

RESOLUTION NO. 2018-04

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA,
ARIZONA, ESTABLISHING AS A PUBLIC RECORD THE TERMS OF PROPOSED
AMENDMENTS TO SEDONA CITY CODE, CHAPTER 8.25
(SOUND REGULATIONS – SOUND CONTROL).**

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA that the terms set forth in that document attached hereto as Exhibit A and entitled "2018 Amendments to Sedona City Code (Sound Regulations – Sound Control)" constitute a public record to be incorporated by reference into Ordinance No. 2018-03.

At least one (1) paper copy and one (1) electronic copy of this public record shall be kept in the office of the City Clerk for public use and inspection.

PASSED AND ADOPTED this 13th day of February, 2018 by the Mayor and Council of the City of Sedona, Arizona.



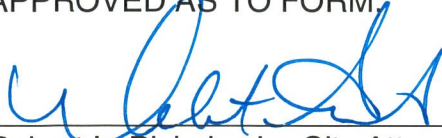
Sandra J. Moriarty, Mayor

ATTEST:



Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:



Robert L. Pickels, Jr., City Attorney

EXHIBIT A

2018 Amendments to Sedona City Code (Sound Regulations – Sound Control)

Chapter 8.25

SOUND REGULATIONS – SOUND CONTROL

Sections:

- 8.25.010 Declaration policy.
- 8.25.020 Definitions.
- 8.25.030 Applicability.
- 8.25.040 Sound control administrator.
- 8.25.050 Sound control officers.
- 8.25.060 Maximum permissible sound levels.
- 8.25.070 Procedures for the determination of sound levels.
- 8.25.080 Inspections.
- 8.25.090 Exceptions.
- 8.25.100 Restricted uses and activities.
- 8.25.110 Enforcement.
- 8.25.120 Temporary sound permit.
- 8.25.130 Severability.

8.25.010 Declaration policy.

- A. Whereas noise has been proven to have demonstrable adverse physiological, biochemical and psychological impacts on humans; and
- B. Whereas the noxious stimulus of noise has long been used as a laboratory model for producing stress; and
- C. Whereas noise has been clearly implicated in sleep disturbance resulting in a cascade of negative effects; and
- D. Whereas the stress, tension and fatigue associated with long-term exposure to noise has destroyed marriages, cost people their jobs and forced other people to sell their houses at significant losses; and
- E. Whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and
- F. Whereas the people have a right to, and should be ensured of, an environment free from excessive sound; and
- G. Whereas every citizen has a right to the peaceable enjoyment of their private property, and the usability of their commercial and industrial property.

Now therefore, it is the policy of the city of Sedona to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life. [Res. 01-29, 7-24-2001. Code 2006 § 9-4-1].

8.25.020 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“A’ weighted sound level” means the sound level as measured using the “A” weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(A). Sounds measured with the “A” weighting network approximate the response of human hearing when measuring sounds of low to moderate intensity.

“ANSI” means the American National Standards Institute which serves as the administrator and coordinator of the United States private sector voluntary standardization system. ANSI facilitates development of American National Standards (ANSs) by establishing consensus among qualified groups. ANSs in the fields of acoustics and sound measurement are developed by the Acoustical Society of America in order to standardize practices and equipment.

“Boom box” means a colloquial term for self-contained, portable, handheld music or sound amplification or reproduction equipment emitting sound that is audible at distances exceeding the permissible limits established within this chapter.

“Boom car” means a colloquial term for a personal or commercial vehicle with music amplification or reproduction equipment emitting sound that is audible at distances exceeding the permissible limits established within this chapter.

“C’ weighted sound level” means the sound level as measured using the “C” weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The “C” weighting network is more sensitive to low frequencies than is the “A” weighting network.

“Commercial facility” means uses located within C1, C2, and C3 zoning districts, as defined in the city of Sedona Land Development Code.

“Community service facility” means any nonresidential facility used to provide services to the public, including but not limited to:

1. Club meeting halls, offices and facilities;
2. Organization offices and facilities;

3. Facilities for the support and practice of religion;
4. Private and parochial schools;
5. Libraries, hospitals, medical facilities.

