance of 25 feet in any direction.

G. Self-contained, portable, hand-held music or sound amplification or reproduction equipment, including but not limited to devices referred to as "boom boxes," radios stereos, or any similar device shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound from such equipment shall not be plainly audible by any person other than the operator.

§ 9-4-11 ENFORCEMENT.

A. This section governs the initiation of enforcement actions and the imposition of civil penalties for violations of this code.

B. If a person violates any provision of this code, or an order issued by the enforcement agency, the agency may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the court may proceed in the action in a summary manner.

C. Any person who violates any provision of this code shall be subject, upon order of a court, to a civil penalty of not more than \$2,500 for each offense, and each day during which the violation continues shall constitute an additional, separate and distinct offense.

D. The enforcement agency must determine whether the violation is a major or minor violation for the purposes of issuing an enforcement and compliance grace period. A violation is deemed to be minor if:

1. The violation is not the result of purposeful, reckless or criminally negligent conduct of the violator; or
2. The activity or condition constituting the violation has not been the subject of an enforcement action against the violator in the immediately preceding 12 months; and
3. The violation is not the result of the operation of a sound reproduction or amplification device of any kind, with the exception of safety warning devices.

E. If the violation is deemed to be minor, the enforcement agency shall notify the violator that the activity or condition must be corrected and compliance achieved at the discretion of the enforcement agency, not to exceed 180 days, to be determined based upon the nature, extent and impact of the violation and a reasonable estimate of the time needed to correct the violation. The violator may request, from the enforcement agency, an extension of the compliance deadline and the enforcement agency may approve any reasonable request for an extension if the violator can demonstrate that a good faith effort has been made to achieve compliance. The Sound Control Administrator shall offer special consideration, during the 6-month period immediately following final enactment of this code, for preexisting sound sources, which will require physical modifications to come into compliance.

F. If the violation is deemed to be minor, the enforcement agency shall notify the violator that if he or she achieves compliance within the period of time specified in the enforcement document, the enforcement agency shall not seek to collect a civil penalty from the violator for that violation.

G. If, during the grace period, the sound emissions for which the violation has been assessed increase in duration or intensity, the Sound Control Administrator may revoke the grace period. In determining whether to revoke the grace period, the Sound Control Administrator may consider the following factors: the relative increase intensity; whether the change of sound emissions is directly related to ongoing sound abatement measures; and the anticipated duration of the increased sound levels.

H. If the violator does not correct a minor violation within the period of time specified in the enforcement document, the enforcement agency may seek injunctive relief and/or a penalty for a violation of this code. If the enforcement agency has reason to believe that the violator is not acting in good faith during the grace period, they may conduct further investigations during that period, and if the violator has not achieved compliance within the period of time specified in the enforcement document, the enforcement agency may prosecute any violations documented during the grace period.

I. If the violation is not deemed to be minor, it shall be deemed major and the enforcement agency shall notify the violator that he or she will not be allowed a period of time to correct the violation before a penalty is sought, and that he or she may be liable to a class 1 misdemeanor of no more than \$2,500 for that violation and that the enforcement agency may seek summary injunctive relief.

J. Any claims for a civil penalty may be compromised and settled based upon the following factors:

1. Mitigating or other extenuating circumstances;
2. The timely implementation by the violator of measures which lead to compliance;

3. The conduct of the violator; and
4. The compliance history of the violator.

§ 9-4-12 TEMPORARY SOUND PERMIT.

A. Any person who owns or operates a sound source in I of the following categories may apply for a temporary sound permit from the Sound Control Administrator to temporarily exceed sound levels as set forth in Tables I and II, or any other provisions of this code:

1. Private or public celebrations;
2. Night time construction projects;
3. Homeowner construction projects;
4. Any other activity as determined by the Sound Control Administrator.

B. Applications for a temporary sound permit shall supply information including, but not limited to:

1. The nature and location of the noise source for which such application is made;
2. The reason for which the temporary sound permit is requested, including the hardship that will result to the applicant, his client, or the public if the temporary sound permit is not granted;
3. The nature and intensity of noise that will occur during the period of the permit; and
4. A description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring there from;
5. The name, address and means of contacting a responsible party during the hours of operation for which the temporary sound permit is issued.

