

## NOISE CONTROL AMENDMENTS

### **6-08-001-0001 DEFINITIONS NUISANCE NOISE**

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

1. BUSINESS: A COMMERCIAL OR INDUSTRIAL ENTERPRISE LICENSED BY THE CITY OF FLAGSTAFF.

2. EMERGENCY WORK: MEANS ANY WORK PERFORMED TO PREVENT OR ALLEVIATE PHYSICAL TRAUMA OR PROPERTY DAMAGE THREATENED OR CAUSED BY AN EMERGENCY THAT HAS RESULTED OR MAY RESULT IN A DISRUPTION OF SERVICE AND WHICH IS 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.

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

3. COMMUNITY GROUP: IS A GROUP OF PEOPLE WHO WORK TOGETHER FOR A COMMON PURPOSE OR INTEREST AND MAY PROVIDE SUPPORT FOR EACH OTHER. FOR PURPOSES OF THIS SECTION A COMMUNITY GROUP DOES NOT INCLUDE A BUSINESS.

4. 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.

5. NOISE: Any sound, whether naturally or artificially produced.

6. PERSON: Any individual, firm, partnership, joint venture, BUSINESS, 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.

7. PERVASIVE: PRESENT OR FELT THROUGHOUT A PLACE.

8. PRINCIPAL: THE OWNER, MANAGER, SUPERVISOR OR OTHER PERSON IN CHARGE OF RUNNING THE BUSINESS.

9. 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.

10. 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.

11. 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.

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

13. SUSTAINED: CONTINUING FOR AN EXTENDED PERIOD.

~~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.~~

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

1. THE NOISE REGULATIONS OF THIS CHAPTER SHALL APPLY ON SUNDAY THROUGH THURSDAY BETWEEN THE HOURS OF TWELVE O'CLOCK (12:00) A.M. AND SIX O'CLOCK (6:00) A.M. AND ON FRIDAY AND SATURDAY BETWEEN THE HOURS OF ONE O'CLOCK (1:00) A.M. AND SEVEN O'CLOCK (7:00) A.M.

2. DURING THE HOURS GIVEN IN SUBSECTION (1), IT SHALL BE UNLAWFUL FOR ANY PERSON, BUSINESS, OR PRINCIPAL(S) OF A BUSINESS, TO MAKE OR PERMIT TO BE MADE A SUSTAINED AND PERVASIVE NOISE THAT CAUSES AN UNREASONABLE DISTURBANCE OF THE PEACEFUL ENJOYMENT OF ANOTHER PERSON.

3. MEASUREMENT CRITERIA: FOR THE PURPOSES OF ENFORCEMENT OF THE PROVISIONS OF THIS SECTION, WHETHER THE NOISE IS CLEARLY AUDIBLE SHALL BE DETERMINED FROM THE PROPERTY OF THE INDIVIDUAL WHO IS REPORTING THEY ARE DISTURBED BY THE NOISE.

C. THE FOLLOWING ACTIVITIES ARE EXEMPTED FROM THE PROHIBITIONS STATED IN SECTION (B)

1. NOISE CREATED BY PUBLIC SAFETY WORK.

2. SOUND MADE TO ALERT PERSONS TO THE EXISTENCE OF AN EMERGENCY DANGER OR ATTEMPTED CRIME INCLUDING NOISES OF SAFETY SIGNALS, WARNING AND ALARM DEVICES OR SHOUTS, EMERGENCY GENERATORS, STORM WARNING SIRENS, EMERGENCY PRESSURE RELIEF VALVES AND THE AUTHORIZED TESTING OF SUCH EQUIPMENT.

3. NOISE ASSOCIATED WITH THE NORMAL TRAFFIC OF AIRCRAFT OR THE RAILROADS.

4. ROAD AND STREET NOISE GENERATED FROM THE NORMAL OPERATION OF TRAFFIC EXCEPT IF IN VIOLATION OF 6-08-001-0002 VEHICLE NOISE, OR ANY EMERGENCY OR SAFETY WARNING DEVICES, SUCH AS, BUT NOT LIMITED TO, VEHICLE HORNS OR BACKUP BEEPERS.

