

6-08-001-0001 DEFINITIONS

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

“A-Weighting”, means the sound level of noise as measured with a meter using the A-weighting network, this unit is dB(A)

“C-WEIGHTING” means 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 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.

DECIBELS, in this chapter DECIBEL is defined as twenty (20) times the base 10 logarithm of the measured sound pressure divided by the reference sound pressure of 2×10^{-5} Newton/meter². That is $20 \log_{10}$ (measured sound pressure/reference sound pressure).

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 of a sound shall mean the reciprocal of the fundamental period, that is the number of oscillation cycles per unit time. The unit is hertz (cycles per second) 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.

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 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 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.

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 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 a 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.

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

The following noise restrictions are hereby established for any area within the City and apply separate and apart from any other sections within this chapter:

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:

OPTIONS AVAILABLE FOR COUNCIL:

Council can choose different times or different noise decibel levels

OPTION #1 (standard chart used in other city ordinances)

Zone	Time	Noise Standard dB(A)
Residential	10:00 p.m.—7:00 a.m.	45
Residential	7:00 a.m.—10:00 p.m.	55
Commercial	10:00 p.m.—7:00 a.m.	55
Commercial	7:00 a.m.—10:00 p.m.	65
Industrial	10:00 p.m.—7:00 a.m.	60
Industrial	7:00 a.m.—10:00 p.m.	70

OPTION #2 (adds a C-weighting scale to address concerns over bass)

Zone	Time	Noise Standard
Residential	10:00 p.m.—7:00 a.m.	45 dB(A) or 50 dB(C)
Residential	7:00 a.m.—10:00 p.m.	55 dB(A) or 60 dB(C)
Commercial	10:00 p.m.—7:00 a.m.	55 dB(A) or 60 dB(C)
Commercial	7:00 a.m.—10:00 p.m.	65 dB(A) or 70 dB(C)
Industrial	10:00 p.m.—7:00 a.m.	60 dB(A) or 65 dB(C)
Industrial	7:00 a.m.—10:00 p.m.	70 dB(A) or 75 dB(C)

- a. If the measurement location is on a boundary between two (2) zoning districts, the lower noise standard shall apply.
- b. Where a zone has an approved use of mixed residential and commercial the noise standard level shall be:

OPTION A: The residential standard of 45 and 55

OPTION B: The commercial standard of 55 and 65

OPTION C: Another standard as chosen by Council.

2. For the purpose of enforcement of the provisions of this chapter, noise level shall be measured on the A-weighted or C-weighted scale, as applicable, 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. Prior to and after the measurement is taken, the meter shall be verified, within the manufacturer's recommended timeframe, and adjusted to ± 0.5 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 measured from:

OPTIONS FOR COUNCIL IN TERMS OF WHERE THE MEASUREMENT IS TO BE TAKEN FROM:

OPTION #1 a distance of fifty (50) feet, or more, from the center of the lane of travel,

OPTION #2 outside the lane of travel of the motor vehicle or further.

OPTION #3 from the sidewalk adjacent to the roadway where the vehicle is traveling.

OPTIONS FOR VEHICLE NOISE STANDARDS:

OPTION A (allows for a higher standard on streets where cars are allowed to go faster)

Location of Vehicle	Posted Speed limit of 35 mph or less	Posted 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)

OPTION B (does not have different standards based on the speed limit of the street)

(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)
(2) Any other motor vehicle and any combination of vehicles towed by such motor vehicles	82 dB(A)

C. Civil Penalties. The civil fees for a responsible person(s) are as follows:

OPTIONS FOR COUNCIL TO DETERMINE THE FINES FOR THIS VIOLATION COUNCIL CAN CHOOSE ANY AMOUNT INCLUSIVE OF ANY COURT FEES.

OPTION X (same penalties as the Nuisance Party Ordinance)

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.

OPTION Z

1. For a first nuisance noise violation the fee is one hundred fifty dollars (\$150.00), 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 two hundred dollars (\$200.00), 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 two hundred and fifty dollars (\$250.00), 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.~~ D. 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.
- E. 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.;
- F. 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;
- G. Nonamplified noises resulting from the activities such as those planned by school, governmental or community groups;
- H. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
- I. Noises resulting from emergency work as defined in Section 6-08-001-0001; and
- J. Noises of church chimes or bells or chimes on public buildings.

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.