“Construction” means any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

“Continuous sound” means any sound with a duration of more than one second, as measured with a sound level meter set to the “slow” meter response. Impulsive sounds that are rapidly repetitive and have a duration of one second or longer, such as a jack hammer or hammer hoe, shall be measured as continuous airborne sound.

“Decibel (dB)” means a relative unit for the measurement of sound pressure. It is based upon a reference pressure of 20 micropascals (zero decibels) which is the average threshold of hearing for a human with acute hearing.

“Demolition” means any dismantling, destruction or removal of buildings, structures, or roadways.

“Emergency energy release device” means a device used specifically to release excess energy on a nonscheduled basis as necessary for purposes of safety and not as a part of routine process control.

“Emergency work” means any work or action necessary to deliver essential public services, including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging or repairing in any floodway or flood hazard area, or abating life-threatening conditions.

“Enforcement agency” means the city of Sedona code enforcement officer, sound control administrator, city of Sedona police officer or any other said persons as designated by the sound control administrator, or police department.

“Engine compression braking” means the action taken by the operator of a diesel truck or bus to reduce speed by activating a device in order to secure compression braking of the engine.

“Extraneous sound” means a sound which is relatively intense, intermittent and of short duration and is neither part of the neighborhood residual sound, nor comes from the sound source under investigation. These sources of sound are noted, but excluded from all measurements.

“Frequency” means the time rate of repetition of sound waves in cycles per second, reported as Hertz (Hz). “Frequency” is sometimes colloquially referred to as “pitch.” Low frequency sounds can correspond to the bass notes in music. Low frequency sound waves travel farther and penetrate structures more efficiently than high frequency sound waves.

“Holiday” or “legal holiday” means any federal, state or city recognized holiday.

“Impulsive sound” means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second such as a car backfire, dynamite blast or other such single burst.

“Industrial facility” means any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods.

“Motor vehicle” means any vehicle that is propelled other than by human or animal power on land.

“Muffler” means a properly functioning sound dissipative device or system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment. A motor vehicle is not considered to be properly muffled if its muffler is either malfunctioning or if it is equipped with an after-market muffler designed to increase the intensity of sound emissions over those of the stock muffler which was installed by the vehicle’s manufacturer.

“Multi-dwelling unit building” means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple-family houses, townhouses, and attached residences.

“Multi-use property” means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
2. A building which is both commercial (usually on the ground floor) and residential property located above, behind, below or adjacent.

“Neighborhood residual sound level” means that measured value which represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds, and those from the source under investigation. Neighborhood residual sound level is synonymous with background or ambient sound level. Neighborhood residual sounds are differentiated from extraneous sounds by the fact that the former are more steady state, although they may not be continuous.

“Plainly audible” means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, boom box or boom car, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The sound control officer or police officer need not determine the title, specific words, or the artist performing the song and shall not require the use of a sound meter to determine plainly audible.

“Private right-of-way” means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a nongovernmental entity.

“Public right-of-way” means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

“Public service facility” means any facility and its related premises, property or equipment used to provide governmental services to the public including, but not limited to:

1. Maintenance centers;
2. Offices and buildings of agencies or instrumentalities of government;
3. Schools, parks, recreation centers;
4. Waste collection centers;
5. Waste recycling centers;
6. Water and sewage facilities.

“Public space” means any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

“Real property line” means either:

1. The imaginary line, including its vertical extension that separates one parcel of real property from another;

2. The vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or

3. On a multi-use property, the interface between the two portions of the property on which different categories of activity are being performed (such as if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area).

“Residential property” means property used for human habitation, including, but not limited to:

1. Private property used for human habitation;
2. Commercial living accommodations and commercial property used for human habitation;
3. Recreational and entertainment property used for human habitation;
4. Community service property used for human habitation;
5. Hospitals or long-term care medical facilities.

Sound Control Administrator. The ~~development services supervisor~~Community Development Director or designee shall act as the sound control administrator, “SCA,” for the purposes of this chapter.

“Sound control officer” means a government employee who has received noise enforcement training and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a civil citation in order to be considered a sound control officer. The provisions of this code that do not require the use of a sound level meter may be enforced by any code enforcement or police officer.