5. 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.

6. AIR-CONDITIONING EQUIPMENT WHEN IT IS FUNCTIONING IN ACCORD WITH MANUFACTURER'S SPECIFICATIONS AND IS IN PROPER OPERATING CONDITION.

7. SPECIAL EVENTS FOR WHICH A PERMIT HAS BEEN OBTAINED FROM THE CITY, SO LONG AS SAID EVENT IS CONDUCTED IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE PERMIT.

8. NONAMPLIFIED NOISES RESULTING FROM THE ACTIVITIES SUCH AS THOSE PLANNED BY THE SCHOOL, GOVERNMENTAL OR COMMUNITY GROUPS OR DULY AUTHORIZED BY THOSE GROUPS.

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

10. NOISES RESULTING FROM EMERGENCY WORK AS DEFINED IN SECTION A.

11. NOISES OF CHURCH CHIMES OR BELLS OR CHIMES ON PUBLIC BUILDINGS.

12. SOUND FROM ANY MOBILE GARBAGE COLLECTION VEHICLE OR SNOW REMOVAL EQUIPMENT.

13. THE OPERATION OF POWER TOOLS AND LAWN MAINTENANCE EQUIPMENT BETWEEN THE HOURS OF 7:00 A.M. AND 8:00 P.M. ON WEEKDAYS, OR BETWEEN THE HOURS OF 9:00 A.M. AND 8:00 P.M. ON WEEKENDS OR FEDERAL AND STATE HOLIDAYS. ALL ENGINE-DRIVEN EQUIPMENT USED IN THESE ACTIVITIES SHALL BE OPERATED WITH A MUFFLER OR NOISE-REDUCING EQUIPMENT IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS. THE OPERATION OF POWER TOOLS AND LAWN MAINTENANCE EQUIPMENT, EXCLUDING EMERGENCY WORK AT ALL OTHER TIMES SHALL BE SUBJECT TO THE RESTRICTIONS IN SECTION B.

14. PUBLIC OR UTILITY-OWNED OR OPERATED STATIONARY MECHANICAL EQUIPMENT SO LONG AS SUCH EQUIPMENT IS PROPERLY FUNCTIONING PURSUANT TO MANUFACTURER'S SPECIFICATIONS.

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

1. FOR A FIRST NUISANCE NOISE VIOLATION A WARNING SHALL BE ISSUED.

2. FOR A SECOND NUISANCE NOISE VIOLATION WITHIN ONE HUNDRED TWENTY (120) DAYS OF THE FIRST NUISANCE 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 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.

4. FOR A FOURTH OR SUBSEQUENT NUISANCE NOISE VIOLATION WITHIN ONE HUNDRED TWENTY (120) DAYS OF THE THIRD NUISANCE NOISE VIOLATION THE FEE IS FIVE HUNDRED DOLLARS (\$500.00), INCLUSIVE OF ANY STATE OR CITY FINES, FEES, ASSESSMENTS OR SURCHARGES.

E. EACH DAY THAT A VIOLATION OF THIS CHAPTER IS PERMITTED TO CONTINUE OR OCCUR BY THE PERSON OR BUSINESS CAUSING OR PERMITTING THE NOISE SHALL CONSTITUTE A SEPARATE OFFENSE SUBJECT TO SEPARATE CITATIONS PURSUANT TO THE PROVISIONS OF THIS CHAPTER.

F. 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.

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.

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

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**

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The following activities are exempted from the prohibitions stated in Section 6-8-2:

A. ~~Noise created by public safety work.~~

B. ~~Sound made to alert persons to the existence of an emergency, danger or attempted crime.~~

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.~~

#### **6-08-001-0002 ~~6-08-001-0004~~ VEHICLE NOISE**

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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 twenty (20) times the logarithm to the base ten (10) of the ratio of the measured sound pressure to the reference pressure. Where the reference pressure is two (2) times  $10^{-5}$  newton/meter<sup>2</sup>.