C. In making the determination on granting a permit and in the sole discretion of the Sound Control Administrator, the Administrator may consider the following:

1. The character and degree of injury to, or interference with, the health and welfare of the reasonable use of property which is caused or threatened to be caused by the sound, to result from the temporary sound permit;
2. The social and economic value of the activity for which the permit is sought;
3. The ability of the applicant to apply best practical noise control measures.

D. The temporary sound permit shall enumerate the conditions of the permit, including:

1. Specific dates, times, duration, and distances for which the permit is valid;
2. Sound level limits which may not be exceeded at the nearest affected residential property;

3. Or any other such conditions that may mitigate any adverse impact upon the parties, as determined by the Sound Control Administrator.

E. The temporary sound permit may be revoked by the Sound Control Administrator, if terms of the permit are violated.

F. A permit may be revoked by the Sound Control Administrator, and the issuance of future permits withheld, if there is:

1. Violation of 1 or more conditions of the permit;
2. Material misrepresentation of fact in the permit application; or

3. Material change in any of the circumstances relied upon by the Sound Control Administrator in granting the permit.

§ 9-4-13 SEVERABILITY.

If any provision or portion of a provision of the ordinance set forth in this chapter is held to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

Sierra Vista

(S) Leave or permit to remain exposed outside on any property, or within any unoccupied or abandoned building, dwelling, other structure, or in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator, or other container which has an airtight door or lid, snaplock, or other locking device which, may not be released from the inside, without first removing such door or lid, snaplock, or other locking device from such ice box, refrigerator or container.

(T) Any wall or fence with numerous missing blocks, boards, or other material or maintained in such a condition of deterioration or disrepair so as to constitute a hazard to persons or property.

(U) Any recreational vehicles, boat trailers, horse trailers, or similar trailers parked or stored so as to interfere with the clear vision area as described by § 151.04.009 [of the City Development Code], or project into any right-of-way. No such vehicle so parked or stored shall be used for living purposes for more than 14 consecutive days.

(V) Any commercial or industrial type equipment to include: tractors, backhoes, bulldozers, trenchers, cranes, or other similar equipment parked in an area visible to the public for more than 48 hours in any residential district except when the equipment is being used for construction purposes on the site.

(W) Any artificial illumination of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of any property, or with the lawful use of any school, public place or public street, or with any governmental or public function of the city, or as to constitute a hazard or threat to the public health, safety, and welfare of the people of the city; provided, that this subsection shall not apply where the person responsible for such artificial illumination is utilizing the same at any exhibition, performance, amusement, attraction or event authorized or sponsored by the city, or any public, private or parochial school within the city.

(X) The escape or flow of water into the public right-of-way in such quantity, in the opinion of the City Engineer, as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition for such traffic, or to cause damage to the public streets or alleys of the city through their failure or neglect to properly operate or maintain any water facility or device, including, but not limited to, sprinklers, hoses, pipes, ditches, standpipes, berms, valves, and gates.

(Y) Any noise of such intensity as, as detailed below, as to interfere substantially and unnecessarily with the use and enjoyment of public or private property by the public, or with the lawful use of any school, public place, public street, or with any governmental or public function of the city or as to constitute a hazard or threat to the public health, safety or welfare of the people of the city; provided, that this subsection shall not apply where the person responsible for such noise is a participant in or spectator at any exhibition, performance, amusement, attraction, or event authorized or sponsored by the city, or any public, private or parochial school within the city.

(1) In all districts in the city, the following noise standards, unless otherwise specifically indicated, shall apply:

(a) Maximum sound level. No noise shall be generated which causes the maximum sound level (noise level) at any point on property lines surrounding the premises on which noise is produced, to exceed the background (ambient noise) including traffic noise by 5 dba (decibels on the A-weighted scale) measured at the same point, or the following limits, whichever is greater:

SW
9/1,10

ADJACENT LAND USE

Land Use Category	Residential	Commercial	Industrial
	a/b	a/b	a/b
Residential	55/50	55/50	55/50
Commercial	55/50	60/55	70/65
Industrial	55/50	60/55	70/65

“a” represents the hours between 6:00 a.m. and 8:00 p.m.

“b” represents the hours between 8:00 p.m. and 6:00 a.m.

(b) The sound level at the boundary line between land use areas shall not exceed the average of the maximum permitted sound level for each such area noted above.

(2) Positive Corrections. One of the following corrections may be applied to the limits and corrections noted above only between the hours of 6:00 a.m. and 8:00 p.m.:

Frequency of Occurrence	Correction (in Decibels)
Noise occurring not more than fifteen minutes per hour	+ 5
Noise occurring not more than five minutes per hour	+10
Noise occurring not more than one minute per hour	+15
Any period of time within the hour less than one minute	+20

(3) Ambient Noise Level Limit. In the event that the ambient noise level on the adjacent commercial or residential properties exceeds any of the first four noise level categories above, the intrusive noise level limit for the cumulative period applicable to the category shall be increased to reflect the ambient noise level.

(4) Exceptions to Noise Standards. The standards of this sub-section are not applicable to noise from:

- (a) Construction and maintenance, or the demolition of structures between 6:00 a.m. and 8:00 p.m.
- (b) Safety signals, warning devices, and emergency pressure relief valves.
- (c) Moving sources such as vehicles and aircraft, except when the moving sources are

operated as part of sporting or entertainment events.

(d) Emergency work involving equipment or vehicles to protect life or property.

(e) Authorized emergency vehicles when responding to an emergency call or acting in time emergency.

(f) Nonamplified crowd noises resulting from activities such as those planned by school, governmental or community groups, or organized sports.

(g) Church chimes.

(h) City vehicle, equipment, or facilities while being operated for official use.

(i) Heating and cooling equipment when it is functioning in accordance with manufacturer's specifications and is in proper operating condition, provided that no unit may create excessive, unnecessary, or offensive noise causing annoyance or discomfort to a reasonable person of normal sensitivity within any sleeping or living area inside any dwelling unit.

(j) Any other activity to the extent a regulation has been pre-empted by state or federal law.

(k) Noise producing structures, facilities, or activities legally established prior to the effective date of this section that do not conform to the provisions of this section, shall be considered to be legally non-conforming. Such structures, facilities, or activities may continue in their non-conforming state and may make reasonable repairs and alterations.

(l) Structural repairs, additions, enlargements, changes of occupancy may be made subject to complying with the provisions of this section and all other provisions of this code.

(Z) Making, causing, or permitting to be made any vibration of such intensity as to interfere substantially and unnecessarily with the use and enjoyment of public or private property by the public, or with the lawful use of any school, public place, or public streets, or with any governmental or public function of the city or as to constitute a hazard or threat to the public health, safety, or welfare of the people of the city; provided, that this subsection shall not apply where the person responsible for such vibration is a participant in or spectator at any exhibition, performance, amusement, attraction or event authorized or sponsored by the city, or any public, private or parochial school within the city.

(1) No person shall cause or permit ground vibration into the property of another person that exceeds the limits set forth below in this sub-section.

(a) Ground vibration as measured at the boundary of a residential zoning district and an industrial zoning district shall not exceed 0.01 inches per second (0.00025 meters per second) RMS velocity.

(b) Ground vibration as measured at a common property boundary of any two properties within any industrial zoning district shall not exceed 0.1 inches per second (0.00025 meters per second) RMS velocity.

(2) Method of measurement: Vibration measurement procedures shall conform to the methods described in this section or to procedures approved by the Arizona Department of

methods described in this section or to procedures approved by the Arizona Department of Environmental Quality.

(a) Instrumentation shall be capable of measuring RMS value of the vibration velocity over the frequency range of 10 to 1,000 Hz.

(b) Measurement values shall be recorded for a sufficient period of observation to provide a representative sample.

(c) Attachment of the vibration transducer to the ground shall be by magnetic or screw attachment to a steel bar of a minimum of 9 inches (22.9 cm.) in length, driven flush with the ground surface.