“Sound level meter” means an instrument that conforms to ANSI S1.4-1983 or its successors.

“Sound reproduction device” means any machine or device by which the human voice, music or any other sound is amplified. Sound reproduction device shall not include warning devices on any vehicle traveling to do emergency work or used for traffic safety purposes.

“Sound sensitive” means a facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include but are not limited to:

1. Schools;
2. Houses of worship;
3. Outpatient medical facilities, hospitals, or nursing home;
4. Library.

“Steady pure tone” means a sound for which the sound pressure is a simple sinusoidal function of the time and characterized by its singleness of pitch.

“Total sound level” means that measured level which represents the summation of the sounds from the sound source under investigation and the neighborhood residual sounds which affect a given place at a given time, exclusive of extraneous sound sources.

“Weekday” means Monday through Friday, inclusive.

“Weekends” means Saturday and Sunday. [Code 2006 § 9-4-2].

8.25.030 Applicability.

This code applies to all sound sources within the city unless otherwise exempted. [Code 2006 § 9-4-3].

8.25.040 Sound control administrator.

The sound control administrator shall have the power to:

- A. Coordinate the noise control activities of all departments in the city and cooperate with all other public bodies and agencies to the extent practicable; and
- B. Review the actions of the city and advise of the effect, if any, of such actions on noise control; and
- C. Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this chapter; and
- D. Promulgate and publish rules and procedures, in accordance with the Sedona City Code, to establish techniques for measuring noise and to provide for clarification, interpretation, and implementation of this chapter; and
- E. Periodically R~~review at least every three years~~review the provisions of this chapter and recommend revisions consistent with technology to reduce noise or to address new sound sources within the city. [Code 2006 § 9-4-4].

8.25.050 Sound control officers.

The provisions of this section shall be enforced by sound control officers. A person shall be qualified to be a sound control officer if the person meets the criteria set forth in the definition in SCC [8.25.020](#) and completes, with a passing grade, a sound enforcement certification course and thereafter a ~~biennial~~-recertification course every five years as offered by the Rutgers Noise Technical Assistance Center, Department of Environmental Science, the State University of New Jersey at Rutgers, or other similar noise enforcement certification course as approved by the administrator. The provisions of this code that do not require the use of a sound level meter may be enforced by any code enforcement officer, police officer or designated police department employee. Sound control officers shall have the power to:

A. Investigate and pursue possible violations of this chapter for sound levels which equal or exceed the sound levels set forth in Table I, when measured at a receiving property located within the designated jurisdiction of the sound control officer, in accordance with SCC [8.25.060](#);

B. Cooperate with sound control officers of adjacent jurisdictions in enforcing one another's noise ordinances. [Code 2006 § 9-4-5].

8.25.060 Maximum permissible sound levels.

A. Continuous Sound.

1. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in SCC [8.25.020](#) in such a manner as to create a sound level that exceeds the sound level limits listed in Table I, as measured at any location at or within the property line of the receptor property. Sound pressure levels in excess of those established in Table I shall constitute prima facie evidence that such sound is in violation of this code.

TABLE I
MAXIMUM PERMISSIBLE
SOUND LEVEL LIMITS
dB(A)

Residential and All Other Zones 7:00 a.m. – 10:00 p.m.	Residential and All Other Zones 10:00 p.m. – 7:00 a.m.	C1, C2, C3 Zone Districts 24 hours
60	50	65

2. These limits may not be exceeded by any single incident representing the normal, usual operation of the sound source, during any three sampling intervals, the duration of which shall be no less than one-half minute, within any one-hour period. If the total duration of the sound under investigation is less than one and one-half minutes, the requirement for three measurements shall be waived. For example, if a motor fan belt was to squeal for 20 seconds upon starting, but the sound was emitted with regularity from this source, a single measurement shall be sufficient.

3. Nothing in this section supersedes the requirements of employers to comply with the Occupational Noise Exposure Standard of the Occupational Safety and Health Administration (29 C.F.R. Part 1910.95). Compliance will help conserve workers' hearing and reduce potential liability for the source.

B. Impulsive Sound.

1. Between 7:00 a.m. and 10:00 p.m., impulsive sounds which occur less than 10 times in an hour shall not equal or exceed 20 decibels above the permissible sound level limits in Table I. Impulsive sound which repeats 10 or more times in any hour shall not exceed the permissible sound level limits in Table I.

2. Between the hours of 10:00 p.m. and 7:00 a.m., impulsive sounds which occur less than four times in an hour shall not equal or exceed 20 decibels above the permissible sound level limits in Table I. Impulsive sound which repeats four or more times in any hour shall not exceed the permissible sound level limits in Table I.

C. Amplified Sound Reproduction Device. If the source of sound is an amplified sound reproduction device, and the complainant states that the rhythmic bass component of the music is disturbing within their residence, then the noise enforcement officer may take sound level measurements within the residence of the complainant. No person shall cause, suffer, allow, or permit the operation of any amplified source of sound in such a manner that it raises the total sound levels above the permissible sound level

limits set forth in Table II when measured within the residence of a complainant. These sound level measurements shall be conducted with the sound level meter set for “C” weighting, “fast” response. Such measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms. For the purposes of these measurements, the neighborhood residual sound level is that sound level which is measured in the residence when the sound source under investigation is not prominent, or in a room on the same floor that is relatively unaffected by the sound source under investigation. The C-scale is more sensitive to low frequency sound levels than the A-scale. An increase of three dB is perceived by humans as being perceptibly louder, while an increase of five dB is perceived as being plainly louder. At the lower bass frequencies of music an increase of six dB is perceived as a doubling of loudness.

TABLE II

**AMPLIFIED SOUND REPRODUCTION
DEVICE MAXIMUM PERMISSIBLE
SOUND LEVEL LIMITS INDOOR
ACROSS A REAL PROPERTY LINE
dB(C) ABOVE NEIGHBORHOOD
RESIDUAL SOUND LEVEL**

10:00 p.m. to 7:00 a.m.	All Other Times
3 dB(C)	5 dB(C)

D. **Steady Pure Tones.** If the sound source under investigation is a mechanical device, and is in the investigating officer’s opinion emitting a sound with a steady tonal quality, the permissible sound level limits in Table I shall be reduced by five dBA. The sound emissions must be comprised of a single frequency or a narrow cluster of frequencies, which may be referred to as a whine, hum, or buzz. The measured sound levels of such a source must not fluctuate by more than plus or minus three dB. Such sound sources include, but are not limited to: heating, ventilating or air-conditioning units; refrigeration units; transformers and pumps. [Code 2006 § 9-4-6].

8.25.070 Procedures for the determination of sound levels.

A. The sound level shall be measured with a sound level meter. The sound level meter and calibrator must be recertified annually at a laboratory approved by the administrator. A field check of meter calibration and batteries must be conducted before and after every set of measurements and at least every hour as necessary.

B. Total and neighborhood residual sound level measurements shall be taken in accordance with procedures approved by the administrator. Calculation of source sound levels shall conform with accepted practice. [Code 2006 § 9-4-7].

8.25.080 Inspections.

A. For the purpose of determining compliance with the provisions of this chapter, the administrator or his or her authorized representatives are hereby authorized to make inspections of all noise sources and to take sound level measurements and tests whenever necessary. If any person refuses or restricts entry and free access to any part of a premises, or refuses inspection, testing, or sound level measurement of any activity, device, facility, motor vehicle or process where inspection is sought, the administrator or their authorized representative may seek from a court of competent jurisdiction a warrant for inspection requiring that such person permit entry and free access without interference, restriction or obstruction (at a reasonable time) for the purpose of inspecting, testing, or measuring sound levels. The court shall have power, jurisdiction and authority to enforce all orders issued under the provisions of this chapter.

B. It shall be unlawful for any person to refuse to allow or permit the administrator or their authorized representative free access to any premises when he or she or her or his authorized representative is acting in compliance with a warrant for inspection.

C. No person shall hinder, obstruct, delay, resist, prevent or in any way interfere, or attempt to interfere, with any authorized person while in the performance of their duties under this chapter.