**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:

<b>Location of Vehicle</b>	<b>Legal Speed Limit of 35 mph or Less</b>	<b>Legal Speed Limit of More Than 35 mph</b>
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 motorcycle other than an electric bicycle	88 dB(A)	92 dB(A)
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 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 fifty dollars (\$250.00), inclusive of any State or City fines, fees, assessments, or surcharges.
4. Each day that a violation of this section is permitted to continue or occur by the defendant shall constitute a separate offense subject to separate citation pursuant to the provisions of this section.

F. **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 person for any violations of the provisions of the City Code or State law arising out of the circumstances necessitating the application of this section.

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.

### **6-08-001-0003 ~~6-08-001-0005~~ NUISANCE PARTIES**

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A. Findings. The City Council of Flagstaff finds and determines that unruly parties held on private property may constitute a nuisance which is a threat to the peace, health, safety and welfare of the general public. Police officers have been required to make repeated responses to unruly parties to abate the nuisance and to disperse uncooperative or unruly participants to restore the public peace and welfare. Such repeat calls deplete the manpower and resources of the Police Department and can leave other areas of the City with compromised levels of police protection so as to create a significant threat to the safety of both citizens and police officers alike.

B. Purpose. The purpose of this section is to deter criminal behavior associated with and related to nuisance parties which have been determined to be a threat to the peace, health, safety or welfare of the general public.

C. Definitions. For the purposes of this section, the following definitions apply, unless the context in which they are used clearly requires otherwise:

1. "Owner" means the owner of any property, as well as any agent of an owner who acts on behalf of the owner to control or otherwise regulate the occupancy or use of the property.

2. "Premises" means the property that is the site of a nuisance party. For residential properties, "premises" means the dwelling unit or units where the nuisance party occurs.

3. "Nuisance party" means a gathering of five (5) or more persons on any private property, including property used to conduct business, in a manner which causes a disturbance of the quiet enjoyment of private or public property by any person or persons. Such disturbances may include, but are not limited to, excessive noise or traffic, obstruction of public streets by crowds or vehicles, drinking in public, the service of alcohol to minors or consumption of alcohol by minors, fighting, disturbing the peace, and littering.

4. "Responsible person" means any person in attendance who engaged in a nuisance party, including any owner who is in attendance, occupant, tenant, guest or any sponsor, host or organizer of the nuisance party. "Responsible person" does not include owners or persons in charge of premises where a nuisance party takes place if the persons in attendance obtained use of the premises through illegal entry or trespassing.

5. "Minor" means any person under the age of twenty-one (21) years.
6. "Officer" and/or "police officer" means a duly sworn peace officer in the State of Arizona.

D. Nuisance Party. A nuisance party is unlawful and constitutes a civil infraction.

1. When a police officer responds to the first nuisance party and while at the scene determines that there is a threat to the public peace, health, safety or general welfare, the officer shall issue a written notice of violation to any responsible person(s). The responsible person(s) will be assessed a civil fee as set forth in subsection (E) of this section.

a. On a first response to a nuisance party, the responsible person(s) shall be assessed a fee commensurate with a second nuisance party, as set forth in subsection (E) of this section, for a first nuisance party if any of the following crimes are being committed at the first nuisance party:

- (1) Minor in possession of alcohol;
- (2) Minor in consumption of alcohol;
- (3) Possession or use of illegal drugs;
- (4) Weapons misconduct, in violation of A.R.S. Section 13-3102; or
- (5) Any felony offense.

2. If, after a written notice of a violation is issued, police respond for a second time to the same premises for a nuisance party within one hundred twenty (120) days of the first response, such response shall be deemed a second nuisance party and any responsible person(s) as well as the owner of the premises will be issued a written notice of a second violation and assessed a civil fee as set forth in subsection (E) of this section. Notice to any responsible person(s) and the owner shall be provided in the same manner as set forth in subsection (D)(4) of this section.

a. On any response to a second nuisance party, the responsible person(s) shall be assessed a fee commensurate with a third response fee, as set forth in subsection (E) of this section, for a second nuisance party if any of the following crimes are being committed at the nuisance party:

- (1) Minor in possession of alcohol;
- (2) Minor in consumption of alcohol;
- (3) Possession or use of illegal drugs;
- (4) Weapons misconduct in violation of A.R.S. Section 13-3102; or
- (5) Any felony offense.