(3) Exemptions. The rules of this section shall not apply to:

(a) Vibration resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad;

(b) Vibration resulting from the operation of any road vehicle;

(c) Vibration resulting from construction activities and equipment, between 6:00 a.m. and 8:00 p.m.;

(d) Vibration resulting from roadway maintenance and repair equipment.

(e) Authorized emergency vehicles when responding to an emergency call or acting in time emergency;

(f) Emergency work involving equipment or vehicles to protect life or property.

(AA) Any junked motor vehicle (see Chapter 92 for complete details).

('76 Code, § 9-2-3) (Ord. 897, passed 1-23-92; Am. Ord. 916, passed 2-25-93; Am. Ord. 1089, passed 4-22-99; Am. Ord. 2006-005, passed 1-26-06) Penalty, see § 91.99

§ 93.01 PROHIBITION OF LOUD OR UNUSUAL NOISE.

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 or present in the area. The standards which shall be considered in determining whether a violation exists shall include but not be limited to the following:

- (A) The volume of the noise.
- (B) The intensity of the noise.
- (C) Whether the nature of the noise is natural or unnatural.
- (D) Whether the origin of the noise is usual or unusual.
- (E) The volume and intensity of the background noise, if any.
- (F) Proximity of the noise to residential sleeping facilities.
- (G) The nature and zoning of the area within which the noise emanates.
- (H) The density of the inhabitation of the area within which the noise emanates.
- (I) The time of the day or night the noise occurs.
- (J) The duration of the noise.
- (K) Whether the noise is recurrent, intermittent, or constant.
- (L) Whether the noise is produced by a commercial or noncommercial activity.

('76 Code, § 10-1-9) (Ord. 372, passed 1-12-78) Penalty, see § 10.99

§ 93.02 EXEMPTIONS.

The provisions of this chapter shall not be applicable to the creation or generation of noise in connection with altering, signaling, or warning, or operations in conjunction therewith, normally inherent in or incident to the preservation and protection of life and property or other emergency circumstances nor to the routine or emergency operations of any government unit or agency.

('76 Code, § 10-1-9) (Ord. 372, passed 1-12-78)

Phoenix

Sec. 23-12. Creation of unreasonably loud and disturbing noises prohibited.

Subject to the provisions of this article the creating of any unreasonably loud, disturbing and unnecessary noise within the limits of the City is hereby prohibited.

(Code 1962, § 26-1)

Sec. 23-13. Noises detrimental to life and health or public peace and welfare prohibited.

Noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare is hereby prohibited.

(Code 1962, § 26-2)

Sec. 23-14. Enumeration of loud, disturbing and unnecessary noises; enumeration not exclusive.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of this article, but this enumeration shall not be deemed to be exclusive, namely:

(a) Blowing horns or signaling devices. The sounding or blowing of any horn or signal device on any automobile, truck, bus, motorcycle or other vehicle while not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for any unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph or any other musical instrument in such a manner or with such volume, particularly between the hours of 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(c) Yelling, shouting, etc., on streets. Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any hospital, dwelling, hotel or other type of residence, or of persons in the vicinity.

(d) Pets. The keeping of any animal, bird or fowl which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person in the vicinity.

(e) Use of vehicles. The use of any automobile, truck, bus, motorcycle or other vehicle so out of repair, so loaded or in such manner as to make loud and unnecessary grating, grinding, rattling or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work, as a warning of fire or danger or upon request of proper City authorities.

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom; provided, however, that the flying of controlled model airplanes, sailing of model boats or racing of model automobiles, having internal combustion engines not to exceed thirty-five hundredths cubic inch piston displacement, when used in the pursuit of a recreation hobby and at such locations as are under the jurisdiction or control of Parks, Playground and Recreational Board of the City and only at such times as may be designated by the Parks Department shall not be deemed to be within the provisions of this subsection.

(h) Building operations, permit from Development Services Director. The erection (including

excavating), demolition, alteration or repair of any building in any residential district or section, other than between the hours of 6:00 a.m. and 7:00 p.m. from May 1 to and including September 30 and between the hours of 7:00 a.m. and 7:00 p.m. beginning October 1 to and including April 30 on weekdays, except in case of urgent necessity in the interest of public health, safety and welfare and then only with a permit from the Development Services Director, which permit may be granted for a period not to exceed thirty days, while the emergency continues. If the Development Services Director should determine that the public health, safety and welfare will not be impaired by the erection, demolition, alteration or repair of any building within the hours specified herein, and if he shall further determine that loss or inconvenience would not result to any party in interest, he may grant permission for such work to be done at times other than specified herein, upon application being made at the time the permit for the work is awarded or during the progress of the work.

(i) Excavation of streets, permit from City Engineer. The excavation of streets and highways in any residential district or section, other than [within] the hours specified in section 23-14(h), except in the case of urgent necessity in the interest of public health, safety and welfare then only with a permit from the City Engineer, which permit may be granted for a period not to exceed thirty days, while the emergency continues. If the City Engineer should determine that the public health, safety and welfare will not be impaired by the excavation of streets and highways within the hours specified in section 23-14(h), and if he shall further determine that loss or inconvenience, should not result to any party in interest, he may grant permission for such work to be done other than specified in section 23-14(h), upon application being made at the time the permit for work is awarded or during the progress of work.

(j) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings or session thereof; provided, that signs must be displayed in such streets indicating that the same is a school, institution of learning, church court or hospital.

(k) Loading and unloading operations. The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(l) Noises to attract attention. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale of display of merchandise.

(m) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on automobiles, trucks, buses or other moving or standing vehicles for advertising or other purposes.

(Code 1962, § 26-3; Ord. No. G-3119, §§ 1, 2)

Sec. 23-15. Exemptions.

None of the terms or prohibitions of sections 23-12 through 23-17 shall apply to or be enforced against:

(a) Any vehicle of the City while engaged upon necessary public business.

(b) Excavations or repairs of bridges, streets or highways by or on behalf of the City or the State, at night, when the public welfare and convenience renders it impossible to perform such work during the day.

(c) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character, and which amplifiers or loudspeakers are not used in connection with any moving vehicle.

(d) The use of a hand-operated device producing not in excess of seventy decibels of sound, "C" scale, measured a distance of fifty feet from the instrument emanating sound from bicycles

sound, measured a distance of fifty feet from the instrument emanating sound from bicycles, pushcarts, or other vehicles, or from vehicles in connection with the sale or display of merchandise; provided, that such devices or musical systems:

- (1) Shall be operated only while the bicycle, pushcart or vehicle is in motion;
- (2) Shall play only pleasing melodies; and
- (3) Shall not be played between the hours of 1:00 p.m. and 3:00 p.m., and between the hours of 9:00 p.m. and 10:00 a.m.

(Code 1962, § 26-4; Ord. No. G-3581, § 1)

Yuma

Yuma Code of Ordinances
Title 13: Health and Safety Chapter 133: Noise Control

Chapter 133: Noise Control

Section

- 133-01 Exemptions
- 133-02 Loud, disturbing, dangerous noises prohibited
- 133-03 Disturbing noises defined
- 133-99 Penalty

§ 133-01 Exemptions.

None of the terms or prohibitions in this code relating to noise shall apply to or be enforced against:

- (A) Any vehicle of the city while engaged upon necessary public business.
- (B) Excavations or repairs of bridges, streets or highways by or on behalf of the city or the state, at night, when the public welfare and convenience renders it impossible to perform such work during the day.
- (C) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character, and which amplifiers or loudspeakers are not used in connection with any moving vehicle.
- (D) The use of a hand-operated device producing not in excess of 70 decibels of sound, "C" scale, measured a distance of 50 feet from the instrument emanating sound from bicycles, pushcarts or other vehicles, or from an amplifier musical system for which a license has been procured under § 73-02 or from vehicles in connection with the sale or display of merchandise; provided, that such devices or musical systems:
 - (1) Shall be operated only while the bicycle, pushcart or vehicle is in motion;
 - (2) Shall play only pleasing melodies; and
 - (3) Shall not be played between the hours of 9:00 p.m. and 10:00 a.m.