D. It shall be unlawful for any person to misrepresent or give any false or inaccurate information or in any way attempt to deceive the administrator or their authorized representative in order to avoid compliance with the provisions of this chapter. [Code 2006 § 9-4-8].

8.25.090 Exceptions.

The operational performance standards established in this chapter shall not apply to any of the following noise sources:

A. Unamplified bells, chimes or carillons while being used in conjunction with an ongoing religious service;

B. Emergency energy release devices; or any emergency or safety warning devices, such as, but not limited to, vehicle horns or back-up beepers;

C. Emergency work;

D. National Warning System (NAWAS): systems used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane;

E. Noise of aircraft operation;

F. Sound from the locomotion of properly muffled motor vehicles on a public right-of-way or residential driveway;

G. Sound from any mobile garbage collection vehicle;

H. Fireworks on Independence Day are allowed until 11:00 p.m. [Code 2006 § 9-4-9].

8.25.100 Restricted uses and activities.

Notwithstanding the provisions of Table I and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below:

A. Noncommercial or nonindustrial power tools and landscaping and yard maintenance equipment shall not be operated between the hours of 8:00 p.m. and 7:00 a.m., unless such activities can meet the applicable limits set forth in Table I. All engine-driven equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Table I do not apply to noncommercial or nonindustrial power tools and landscaping and yard maintenance equipment.

B. Commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, shall not be operated on a residential property or within 250 feet of a residential property line when operated on commercial or industrial property, between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Table I. In addition, commercial or industrial power tools and landscaping and yard maintenance equipment, excluding emergency work, utilized on commercial or industrial property shall meet the limits set forth in Table I between the hours of 10:00 p.m. and 6:00 a.m. All engine-driven equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in Table I do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.

C. For construction and demolition activity, the limits set forth in Table I do not apply between the hours of 6:00 a.m. and 9:00 p.m., Monday through Saturday, at all other times the limits set forth in Table I shall apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler. Construction tools or equipment shall be in good working condition and shall be operated properly according to the manufacturers' instructions and applicable federal and state regulations. The delivery, placement and finishing of concrete and stucco may begin

one-half hour before sunrise during the period from May 1st through September 30th of each year.

D. An exterior burglar alarm of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five minutes for continuous airborne sound and 15 minutes for impulsive sound after it has been activated. At all times, the limits set forth in Table I do not apply.

E. Domesticated or caged nonfarm animals may not bark, squeal, crow, howl or make any other such noises for more than five minutes if continuous or more than 15 minutes if intermittent. At all times, the limits set forth in Table I do not apply.

F. Personal or commercial vehicular music amplification or reproduction equipment, including but not limited to vehicles referred to as "boom cars" or "broadcast vehicles," shall not be operated in such a manner as to be plainly audible at a distance of 75 feet in any direction from the equipment between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., such equipment shall not be operated in such a manner that it is plainly audible at a distance of 25 feet in any direction.

G. Self-contained, portable, handheld music or sound amplification or reproduction equipment, including but not limited to devices referred to as "boom boxes," radios stereos, or any similar device shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound from such equipment shall not be plainly audible by any person other than the operator. [Code 2006 § 9-4-10].

8.25.110 Enforcement.

A. This section governs the initiation of enforcement actions and the imposition of civil penalties for violations of this code.

B. If a person violates any provision of this code, or an order issued by the enforcement agency, the agency may institute an action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation or violations and the court may proceed in the action in a summary manner.

C. Any person who violates any provision of this code shall be subject, upon order of a court, to a civil penalty of not more than \$2,500 for each offense, and each day during which the violation continues shall constitute an additional, separate and distinct offense.

D. The enforcement agency must determine whether the violation is a major or minor violation for the purposes of issuing an enforcement and compliance grace period. A violation is deemed to be minor if:

1. The violation is not the result of purposeful, reckless or criminally negligent conduct of the violator; or
2. The activity or condition constituting the violation has not been the subject of an enforcement action against the violator in the immediately preceding 12 months; and
3. The violation is not the result of the operation of a sound reproduction or amplification device of any kind, with the exception of safety warning devices.