3. If, after a written notice of a second violation is issued, police respond to the same premises for a third or subsequent nuisance party within one hundred twenty (120) days of the second nuisance party response, such response shall be deemed a third or subsequent nuisance party and any responsible person(s) as well as the owner of the premises will be issued a written notice of a third or subsequent violation and assessed a civil fee as set forth in subsection (E) of this section. Notice to any responsible person(s) and the owner shall be provided in the same manner as set forth in subsection (D)(4) of this section.

a. On any response to a third or subsequent nuisance party, the responsible person(s) shall be assessed a fee commensurate with two (2) times the fee for a third or subsequent nuisance party, as set forth in subsection (E) of this section, if any of the following crimes are being committed at the party:

- (1) Minor in possession of alcohol;
- (2) Minor in consumption of alcohol;
- (3) Possession or use of illegal drugs;
- (4) Weapons misconduct in violation of A.R.S. Section 13-3102; or
- (5) Any felony offense.

4. The police officer or other police employee shall provide notice of the violation to the responsible person(s) and the landlord or owner in any of the following manners:

a. Personal service to any responsible person(s) at the nuisance party.

b. As to the resident(s) of the premises, posting of the notice on the door of the premises of the nuisance party.

c. Mailing a copy of the notice of the nuisance party or notice of violation via certified mail to the property owner at the address shown on the Coconino County Property Tax Assessor's records. The return receipt will serve as evidence of service. A courtesy copy of the notice shall be sent to any property manager if known to the Flagstaff Police Department.

d. Upon request by law enforcement the owner must provide the names of any and all occupants listed on the leasing documents of the premises of a nuisance party.

#### E. Civil Penalties.

1. The civil fees for a responsible person(s) are as follows:

a. For a first nuisance party violation the fee is two hundred fifty dollars (\$250.00), inclusive of any State or City fines, fees, assessments or surcharges.

b. For a second nuisance party violation within one hundred twenty (120) days of the first nuisance party the fee is five hundred dollars (\$500.00), inclusive of any State or City fines, fees, assessments or surcharges.

c. For a third or subsequent nuisance party within one hundred twenty (120) days of the second nuisance party the fee is one thousand dollars (\$1,000.00), inclusive of any State or City fines, fees, assessments or surcharges.

2. The civil fees for the owner of a property are as follows:

a. If the owner was at the premises when the nuisance party occurred and failed to take reasonable action to prevent the nuisance party the civil fees are as follows:

(1) Two hundred fifty dollars (\$250.00) for the first nuisance party, inclusive of any State or City fines, fees, assessments or surcharges.

(2) Five hundred dollars (\$500.00) for the second nuisance party within one hundred twenty (120) days of the first nuisance party, inclusive of any State or City fines, fees, assessments or surcharges.

(3) One thousand dollars (\$1,000.00) for the third or subsequent nuisance party within one hundred twenty (120) days of a second nuisance party, inclusive of any State or City fines, fees, assessments or surcharges.

b. If notice of the first nuisance party was provided to the owner via certified mail as provided in subsection (D)(4)(c) of this section, a civil fee can be imposed on the owner if a subsequent nuisance party occurs on the premises thirty (30) days after the receipt of the notice of the first nuisance party. The fees are as follows:

(1) Two hundred fifty dollars (\$250.00) for the next nuisance party that occurs on the premises thirty (30) days after notification is received by the owner, inclusive of any State or City fines, fees, assessments or surcharges.

(2) Five hundred dollars (\$500.00) for a second nuisance party that occurs on the premises thirty (30) days after notification is received by the owner, inclusive of any State or City fines, fees, assessments or surcharges.