('80 Code, § 18-1) (Ord. 1798, passed 12-20-78)

§ 133-02 Loud, Disturbing, Dangerous Noises Prohibited.

- (A) Subject to the provisions of this chapter it shall be unlawful to create any unreasonably loud,

disturbing or unnecessary noise within the limits of the city.

(B) It shall be unlawful to make any noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare.

('80 Code, § 18-2) (Ord. 1798, passed 12-20-78) Penalty, see § 133-99

§ 133-03 Disturbing Noises Defined.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of this chapter, but this enumeration shall not be deemed to be exclusive, namely:

(A) *Blowing horns or signaling devices.* The sounding or blowing of any horn or signal device on any automobile, truck, bus, motorcycle or other vehicle while not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for any unnecessary and unreasonable period of time.

(B) *Radios, phonographs, and the like.* The playing of any radio, phonograph or any other musical instrument in such a manner or with such volume, particularly between the hours of 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(C) *Yelling, shouting, and the like, on streets.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any hospital, dwelling, hotel or other type of residence, or of persons in the vicinity.

(D) *Pets.* The keeping of any animal, bird or fowl which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person in the vicinity.

(E) *Use of vehicles.* The use of any automobile, truck, bus, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(F) *Blowing whistles.* The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work, as a warning of fire or danger or upon request of proper city authorities.

(G) *Exhaust discharge.* To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. Provided, however, that the flying of controlled model airplanes, sailing of model boats or racing of model automobiles, having internal combustion engines not to exceed thirty-five hundredths cubic inch piston displacement, when used in the pursuit of a recreation hobby and at such locations as are under the jurisdiction or control of the Parks and Recreation Division of the city and only at such times as may be designated by the Parks Division shall not be deemed to be within the provisions of this division.

(H) *Noises near schools, hospitals, churches, and the like.* The creation of any excessive noise

on any street adjacent to any school, institution of learning, church or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings or session thereof. Provided, that signs must be displayed in such streets indicating that the same is a school, institution of learning, church, court or hospital.

(I) *Loading and unloading operations.* The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(J) *Loudspeakers or amplifiers on vehicles.* The use of mechanical loudspeakers or amplifiers on automobiles, trucks, busses or other moving or standing vehicles for advertising or other purposes.

(K) *Building operations; excavation of streets; permit.* The erection (including excavating), demolition, alteration or repair of any building in any residential district or section and the excavation of streets and highways in any residential district or section, other than between the hours of 6:00 a.m. and 7:00 p.m. from the first day of May to and including the 30th day of September and between the hours of 7:00 a.m. and 7:00 p.m. beginning the first day of October to and including the 30th day of April on weekdays, except in case of urgent necessity in the interest of public health and safety and then only with a permit which may be granted for a period not to exceed 30 days, while the emergency continues. If it should be determined that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours specified herein, and if he shall further determine that loss or inconvenience would not result to any party in interest, he may grant permission for such work to be done at times other than specified herein, upon application being made at the time the permit for the work is awarded or during the progress of the work.

(L) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, sale or display of merchandise.

('80 Code, § 18-3) (Ord. 1798, passed 12-20-78)

§ 133-99 Penalty.

Unless otherwise specifically provided for in this chapter, any person or corporation who shall violate any provision of this chapter shall be deemed guilty of a class 3 misdemeanor, and shall be punished as provided in § 10-99 of this code.

('80 Code, § 18-4) (Ord. 2084, passed 9-1-82)

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Mesa

CHAPTER 12

OFFENSIVE, EXCESSIVE, AND PROHIBITED NOISES (749, 1635, 2034, 2466, 2610, 3770, 4028, 4253, 4942, 4962)

SECTION:

- 6-12-1: INTRODUCTION
- 6-12-2: PROHIBITED NOISES, STANDARD
- 6-12-3: OTHER PROHIBITED NOISES
- 6-12-4: UNRULY GATHERING
- 6-12-5: ABATEMENT OF UNRULY GATHERING
- 6-12-6: GENERAL EXEMPTIONS
- 6-12-7: TEMPORARY EXEMPTIONS
- 6-12-8: PERSONS RESPONSIBLE FOR NOISE VIOLATIONS
- 6-12-9: ENFORCEMENT
- 6-12-10: PENALTY

6-12-1: INTRODUCTION:

Certain noise levels must be tolerated by all citizens in order for the normal functions of city life to continue. (4942)

However, any loud, unnecessary, or unusual noise that is excessive, disruptive, and/or annoying is subject to regulation as provided herein. (4942)

Children playing, construction equipment, barking dogs, amplified musical instruments, trash trucks, airplanes, and loud parties are all examples of noise found within our community.(4942)

6-12-2: PROHIBITED NOISES, STANDARD:

(A) The following activities are prohibited if they produce: (4942)

1. Any loud, unnecessary, or unusual noise that is excessive, disruptive, and/or annoying; and (4942)
2. Are continuous or intermittent for a period of at least fifteen (15) minutes; or (4942)
3. Occur after 10:00 p.m. but before 6:00 a.m.; and (4942)
4. Are plainly audible beyond the property line of the property on which conducted; and (4942)
5. Disturbs the peace and quiet of a neighborhood or a reasonable person of normal sensibilities or special event. (4942)

(B) Allowing or causing any noise by using, operating or permitting to be played any electronic music device, television, amplifier, musical instrument, or instrument, machine or device used for the production, reproduction or emission of sound. (4942)

- (C) Creating or allowing any noise in connection with the loading or unloading of any vehicle. (4942)
- (D) Owning, possessing, harboring or permitting any animal or bird which frequently or for continuous duration howls, barks, meows, squawks or makes other sounds. (4942)
- (E) Allowing or causing any malicious or willful shouting, yelling, screaming, or any other form of raucous vocalization by a person or group of people. (4942)

6-12-3: OTHER PROHIBITED NOISES:

- (A) Use any automobile, motorcycle or other vehicle, engine or motor of shatever size, stationary or moving, instrument, device or thing, in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise. (4942)
- (B) Operating any mechanical device operated by gasoline, or otherwise, without having a muffler, in good working order and in constant operation, to prevent excessive or unusual noise and smoke; and no person shall use a muffler cutout, bypass or similar device. (4942)
- (C) Operating or permitting the operation of any sound amplification system in or on a vehicle in such a manner or with such volume as to annoy or disturb the peace and quiet of any reasonable person of normal sensibilities or neighborhood in the vicinity. (4942)
- (D) Operating or permitting the operation of any sound amplification system in or on a vehicle in such a manner that the sound is plainly audible at a distance of fifty (50) feet, or in such a manner that it causes a perons normal sensibilities to be aware of vibration accompanying the sound at a distance of fifty (50) feet. (4942)
- (E) Maintaining or operating an outdoor speaker that is affixed to any structure or placed upon any property where: (4942)
 - 1. The speaker is audible for a distance of more than fifty (50) feet from the source; or (4942)
 - 2. The speaker is two hundred fifty (250) feet or closer to a location that is zoned or developed for residential use. This restriction shall not apply to intercommunication systems that are utilized from 9:00 a.m. to 6:00 p.m. for the sole purpose of conducting the internal business affairs of the establishment. (4942)
 - 3. This provision does not prohibit use of an outdoor speaker where a temporary exemption has been granted by the City Manager or designee. (4942)

6-12-4: UNRULY GATHERING:

A gathering of two (2) or more persons on any private or public property, including property used to conduct business, in a manner which disturbs the peace and quiet of a neighborhood or a reasonable person of normal sensibilities and/or creates noise prohibited under 6-12-2. (4942, 4962)

6-12-5: ABATEMENT OF UNRULY GATHERING:

A peace officer may abate an unruly gathering by reasonable means including, but not limited to, citation and/or order dispersal of the persons attending the gathering. (4942)

6-12-6: GENERAL EXEMPTIONS:

The following activities are exempted from the provisions of 6-12-2 and 6-12-3: (4942)

- (A) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster; to restore public utilities; or to protect persons or property from an imminent danger; (4942)
- (B) Sound made to alert persons to the existence of an emergency, danger or attempted crime; (4942)
- (C) Activities or operations of governmental units or agencies; (4942)
- (D) Parades, concerts, festivals, fairs or similar activities that have been approved by the City for a special events permit; (4942)
- (E) Athletic, musical or cultural activities or events (including practices and rehearsals) conducted by or under the auspices of public or private schools, and public or private colleges or universities; (4942)
- (F) Activity, including commercial activity, which is permitted under the zoning code. (4942)
- (G) Construction, repair, remodeling, demolition, drilling, landscape maintenance, landscaping, lawn or yard work, wood cutting, including crafts and hobbies, or excavation work conducted between 6:00 a.m. through 8:00 p.m. Mondays through Fridays. Also, a person may engage in or allow such activities at that person's residence between 6:00 a.m. and 8:00 p.m. on Saturdays or Sundays. (4942)

6-12-7: TEMPORARY EXEMPTIONS:

- (A) The City Manager or designee is authorized to grant a temporary exemption from the requirements established by this article if such temporary exemption would be in the public interest and there is no feasible and prudent alternative to the activity, or the method of conducting the activity, for which the temporary exemption is sought. (4942)
- (B) A temporary exemption must be in writing and signed by the City Manager or designee and must set forth the name of the party granted the exemption, the location of the property for which it is authorized, the date(s) and time(s) for which it is effective. (4942)
- (C) A temporary exemption may be granted only for the period of time that is reasonably necessary to conduct the activity, which in no case may exceed thirty (30) days, unless otherwise specified. (4942)
- (D) The following factors shall be considered by the City Manager or designee in determining whether to grant a temporary exemption: (4942)
 - 1. The balancing of the hardship to the applicant, the community and other persons in not granting the variance against the adverse impact on the health, safety and welfare of persons adversely affected and any other adverse effects of the granting of the variance; (4942)
 - 2. The nearness of any residence or residences, or any other use; (4942)
 - 3. The level of the sound to be generated by the event or activity; (4942)

4. Whether the type of sound to be produced by the event or activity is usual or unusual for the location or area for which the variance is requested; (4942)
5. The density of population of the area in which the event or activity is to take place; (4942)
6. The time of day or night which the activity or event will take place; (4942)
7. The nature of the sound to be produced, including but not limited to whether the sound will be steady, intermittent, impulsive or repetitive. (4942)

6-12-8: PERSONS RESPONSIBLE FOR NOISE VIOLATIONS:

- (A) The person responsible for an activity that violates this section shall be deemed responsible for the violation. (4942)
- (B) If the person responsible for an activity that violates this section cannot be determined, the owner, property manager or agent of the owner, sponsor of the event, lessee or occupant of the property on which the activity is located shall be deemed responsible for the violation. (4942)
- (C) Any person in attendance who engaged in any conduct causing the disturbance may also be deemed responsible for the violation. (4942)
- (D) After three (3) violations on the same property, in addition to the above, the owner of the property may also be deemed responsible for the violation. (4942)

6-12-9: ENFORCEMENT:

- (A) The Police Department and any other City department as designated by the City Manager is authorized to enforce the provisions of this section. A complaining member of the public shall not necessarily be required to appear in court before a violator may be found responsible for a violation of this section. (4942, 4962)
- (B) Officers responding to a complaint under the provisions of this section may: (4942)
 1. Advise the concerned parties of the violation and seek to gain voluntary compliance; or (4942)
 2. Issue a civil infraction violation. (4942)

6-12-10: PENALTY:

- (A) Any person who shall violate any of the provisions of this Chapter or of the Mesa City Code as amended herein shall be guilty of a civil infraction. (4942)
- (B) The penalty for a person found responsible for a first violation shall be a mandatory minimum fine of two hundred and fifty dollars (\$250.00); a mandatory minimum fine of five hundred dollars (\$500.00) for a second violation; and a mandatory minimum fine of two thousand and five hundred dollars (\$2,500.00) for a third or subsequent violation. (4942)
- (C) The Court may, in its own discretion, grant cost recovery for law enforcement services and/or establish a surcharge. (4942)
- (D) Each subsequent violation shall be a separate offense, punishable as hereinabove described. (4942)