

CHAPTER 13 – MISCELLANEOUS PROVISIONS AND OFFENSES

Sec. 13-90 Noise; definitions.

(a) “Decibel” or “dB” means a unit that denotes the ratio between two quantities which are proportional to power; the number of decibels corresponding to the ratio of two amounts of power is ten (10) times the logarithm to the base of ten (10) of this ratio.

(b) “Law enforcement restitution” means all personal services cost attributed to the responding law enforcement officer for the amount of time actually spent in responding to or remaining at the party, gathering or event. Also includes actual costs incurred by the City for medical treatment to injured officers; costs of repair to damaged City or officer equipment; value of damaged City or officer equipment in event the same cannot be repaired.

(c) “Law enforcement special security assignment” means the assignment of law enforcement officers and services incident to a second call to a location after the distribution of a written warning to the person responsible that the party, gathering or event violates A.R.S. §13-2904 et. seq.

(d) “Noise Level” means the “A” weighed sound pressure level in decibels obtained by using a sound level meter at slow response with a reference pressure of twenty micropascals. The unit of measurement shall be designated as dBA.

(e) “Party, gathering or event” means two or more persons assembled or gathered on private property.

(f) “Person” means any individual, firm, association, partnership, joint venture or corporation.

(g) “Person responsible” means the person or entity that owns or exercises control over the property where the party, gathering or event takes place, the person in charge of the premises and/or the organizer of the event, providing the same have been provided notice of the disturbance. If the person responsible is a minor, the parents or legal guardians of that minor shall be jointly and severally liable for the law enforcement restitution irrespective of the fact the parents or legal guardians had no prior notice of the violation to the extent permitted under Title 12, Chapter 6, Article 7, Section 12-661, Arizona Revised Statutes.

(h) “Public space” means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other residential areas.

(i) “Residential area” means any real property which contains a structure or building in which one or more persons reside, provided that the structure of building is properly zoned, or is legally non conforming, for residential use in accordance with the terms and maps of the Peoria Zoning Ordinance.

(Ord. 06-32, 09/05/06,Enacted) SUPP 2006-03

Sec. 13-91. Noise; construction.

(a) Construction of buildings and other projects.

(1) Noise limitations: it shall be unlawful for any person to operate equipment or perform any outside construction or repair work on buildings, structures or projects, or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist or any other construction type device except within the time periods specified below unless an appropriate permit has been obtained beforehand from the City.

(2) Construction start/stop times: Concrete work: from April 2nd to September 29th, inclusive, concrete may be poured each day between the hours of 5:00 a.m. and 7:00 p.m. or at such other times as authorized by permit. From September 30th to April 1st, inclusive, concrete may be poured each day between the hours of 6:00 a.m. to 7:00 p.m. or at such other times as authorized by permit.

(Other type construction (residential zones): from April 2nd to September 29th, inclusive, all other construction or repair work shall not begin prior to 6:00 a.m. and must stop by 7:00 p.m. each day in, or within 500 feet of a residential zone or at such other times as authorized by permit, from September 30th to April 1st inclusive, all other construction or repair work shall not begin prior to 7:00 a.m. and must be stopped by 7:00 p.m. each day or within 500 feet of, a residential zone or at such other times as authorized by permit.

Other type construction (commercial and industrial zones) construction and repair work in commercial and industrial zones, not within 500 feet of a residential zone, shall not begin prior to 5:00 a.m. and must stop by 7:00 p.m. or at such other times as authorized by permit

(3) Permits:

Construction and repair work may be conducted at different times and at higher noise levels than otherwise permitted, if upon written application, a permit is obtained beforehand from the Building Safety Manager or his designee. The permit shall be kept on the work site and shown to City officials on request. In granting such permit. The Building Safety Manager or his designee shall consider if construction noise in the vicinity of the proposed work site would be less objectionable than during the daytime because of different population levels or different neighboring activities, if obstruction and interference with traffic, particularly on streets of major importance would be less objectionable at night than during the daytime, if the kind of work to be perform emits noises at such a low level as to not cause significant disturbance in the vicinity of the work site, if the neighborhood of the proposed work site is of such a character wherein sleep could be disturbed, if great economic hardship would occur if the work was spread over a longer time if the work will abate or prevent hazards to life or property, if proposed

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early morning or night work is in the general public interest; and, he shall prescribe such conditions working times, types of construction equipment to be used, and Permissible noise emissions as he deems to be required in the public interest. No permit shall be required to perform emergency work to prevent or alleviate physical trauma or property damage threatened or caused by an emergency which has or may result in a disruption of service and which is necessary to protect the health, safety and welfare of persons or property.