(3) One thousand dollars (\$1,000.00) for a third or subsequent nuisance party that occurs on the premises thirty (30) days after notification is received by the owner, inclusive of any State or City fines, fees, assessments or surcharges.

c. Within ten (10) business days of receipt of notification of violation, the owner may petition the Chief of Police, or the Chief's designee, for a waiver of the civil fee for the first nuisance party that occurs thirty (30) days after notification of the nuisance party was received, under the following circumstances:

(1) The owner has taken steps reasonably necessary to prevent a subsequent nuisance party or to exclude the uninvited persons from the premises, or the owner is actively attempting to evict the responsible persons from the premises.

(2) The owner agrees to actively participate in the Flagstaff Police Department's Crime Free Multi-Housing Program by participating in the training provided by the Flagstaff Police Department, requiring tenants to sign a crime free lease addendum, and by receiving reports regarding criminal activity on the premises and taking action based upon those reports.

(3) The owner of a property with over one hundred (100) individually rented units obtains and maintains private security services for the entire property.

d. If an owner evicts tenants from a premises where a nuisance party occurred and new tenants at the same premises are given notice of a nuisance party violation the owner must be renotified pursuant to subsection (D)(4)(c) of this section.

3. Nothing in this section shall be construed to impose liability on the owner, occupant, or tenant of the premises or sponsor of the nuisance party for the conduct of persons who are in attendance without the express or implied consent of the owner, occupant, tenant, or sponsor, as long as the owner, occupant, tenant, or sponsor has taken steps to prevent a subsequent nuisance party or to exclude the uninvited persons from the premises. Where an invited person engages in unlawful conduct which the owner, occupant, tenant or sponsor could not reasonably foresee and could not reasonably control without the intervention of the police, the unlawful conduct of the person shall not be attributable to the owner, occupant, tenant or sponsor for the purpose of determining liability under this section.

F. 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.

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 Police Department 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 as set forth in subsection (D)(4) of this section 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.

~~6-08-001-0004~~ ~~6-08-001-0006~~ **SOUND AMPLIFICATION SYSTEMS IN VEHICLES**

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A. LIMITATIONS ON USE

1. Except as authorized by law, no person shall operate or permit 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 quiet, comfort or repose of any person or neighborhood in the vicinity.

2. Except as authorized by law, no person shall operate or permit the operation of any sound amplification system in or on a vehicle which can be heard at a distance of fifty (50) feet or more and which annoys or disturbs a reasonable person of normal sensitivities, or which causes a person to be aware of vibration accompanying the sound at a distance of fifty (50) feet or more.

3. FOR PURPOSES OF THIS SECTION SOUND AMPLIFICATION SYSTEM MEANS 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.

B. EXEMPTIONS

1. Amplification systems being operated to request assistance of an emergency nature or to warn of a hazardous situation;

2. Authorized emergency vehicles;

3. Vehicles operated by utility companies;

4. Vehicles used in parades, concerts, festivals, fairs or similar activities subject to any sound limits in any permit or other approval by the city; or

5. Amplification systems in vehicles which are operated on private property with the permission of the owner and which are not audible beyond the property line.

**6-08-001-0005 FAILURE TO PROVIDE TRUTHFUL NAME, DATE OF BIRTH AND CURRENT ADDRESS WHEN LAWFULLY DETAINED.**

A. IT IS UNLAWFUL FOR A PERSON, AFTER BEING ADVISED THAT THE PERSON'S REFUSAL TO ANSWER IS UNLAWFUL, TO FAIL OR REFUSE TO STATE THE PERSON'S TRUE FULL NAME, DATE OF BIRTH AND CURRENT ADDRESS ON REQUEST OF A PEACE

OFFICER WHO HAS LAWFULLY DETAINED THE PERSON BASED ON REASONABLE SUSPICION THAT THE PERSON HAS COMMITTED A VIOLATION OF THIS CHAPTER. A PERSON DETAINED UNDER THIS SECTION SHALL STATE THE PERSON'S TRUE FULL NAME, DATE OF BIRTH AND CURRENT ADDRESS, BUT SHALL NOT BE COMPELLED TO ANSWER ANY OTHER INQUIRY OF A PEACE OFFICER.

B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR.