

6-08-001-0001 DEFINITIONS

The following words and phrases, when used in this chapter, shall have the following meanings:

"A" BAND LEVEL MEANS THE TOTAL SOUND LEVEL OF ALL NOISE AS MEASURED WITH A SOUND LEVEL METER USING A-WEIGHTING NETWORK. THE UNIT IS THE DB(A).

AMBIENT NOISE MEANS THE ALL-ENCOMPASSING NOISE ASSOCIATED WITH A GIVEN ENVIRONMENT, BEING USUALLY A COMPOSITE OF SOUNDS FROM MANY SOURCES, NEAR AND FAR. FOR THE PURPOSE OF THIS CHAPTER, AMBIENT NOISE LEVEL IS THE LEVEL OBTAINED WHEN THE NOISE LEVEL IS AVERAGED OVER A PERIOD OF FIFTEEN (15) MINUTES WITHOUT INCLUSION OF NOISE FROM ISOLATED IDENTIFIABLE SOURCES, AT THE LOCATION AND TIME OF DAY NEAR THAT AT WHICH A COMPARISON IS TO BE MADE. AVERAGING MAY BE DONE BY INSTRUMENTAL ANALYSIS IN ACCORDANCE WITH AMERICAN NATIONAL STANDARD S. 13-1971, OR MAY BE DONE MANUALLY AS FOLLOWS:

- (1) OBSERVE A SOUND LEVEL METER FOR FIVE (5) SECONDS AND RECORD THE BEST ESTIMATE OF CENTRAL TENDENCY OF THE INDICATOR NEEDLE, AND THE HIGHEST AND LOWEST INDICATIONS.
- (2) REPEAT THE OBSERVATIONS AS MANY TIMES AS NECESSARY TO ENSURE THAT OBSERVATIONS ARE MADE AT THE BEGINNING AND THE END OF THE FIFTEEN (15) MINUTE AVERAGING PERIOD AND THAT THERE ARE AT LEAST AS MANY ADDITIONAL OBSERVATIONS AS THERE ARE DECIBELS BETWEEN THE HIGHEST HIGH INDICATION AND THE LOWEST LOW INDICATION.
- (3) CALCULATE THE ARITHMETICAL AVERAGE OF THE OBSERVED CENTRAL TENDENCY INDICATIONS.

CLEARLY AUDIBLE: Can be plainly heard by any occupant of a residence.

CONSTRUCTION EQUIPMENT: Any device or mechanical instrument operated by fuel, electric, or pneumatic power employed in the excavation, alteration, repair, demolition or construction of any building, structure, land parcel, public right of way, waterway or appurtenance thereto.

DECIBEL MEANS A SOUND PRESSURE THAT IS TWENTY (20) TIMES THE LOGARITHM TO THE BASE 10 OF THE RATIO OF THE PRESSURE OF SOUND TO THE REFERENCE PRESSURE, 2×10^{-5} NEWTON/METER².

EMERGENCY WORK MEANS WORK MADE NECESSARY TO RESTORE PROPERTY TO A SAFE CONDITION FOLLOWING A PUBLIC CALAMITY OR WORK REQUIRED TO PROTECT THE HEALTH, SAFETY OR WELFARE OF PERSONS OR PROPERTY OR WORK BY PRIVATE OR PUBLIC UTILITIES WHEN RESTORING UTILITY SERVICE.

FREQUENCY OR "FREQUENCY" OF A FUNCTION PERIODIC IN TIME SHALL MEAN THE RECIPROCAL OF THE PRIMITIVE PERIOD. THE UNIT IS THE HERTZ AND SHALL BE SPECIFIED.

IMPULSE NOISE MEANS A NOISE OF SHORT DURATION, USUALLY LESS THAN ONE (1) SECOND, WITH AN ABRUPT ONSET AND RAPID DECAY.

MICROBAR MEANS A UNIT OF PRESSURE COMMONLY USED IN ACOUSTICS AND IS EQUAL TO ONE (1) DYNE PER SQUARE CENTIMETER.

MOTOR VEHICLES MEANS ANY SELF-PROPELLED VEHICLE OPERATED WITHIN THE CITY, INCLUDING BUT NOT LIMITED TO LICENSED OR UNLICENSED VEHICLES, AUTOMOBILES, MINIBIKES, GO-CARTS AND MOTORCYCLES.

NOISE: Any sound, whether naturally or artificially produced.

PERIOD OR "PERIOD" OF A PERIODIC QUANTITY SHALL MEAN THE SMALLEST INCREMENT OF TIME FOR WHICH THE FUNCTION REPEATS ITSELF.

PERIODIC QUANTITY MEANS OSCILLATING QUANTITY, THE VALUES OF WHICH RECUR FOR EQUAL INCREMENTS OF TIME.

