

Vehicle Noise Code Amendments

~~6-08-001-0004 ENFORCEMENT PROCEDURE~~ **VEHICLE NOISE**

~~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.~~

A. DEFINITIONS

THE FOLLOWING WORDS AND PHRASES, WHEN USED IN THIS SECTION SHALL HAVE THE FOLLOWING MEANINGS:

A-WEIGHTING: THE SOUND LEVEL OF NOISE AS MEASURED WITH A METER USING THE A-WEIGHTING NETWORK, THIS UNIT IS DB(A)

C-WEIGHTING: THE SOUND LEVEL OF NOISE AS MEASURED WITH A METER USING THE C-WEIGHTING NETWORK, THIS UNIT IS DB(C)

CLEARLY AUDIBLE: CAN BE PLAINLY HEARD BY A PERSON WITH NORMAL HEARING.

DECIBEL (DB): THE VALUE IS EQUAL TO 20 TIMES THE LOGARITHM TO THE BASE 10 OF THE RATIO OF THE MEASURED SOUND PRESSURE TO THE REFERENCE PRESSURE, WHERE THE REFERENCE PRESSURE IS TWO TIMES 10^{-5} NEWTON/METER².

FREQUENCY: THE FREQUENCY OF A SOUND IS THE NUMBER OF PRESSURE CYCLES OCCURRING IN A UNIT OF TIME. THE UNIT OF FREQUENCY IS HERTZ (HZ), I.E., CYCLES PER SECOND.

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

LMAX: (MAXIMUM LEVEL) MEANS THE LOUDEST SOUND LEVEL OVER A SAMPLE PERIOD. LMAX IS EXPRESSED IN DB(A) OR DB(C). LMAX IS FAST-WEIGHTED FOR IMPULSE NOISES AND SLOW-WEIGHTED FOR CONTINUOUS NOISE.

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

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 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 THAT IS DISTINCTLY AUDIBLE AS A SINGLE PITCH (FREQUENCY) OR SET OF PITCHES AS DETERMINED BY THE ENFORCEMENT OFFICER.

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 NOISE LEVEL: IS THE SOUND INTENSITY MEASURED WITH A SOUND LEVEL METER SET TO A-WEIGHTING WITH THE UNIT OF MEASUREMENT DB(A), OR C-WEIGHTING WITH THE UNIT OF MEASUREMENT DB(C).

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 FOR TYPE I OR TYPE II EQUIPMENT.

B. VEHICLE NOISE LIMITS

THE FOLLOWING NOISE RESTRICTIONS ARE HEREBY ESTABLISHED FOR ANY AREA WITHIN THE CITY FOR VEHICLE NOISE:

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 MEASURED FROM OUTSIDE OF THE TRAFFIC LANE OR AT A GREATER DISTANCE:

LOCATION OF VEHICLE	LEGAL SPEED LIMIT OF 35 MPH OR LESS	LEGAL SPEED LIMIT OF MORE THAN 35 MPH
(1) ANY MOTOR VEHICLE WITH A MANUFACTURER'S GROSS VEHICLE WEIGHT RATING OF 26,000 POUNDS OR MORE, ANY COMBINATION OF VEHICLES TOWED BY SUCH MOTOR VEHICLE, AND ANY MOTOR-CYCLE OTHER THAN AN ELECTRIC BICYCLE	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. MEASUREMENT CRITERIA

FOR THE PURPOSE OF ENFORCEMENT OF THE PROVISIONS OF THIS SECTION, NOISE LEVEL SHALL BE MEASURED ON THE A-WEIGHTED SCALE WITH A TYPE I OR TYPE II SOUND LEVEL METER. THE METER SHALL BE SET FOR SLOW RESPONSE SPEED, EXCEPT FOR IMPULSE NOISES OR RAPIDLY VARYING SOUND LEVELS, FAST RESPONSE SPEED MAY BE USED. PRIOR TO MEASUREMENT, THE METER SHALL BE CALIBRATED, AND ADJUSTED ACCORDING TO THE MANUFACTURER'S SPECIFICATIONS

D. CIVIL PENALTIES

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

1. FOR A FIRST VEHICLE NOISE VIOLATION A WARNING SHALL BE ISSUED.
2. FOR A SECOND VEHICLE NOISE VIOLATION WITHIN ONE HUNDRED TWENTY (120) DAYS OF THE FIRST VEHICLE NOISE VIOLATION THE FEE IS ONE HUNDRED AND FIFTY DOLLARS (\$150.00), INCLUSIVE OF ANY STATE OR CITY FINES, FEES, ASSESSMENTS, OR SURCHARGES.
3. FOR A THIRD OR SUBSEQUENT VEHICLE NOISE VIOLATION WITHIN ONE HUNDRED TWENTY (120) DAYS OF THE SECOND NUISANCE NOISE VIOLATION THE FEE IS TWO HUNDRED AND FIFTY DOLLARS (\$250.00), INCLUSIVE OF ANY STATE OR CITY FINES, FEES, ASSESSMENTS, OR SURCHARGES.
4. EACH DAY THAT A VIOLATION OF THIS ORDINANCE IS PERMITTED TO CONTINUE OR OCCUR BY THE DEFENDANT SHALL CONSTITUTE A SEPARATE OFFENSE SUBJECT TO SEPARATE CITATION PURSUANT TO THE PROVISIONS OF THIS ORDINANCE.

F. OTHER REMEDIES

NOTHING IN THIS ORDINANCE SHALL BE CONSTRUED AS AFFECTING THE ABILITY OF THE STATE TO INITIATE OR CONTINUE CONCURRENT OR SUBSEQUENT CRIMINAL PROSECUTION OF ANY PERSON FOR ANY VIOLATIONS OF THE PROVISIONS OF THE CITY CODE OR STATE LAW ARISING OUT OF THE CIRCUMSTANCES NECESSITATING THE APPLICATION OF THIS ORDINANCE.

G. 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.