- (4) Revocation of permits. The Building Safety Manager or his designee may revoke any permit granted hereunder upon complaint based upon substantial evidence that the construction activity caused significant disturbance in the vicinity of the work site.

(Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03

Sec. 13-92. Noise; general prohibitions.

(a) No person shall make, continue, or cause to be made or continued:

(1) any unreasonably loud or raucous noise; or

(2) any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity; It shall be presumed that any noise heard more than 50 feet from the source is unreasonably loud or raucous,

(3) any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

(b) create any noise that would exceed the noise level measured from fifty (50) feet from the property line where the noise is generated exceeding the following community noise standards

Zoning District Type	Time	Noise Standard (dBA)
Residential	6:00 a.m. – 10:00 p.m.	65
Residential	10:00 p.m. – 6:00 a.m.	55
Commercial	6:00 a.m. – 10:00 p.m.	70
Commercial	10:00 p.m. – 6:00 a.m.	65
Industrial	6:00 a.m. – 10:00 p.m.	80
Industrial	10:00 p.m. – 6:00 a.m.	70

1. For purposes of this section in any multiple use zoning district, the zoning district type governing the majority of the property shall govern for purposes of this ordinance.

(c) Factors for determining whether a sound is unreasonably loud or raucous include, but are not limited to, the following:

(1) The proximity of the sound to sleeping facilities, whether residential or commercial;

(2) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;

(3) The time of day or night the sound occurs; It shall be presumed that noise made between 10:00 p.m. and 6:00 a.m. is loud, raucous and/or reasonably disturbing.

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- (4) The duration of the sound; and
- (5) Whether the sound is recurrent, intermittent, or constant. (Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03

Sec. 13-93. Noise; specific prohibitions.

The following acts are declared to be per se violations of this section. This enumeration does not constitute an exclusive list:

(a) Unreasonable Noises: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.

(b) Vehicle Horns, Signaling Devices, and Similar Devices: The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of the Local Government, for more than twenty (20) consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning or as an alarm is exempt from this prohibition.

(c) Non-Emergency Signaling Devices: Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten (10) consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the City for traffic control purposes are exempt from the operation of this provision.

(d) Emergency Signaling Devices: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in Subsections (1) and (2), below.

(1) Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

(2) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within fifteen (15) minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this Ordinance.

(e) Yelling, Shouting, and Similar Activities: Yelling, shouting, hooting, whistling, or singing in residential or noise sensitive areas or in public places, between the

hours of 10:00 p.m. and 6:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.

(f) Loading or Unloading Merchandise, Materials, Equipment: The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence between the hours of 10:00 p.m. and 6:00 a.m. on weekdays and 11:00 p.m. and 8:00 a.m. on weekends.

(g) Loading of Vehicles and/or Opening or Destruction of Containers. The loading or unloading of any vehicle or to open or destroy bales, boxes, crates or other containers in such a manner as to create excessive or offensive noise.

(h) Noise Sensitive Areas - Schools, Courts, Churches, Hospitals, Funeral Homes and Skilled Care Institutions: The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the persons or scheduled events in these institutions; provided that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the streets surrounding the noise sensitive area.

(i) Blowers, and Similar Devices: In residential or noise sensitive areas, between the hours of 10:00 p.m. and 6:00 a.m., the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.

(j) Commercial Establishments Adjacent to Residential Property: Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and 11:00 p.m. and 8:00 a.m. on weekends. It shall be presumed that such noise is unreasonable if plainly audible at a distance of fifty (50) from the boundary line of the commercial establishment. If there is a shared parking facility, the shared parking facility shall be not be included in the boundary calculation.

(Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03

Sec. 13-94. Noise; Sound Amplifying Equipment

(a) It shall be unlawful for any person to practice, play, or conduct live band activities using sound amplifying equipment or to use Radios, Televisions, Boomboxes, Phono-graphs, Stereos, Musical Instruments and Similar Devices: in such a manner that the noise level produced exceeds 55dBA. The noise shall be measured at a distance of at least twenty five feet (25') from the property line of the property on which the noise source is located.

(b) It shall be unlawful for any person to use any of the following: Radio, Television, Boomboxes, Phono-graphs, Stereos, Musical Instruments and similar devices to create or permit excessive and unreasonably loud or raucous noise. It shall be presumed that such noise is unreasonably loud or raucous when such noise is plainly audible at a distance of 50 feet from the property line or location where such noise is being generated.

(1) The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings. It shall be presumed that a sound that is plainly audible to a person at a distance of more than 50 feet of the source unreasonably disturbs the peace, quiet and comfort of neighbors in residential or noise sensitive areas.