PERSON: Any individual, firm, partnership, joint venture, association, corporation, municipal corporation, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number.

PUBLIC PREMISES: All real property, including appurtenances thereon, which is owned or control by any governmental entity, including all public right of ways, parks and waterways.

PUBLIC SAFETY WORK: Work immediately necessary to restore property to safe condition, or work required to protect persons or property from potential danger or damage, including snowplowing or work by a public or private utility when restoring utility service.

PURE TONE NOISE MEANS ANY NOISE WHICH IS DISTINCTLY AUDIBLE AS A SINGLE PITCH (FREQUENCY) OR SET OF PITCHES AS DETERMINED BY THE ENFORCEMENT OFFICER.

RESIDENCE: A building, or portion thereof, used for living quarters. Residence includes use for temporary living quarters, including but not limited to hotels and motels.

RESIDENTIAL UNIT: A single-family residence, or that portion of a multi-family residence, designed to provide living quarters for a single family.

SOUND AMPLIFICATION SYSTEM: Any device, instrument or system, whether electrical or mechanical or otherwise for amplifying sound or for producing or reproducing sound, including but not limited to any radio, stereo, musical instrument, compact disc, or sound or musical recorder or player.

SOUND LEVEL OR "SOUND LEVEL" (NOISE LEVEL), IN DECIBELS (DB) IS THE SOUND MEASURED WITH THE A - WEIGHTING AND SLOW RESPONSE BY A SOUND LEVEL METER.

SOUND LEVEL METER MEANS AN INSTRUMENT INCLUDING A MICROPHONE, AN AMPLIFIER, AN OUTPUT METER, AND FREQUENCY WEIGHTING NETWORKS FOR THE MEASUREMENT OF SOUND LEVELS WHICH SATISFIES THE PERTINENT REQUIREMENTS IN AMERICAN STANDARD SPECIFICATIONS FOR SOUND LEVEL METERS S1.4-1971 OR THE MOST RECENT REVISION THEREOF.

6-08-01-02 NUISANCE NOISE RESIDENCES, BUSINESSES, VEHICLES

The following noise restrictions are hereby established for any area within the City:

A. NUISANCE NOISE FROM RESIDENCES AND BUSINESSES:

1. IT IS UNLAWFUL FOR ANY PERSON TO CREATE ANY NOISE WHICH WOULD CAUSE THE NOISE LEVEL MEASURED AT EITHER THE PROPERTY LINE OR WITHIN THE AREA OF THE PROPERTY AFFECTED BY THE NOISE EMISSION TO EXCEED THE FOLLOWING COMMUNITY NOISE STANDARDS:

2.

ZONE	TIME	NOISE STANDARD DB(A)
RESIDENTIAL	10:00 P.M.—7:00 A.M.	45
	7:00 A.M.—10:00 P.M.	55
COMMERCIAL	10:00 P.M.—7:00 A.M.	55
	7:00 A.M.—10:00 P.M.	65
INDUSTRIAL	10:00 P.M.—7:00 A.M.	60
	7:00 A.M.—10:00 P.M.	70

- A. IF THE MEASUREMENT LOCATION IS ON A BOUNDARY BETWEEN TWO (2) ZONING DISTRICTS, THE LOWER NOISE STANDARD SHALL APPLY.
 - B. IF THE AMBIENT NOISE LEVEL IN ANY ZONING DISTRICT IS MEASURED AND FOUND AT ANY TIME TO BE IN EXCESS OF THE COMMUNITY NOISE STANDARDS DESCRIBED IN SUBSECTION (A) OF THIS SECTION, THEN THE ACTUAL AMBIENT NOISE LEVEL WILL BE THE COMMUNITY NOISE STANDARD.
 - C. A NOISE LEVEL WHICH EXCEEDS THE COMMUNITY NOISE STANDARD BY FIVE (5) DB(A) OR MORE, WHEN MEASURED AT THE AFFECTED AREA, THE NEAREST PROPERTY LINE, OR, IN THE CASE OF MULTIPLE-FAMILY RESIDENTIAL BUILDINGS, WHEN MEASURED ANYWHERE IN ONE (1) DWELLING UNIT WITH RESPECT TO A NOISE EMANATING FROM ANOTHER DWELLING UNIT OR FROM COMMON SPACE IN THE SAME BUILDING, SHALL BE DEEMED A PRIMA FACIE VIOLATION OF THIS CHAPTER.
3. FOR THE PURPOSE OF ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER, NOISE LEVEL SHALL BE MEASURED ON THE A-WEIGHTED SCALE WITH A SOUND LEVEL METER SATISFYING AT LEAST THE APPLICABLE REQUIREMENT FOR TYPE 1 SOUND-LEVEL METERS AS DEFINED IN AMERICAN NATIONAL STANDARD S 1.4-1971 OR THE MOST RECENT REVISIONS THEREOF. THE METER SHALL BE SET FOR SLOW RESPONSE SPEED, EXCEPT THAT FOR IMPULSE NOISES OR RAPIDLY VARYING SOUND LEVELS, FAST RESPONSE SPEED MAY BE USED. PRIOR TO MEASUREMENT, THE METER SHALL BE VERIFIED, AND ADJUSTED TO ± 0.3 DECIBEL BY MEANS OF AN ACOUSTICAL CALIBRATOR.

B. NUISANCE NOISE FROM VEHICLES:

NO PERSON SHALL OPERATE EITHER A MOTOR VEHICLE OR COMBINATION OF VEHICLES AT ANY TIME OR UNDER ANY CONDITION OF GRADE, LOAD, ACCELERATION OR DECELERATION IN SUCH A MANNER AS TO EXCEED THE FOLLOWING NOISE LIMIT OF THE CATEGORY OF MOTOR VEHICLE BASED ON A DISTANCE OF FIFTY (50) FEET FROM THE CENTER OF THE LANE OR TRAVEL WITHIN THE SPEED LIMITS SPECIFIED IN THIS SECTION:

DESCRIPTION OF VEHICLE	SPEED LIMIT OF 35 MPH OR LESS	SPEED LIMIT OF MORE THAN 35 MPH
(1) ANY MOTOR VEHICLE WITH A MANUFACTURER'S GROSS VEHICLE WEIGHT RATING OF 6,000 POUNDS OR MORE, ANY COMBINATION OF VEHICLES TOWED BY SUCH MOTOR VEHICLE, AND ANY MOTOR-CYCLE OTHER THAN A MOTOR-DRIVEN CYCLE	88 DB(A)	92-DB(A)
(2) ANY OTHER MOTOR VEHICLE AND ANY COMBINATION OF VEHICLES TOWED BY SUCH MOTOR VEHICLES	82 DB(A)	86 DB(A)

C. CIVIL PENALTIES. THE CIVIL FEES FOR A RESPONSIBLE PERSON(S) ARE AS FOLLOWS:

1. FOR A FIRST NUISANCE NOISE VIOLATION THE FEE IS TWO HUNDRED FIFTY DOLLARS (\$250.00), INCLUSIVE OF ANY STATE OR CITY FINES, FEES, ASSESSMENTS OR SURCHARGES.
2. FOR A SECOND NUISANCE NOISE VIOLATION WITHIN ONE HUNDRED TWENTY (120) DAYS OF THE FIRST NUISANCE NOISE VIOLATION THE FEE IS FIVE HUNDRED DOLLARS (\$500.00), INCLUSIVE OF ANY STATE OR CITY FINES, FEES, ASSESSMENTS OR SURCHARGES.
3. FOR A THIRD OR SUBSEQUENT NUISANCE NOISE VIOLATION WITHIN ONE HUNDRED TWENTY (120) DAYS OF THE SECOND NUISANCE NOISE VIOLATION THE FEE IS ONE THOUSAND DOLLARS (\$1,000.00), INCLUSIVE OF ANY STATE OR CITY FINES, FEES, ASSESSMENTS OR SURCHARGES.

D. EACH DAY THAT A VIOLATION OF THIS CHAPTER IS PERMITTED TO CONTINUE OR OCCUR BY THE DEFENDANT SHALL CONSTITUTE A SEPARATE OFFENSE SUBJECT TO SEPARATE CITATION PURSUANT TO THE PROVISIONS OF THIS CHAPTER.

E. OTHER REMEDIES. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS AFFECTING THE ABILITY OF THE STATE TO INITIATE OR CONTINUE CONCURRENT OR SUBSEQUENT CRIMINAL PROSECUTION OF ANY RESPONSIBLE PERSONS OR OWNER FOR ANY VIOLATIONS OF THE PROVISIONS OF THE CITY CODE OR STATE LAW ARISING OUT OF THE CIRCUMSTANCES NECESSITATING THE APPLICATION OF THIS SECTION.

F. HEARING PROCEDURES.

1. A PERSON LIABLE FOR THE CIVIL FEE UNDER THIS SECTION MAY, WITHIN TEN (10) DAYS OF RECEIPT OF NOTICE OF THE VIOLATION, REQUEST A HEARING WITH A HEARING OFFICER DESIGNATED BY THE PRESIDING MAGISTRATE OF THE FLAGSTAFF MUNICIPAL COURT.

2. THE HEARING OFFICER SHALL SET A TIME AND PLACE FOR THE HEARING AS SOON AS PRACTICABLE.

3. THE HEARING SHALL BE CONDUCTED IN AN INFORMAL PROCESS TO DETERMINE WHETHER THERE IS A SUFFICIENT FACTUAL AND LEGAL BASIS TO IMPOSE THE CIVIL FEE. THE RULES OF EVIDENCE SHALL NOT APPLY; PROVIDED, THAT THE DECISION OF THE HEARING OFFICER SHALL IN ALL CASES BE BASED UPON SUBSTANTIAL AND RELIABLE EVIDENCE. ALL PARTIES TO THE HEARING SHALL HAVE THE RIGHT TO PRESENT EVIDENCE. THE CITY SHALL HAVE THE BURDEN OF ESTABLISHING BY A PREPONDERANCE OF THE EVIDENCE THAT A VIOLATION HAS OCCURRED.

4. THE DECISION OF THE HEARING OFFICER IS FINAL. A FAILURE OF THE PERSON NOTIFIED OF THE VIOLATION TO TIMELY REQUEST A HEARING OR THE FAILURE TO APPEAR AT A SCHEDULED HEARING SHALL CONSTITUTE A WAIVER OF THE RIGHT TO A HEARING OR TO CHALLENGE THE VALIDITY OF THE NOTICE OR VIOLATION.

~~A.—The noise regulations of this Chapter shall apply on Monday through Friday between the hours of twelve o'clock (12:00) A.M. and six o'clock (6:00) A.M. and on Saturday and Sunday between the hours on one o'clock (1:00) A.M. and seven o'clock (7:00) A.M.~~

~~B.—During the hours given in subsection (A), it shall be unlawful for any person, while outdoors or within a residential unit, to make or permit to be made any noise which is clearly audible within a residential unit other than that from which the noise may have originated.~~

~~C.—The standards which shall be considered in determining whether a violation of this Section exists shall include the following:~~

- ~~1.—The volume of the noise;~~
- ~~2.—Whether the nature of the noise is usual or unusual;~~
- ~~3.—Volume of background noise, if any;~~
- ~~4.—The duration of the noise.~~

6-08-001-0003 GENERAL EXCEPTIONS

The following activities are exempted from the prohibitions stated in Section 6-08-001-0002:

A. Noise created by public safety work.

B. Sound made to alert persons to the existence of an emergency, danger or attempted crime **INCLUDING NOISES OF SAFETY SIGNALS, WARNING DEVICES AND EMERGENCY PRESSURE RELIEF VALVES.**

C. Noise associated with the normal traffic of motor vehicles, aircraft or the railroads.

~~D. Bells or chimes on public buildings.~~

E. Noise created by construction equipment operated upon public premises by or on behalf of any governmental entity when the welfare or convenience of the public requires the operation of such equipment at night.

F. AIR-CONDITIONING EQUIPMENT WHEN IT IS FUNCTIONING IN ACCORD WITH MANUFACTURER'S SPECIFICATIONS AND IS IN PROPER OPERATING CONDITION PROVIDED THAT NO UNIT MAY CAUSE THE NOISE LEVEL MEASURED INSIDE ANY SLEEPING OR LIVING ROOM INSIDE ANY DWELLING UNIT TO EXCEED FORTY-FIVE (45) DB(A) BETWEEN THE HOURS OF 10:00 P.M. AND 7:00 A.M., NOR FIFTY-FIVE (55) DB(A) BETWEEN THE HOURS OF 7:00 A.M. AND 10:00 P.M.;

G. LAWN MAINTENANCE EQUIPMENT WHEN IT IS FUNCTIONING IN ACCORD WITH MANUFACTURER'S SPECIFICATIONS AND WITH ALL MUFFLERS AND NOISE-REDUCING EQUIPMENT IN USE AND IN PROPER OPERATING CONDITION;

H. NONAMPLIFIED NOISES RESULTING FROM THE ACTIVITIES SUCH AS THOSE PLANNED BY SCHOOL, GOVERNMENTAL OR COMMUNITY GROUPS;

I. NOISES RESULTING FROM ANY AUTHORIZED EMERGENCY VEHICLE WHEN RESPONDING TO AN EMERGENCY CALL OR ACTING IN TIME OF EMERGENCY;

J. NOISES RESULTING FROM EMERGENCY WORK AS DEFINED IN SECTION 6-08-001-0001;

K. NOISES OF CHURCH CHIMES OR BELLS OR CHIMES ON PUBLIC BUILDINGS; AND

6-08-001-0004 ENFORCEMENT PROCEDURE

Violations of this Chapter shall be prosecuted as civil violations of the Flagstaff City Code or in the same manner as other misdemeanor violations of the City's Code.