E. If the violation is deemed to be minor, the enforcement agency shall notify the violator that the activity or condition must be corrected and compliance achieved at the discretion of the enforcement agency, not to exceed 180 days, to be determined based upon the nature, extent and impact of the violation and a reasonable estimate of the time needed to correct the violation. The violator may request, from the enforcement agency, an extension of the compliance deadline and the enforcement agency may approve any reasonable request for an extension if the violator can demonstrate that a good faith effort has been made to achieve compliance. The sound control administrator shall offer special consideration, during the six-month period immediately following final enactment of this code, for preexisting sound sources, which will require physical modifications to come into compliance.

F. If the violation is deemed to be minor, the enforcement agency shall notify the violator that if he or she achieves compliance within the period of time specified in the enforcement document, the enforcement agency shall not seek to collect a civil penalty from the violator for that violation.

G. If, during the grace period, the sound emissions for which the violation has been assessed increase in duration or intensity, the sound control administrator may revoke the grace period. In determining whether to revoke the grace period, the sound control administrator may consider the following factors: the relative increase intensity; whether the change of sound emissions is directly related to ongoing sound abatement measures; and the anticipated duration of the increased sound levels.

H. If the violator does not correct a minor violation within the period of time specified in the enforcement document, the enforcement agency may seek injunctive relief and/or a penalty for a violation of this code. If the enforcement agency has reason to believe that the violator is not acting in good faith during the grace period, they may conduct further investigations during that period, and if the violator has not achieved compliance within

the period of time specified in the enforcement document, the enforcement agency may prosecute any violations documented during the grace period.

I. If the violation is not deemed to be minor, it shall be deemed major and the enforcement agency shall notify the violator that he or she will not be allowed a period of time to correct the violation before a penalty is sought, and that he or she may be liable to a class 1 misdemeanor of no more than \$2,500 for that violation and that the enforcement agency may seek summary injunctive relief.

J. Any claims for a civil penalty may be compromised and settled based upon the following factors:

1. Mitigating or other extenuating circumstances;
2. The timely implementation by the violator of measures which lead to compliance;
3. The conduct of the violator; and
4. The compliance history of the violator. [Code 2006 § 9-4-11].

8.25.120 Temporary sound permit.

A. Any person who owns or operates a sound source in one of the following categories may apply for a temporary sound permit from the sound control administrator to temporarily exceed sound levels as set forth in Tables I and II, or any other provisions of this code:

1. Private or public celebrations;
2. Nighttime construction projects;
3. Homeowner construction projects;
4. Any other activity as determined by the sound control administrator.

B. Applications for a temporary sound permit shall supply information including, but not limited to:

1. The nature and location of the noise source for which such application is made;
2. The reason for which the temporary sound permit is requested, including the hardship that will result to the applicant, his client, or the public if the temporary sound permit is not granted;

3. The nature and intensity of noise that will occur during the period of the permit;
4. A description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom; and
5. The name, address and means of contacting a responsible party during the hours of operation for which the temporary sound permit is issued.

C. In making the determination on granting a permit and in the sole discretion of the sound control administrator, the administrator may consider the following:

1. The character and degree of injury to, or interference with, the health and welfare of the reasonable use of property which is caused or threatened to be caused by the sound, to result from the temporary sound permit;
2. The social and economic value of the activity for which the permit is sought;
3. The ability of the applicant to apply best practical noise control measures.

D. The temporary sound permit shall enumerate the conditions of the permit, including:

1. Specific dates, times, duration, and distances for which the permit is valid;
2. Sound level limits which may not be exceeded at the nearest affected residential property;
3. Or any other such conditions that may mitigate any adverse impact upon the parties, as determined by the sound control administrator.

E. The temporary sound permit may be revoked by the sound control administrator, if terms of the permit are violated.

F. A permit may be revoked by the sound control administrator, and the issuance of future permits withheld, if there is:

1. Violation of one or more conditions of the permit;
2. Material misrepresentation of fact in the permit application; or
3. Material change in any of the circumstances relied upon by the sound control administrator in granting the permit. [Code 2006 § 9-4-12].

8.25.130 Severability.

If any provision or portion of a provision of this chapter is held to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated. [Code 2006 § 9-4-13].