(c) Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices: The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound between the hours of 10:00 p.m. and 6:00 a.m. on weekdays, and 11:00 p.m. and 8:00 a.m. on weekends and holidays in the following areas:

(1) Within or adjacent to residential or noise-sensitive areas;

(2) Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous.

This shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the City.

(Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03

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Sec. 13-95. Noise; vehicular repairs and exhausts.

(a) It shall be unlawful for any person within any residentially zoned area of the City to repair, rebuild or test any motor vehicle between the hours of ten (10:00) p.m. of one day and seven (6:00) a.m. of the next day in such a manner as to create an excessive or offensive noise or in such a manner that the noise produced by such activity exceeds 55dBA when measured at the residential property line of the property where the vehicle is being repaired.

(b) It shall be unlawful for any person to operate or cause to operate any motor vehicle unless the exhaust system of such vehicle is:

(1) Free from defects which may affect sound level magnification

(2) Equipped with a muffler

(Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03

Sec. 13-96. Noise; noise sensitive areas

(a) The owner of a School, Courts, Churches, Hospitals, Funeral Homes, Cemeteries and Skilled Care Institutions may file an application with the Community Development Director requesting the creation of a Noise Sensitive Area consisting of a buffer of not more than 500 feet surrounding the exterior boundaries of the property. The Community Development Department may charge a fee for such applications in the amount provided in Chapter 2 of this Code.

(1) For purposes of schools and courts, the owner is defined as the Superintendent of the District or the Chief Administrative Officer of the political subdivision that operates the Court.

(b) The Community Development Director shall verify that the application is from a qualified use and that the applicant agrees to pay the cost for the installation and maintenance of all signage installed by the City designating the zone.

(Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03

Sec. 13-97. Noise; exemptions.

The following uses and activities shall be exempt from the provisions contained in Sections 13-90 through Sections 13-94

(1) Heating and cooling equipment when it is functioning in accordance with manufacturer's specifications and is in proper operating condition.

(2) Landscape maintenance equipment when it is functioning in accordance with the manufacturer's specifications and with all mufflers and noise-reducing equipment in use and in proper operating condition.

(3) Motor vehicles on streets and roadways of the City, provided that the prohibition of section 13-93(b) and section 13-95 continues to apply.

(4) Noises of safety signals, warning devices and emergency pressure relief valves;

(5) Noises resulting from any authorized emergency vehicle when responding to an emergency all or acting in time of emergency;

(6) Noises resulting from emergency work repairs of telecommunications and/or utility structures to prevent or alleviate physical trauma or property damage threatened or caused by an emergency which has or may result in a disruption of service and which is necessary to protect the health, safety and welfare of persons or property.

(7) Noises from the normal operation of railroad trains.

(8) Noises resulting from repairs or excavations of bridges, streets or highways by or on behalf of the City or the State or a political subdivision of the State between the hours of 7:00 p.m. and 7:00 a.m., when the public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 7:00 p.m., in accordance with the permits granted by the City under Chapter 23 of this code.

(9) Reasonable activities conducted on City parks and public or charter school grounds in accordance with the rules and regulations of the City, district or charter schools and conducted in accordance with the manners in which such spaces are generally used. Outdoor gatherings, public dances, shows and sporting events and other similar outdoor events, provided a permit has been obtained from the City and in accordance with the terms of the permit.

(Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03

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Sec. 13-98. Noise; second response; definitions

(a) "Party, gathering or event" means two or more persons assembled or gathered on private property.

(b) "Law enforcement restitution" means all personal services cost attributed to the responding law enforcement officer for the amount of time actually spent in responding to or remaining at the party, gathering or event. Also includes actual costs incurred by the City for medical treatment to injured officers; costs of repair to damaged City or officer equipment; value of damaged City or officer equipment in event the same cannot be repaired.

(c) "Law enforcement special security assignment" means the assignment of law enforcement officers and services incident to a second call to a location after the distribution of a written warning to the person responsible that the party, gathering or event violates A.R.S. §13-2904 et. seq.

(d) "Person responsible" means the person or entity that owns or exercises control over the property where the party, gathering or event takes place, the person in charge of the premises and/or the organizer of the event, providing the same have been provided notice of the disturbance. If the person responsible is a minor, the parents or legal guardians of that minor shall be jointly and severally liable for the law enforcement restitution irrespective of the fact the parents or legal guardians had no prior notice of the violation to the extent permitted under Title 12, Chapter 6, Article 7, Section 12-661, Arizona Revised Statutes.

(Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03

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Sec. 13-99. Noise; second response; warning notice.

(a) When a complaint is received concerning noise, loud or offensive language coming from a party, gathering or event, law enforcement officer(s) on special security assignment shall respond to the location of the party, gathering or event and provide written notification to the person(s) responsible that the party, gathering or event is disturbing the peace and/or quiet of a person, family or neighborhood in violation of A.R.S. Section 13-2904 and a subsequent call to the location and each and every call thereafter will result in a criminal citation issued to the person(s) in charge and/or arrest, carrying with it a mandatory law enforcement restitution assessment of not less than \$200.00, together with a fine of not more than \$2,500 and possible jail and probation.

(b) The police chief may promulgate forms to meet the requirements of this chapter.

(Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03

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Sec. 13-100. Noise; second response; law enforcement services restitution.

(a) A violation of sections 13-90-13-97 of this code shall include assessment of mandatory restitution in an amount determined by the court. Restitution shall be imposed as a term of probation sentence, in addition to fines, assessments, surcharges and incarceration costs to cover the cost of personnel and equipment in the law enforcement special assignment.

(b) A charge shall be imposed for the second and subsequent response to a party, gathering or event. If the actual cost to the City exceeds two hundred dollars (\$200.00), The City Manager or his designee shall charge the actual cost of the second or subsequent response.

(c) The City Attorney shall request restitution for all charges imposed by the City.

(d) The entry of a restitution order by the court shall not preclude the City from maintaining a separate civil action for charges and damages for second and subsequent responses under this chapter. The prevailing party in any civil action for recovery of charges and damages for second and subsequent responses shall be entitled to recover taxable costs and reasonable attorney fees in the manner provided by Title 12, Chapter 3, Article 5, Arizona Revised Statutes.

(e) In event the person charged is a minor, the court may award restitution against the parents or legal guardians of the minor to the extent permitted by Title 8, Chapter 2, Article 4, Arizona Revised Statutes. Nothing herein shall preclude the City from maintaining a separate civil action for charges and damages for second and subsequent responses against the parents and legal guardians of any minor charged with a violation of Sections 13-90 - 13-97 of this code.

(Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03

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Sec. 13-101. Noise; second response; payments, time, methods, non payments.

(a) Payment and enforcement of restitution takes priority over amounts ordered to be paid by the court. The restitution shall be paid to the court who shall transfer the amounts to the finance department in the same manner and method as other court revenues.

(b) If a defendant sentenced to pay a restitution assessment under sections 13-96-13-99 of this code defaults in the payment of such restitution assessment, the court shall notify the City Attorney. The court on motion of the City Attorney, or the court on its own motion, shall require the defendant to show cause why the defendant's default should not be treated as contempt and may issue a summons or a warrant of arrest for his appearance.

(c) The court shall process such motions in the manner provided by Title 13, Chapter 8, Section 13-810, Arizona Revised Statutes.

(d) The City Attorney may file a petition in the court requesting defendant's probation be revoked.

Sec. 13-101. Reserved.

(Code 1977, § 5-1-6)

(Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03

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Sec. 13-102. Noise; enforcement.

(a) The following individuals shall enforce sections 13-90 through section 13-99 of the code: The Police Department will have primary responsibility for the enforcement of the noise regulations contained herein, to the extent that they are punishable by civil penalties. If such regulations are punishable as a criminal offense, they shall be enforced by the Police Department.

(b) If a person's conduct would otherwise violate sections 13-90 -13-100 of this code and consists of speech or communication; of a gathering with others to hear or observe speech or communication; or of a gathering with others to picket or otherwise express in a non-violent manner a position on social, economic, political or religious questions; the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

(Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03

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Sec. 13-103. Noise; penalties.

(a) The remedies herein are cumulative and the City may proceed under one or more such remedies.

(b) Any owner or responsible party, who causes, permits, facilitates, or aids or abets any violation of any provision of this Chapter or who fails to perform any act or duty required by the Chapter is subject to a civil sanction in accordance with a schedule adopted by the Presiding Judge of Municipal Court, the minimum sanction shall not be less than one hundred and fifty dollars or more than two thousand five hundred dollars.

(c) In the alternative, Any owner, responsible party, or other person having control over a structure or parcel of land who causes, permits, facilitates, or aids or abets any violation of any provision of the Chapter or who fails to perform any act or duty required by the Chapter is guilty of a Class 1 misdemeanor.

(d) Any person convicted of a violation of the Ordinance shall be sentenced to a fine or found responsible for a civil penalty of not less than one hundred and fifty dollars.

(e) Each day any violation of any provision of this Chapter or the failure to perform any act or duty required by this Chapter exists shall constitute a separate violation or offense.

(Ord. No. 06-32, 09/05/06, Enacted) SUPP 2006-03