

RESOLUTION NO. 2021-28

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA,
ARIZONA, ESTABLISHING AS A PUBLIC RECORD CHANGES 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 changes to Sedona City Code Chapter 8.25 (Sound Regulations – Sound Control) as set forth in Exhibit A, “2021 Amendments to Chapter 8.25 (Noise Regulations) of the Sedona City Code,” constitutes a public record to be adopted by reference pursuant to A.R.S. § 9-802.

One paper copy and one electronic copy of this public record shall be filed in the office of the City Clerk and kept available for public use and inspection.

APPROVED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona this 9th day of November, 2021




Sandra J. Moriarty, Mayor

ATTEST:



Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:



Kurt W. Christianson, City Attorney

Exhibit A
“2021 Amendments to Sedona City Code Chapter 8.25 (Noise Regulations)”

Chapter 8.25
NOISE REGULATIONS

Sections:

- 8.25.010** **Declaration policy.**
- 8.25.020** **Definitions.**
- 8.25.030** **Noise.**
- 8.25.040** **Special noise sources.**
- 8.25.050** **Construction of buildings and projects.**
- 8.25.060** **Unnecessary noise in residential areas.**
- 8.25.070** **Penalties.**

8.25.010 **Declaration policy.**

It is hereby declared to be the policy of the City of Sedona to prohibit unnecessary, excessive and offensive noises from all sources subject to its police power. At certain levels, noises are nuisances detrimental to the health, safety and welfare of the citizenry, and in the public interest, such noise shall be systematically proscribed.

8.25.020 **Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“A-weighted scale” means the total sound level of all noise as measured with a sound level meter using the A-weighting network. The unit is the dB(A).

“Commercial area” means an area located within a Commercial zoning district (CO), Lodging district (L), Mixed-Use Office district (M2), Mixed-Use Activity Center district (M3), or Community Facilities (CF) pursuant to the city Land Development Code or public right-of-way.

“Community noise standards” means the noise standards set forth in section 8.25.030(C).

“Decibel (dB)” means a sound pressure that is 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, 20×10^{-5} newton/meter².

“Emergency work” means any work performed to prevent or alleviate physical trauma or property damage threatened or caused by an emergency which 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.

“Frequency” of a function periodic in time shall mean the reciprocal of the primitive period. The unit is the hertz and shall be specified.

“Impulse noise” means a noise of short duration, usually less than one second, with an abrupt onset and rapid decay.

“Industrial area” means an area located within a light industrial zoning district (IN) pursuant to the city Land Development Code.

“Motor vehicles” means any self-propelled device in, upon, or by which any person or property is, or may be, transported within the city, including but not limited to, licensed or unlicensed vehicles, automobiles, off-highway vehicles, minibikes, go-carts, motorized skateboards, and motorcycles.

“Non-residential area” shall include any area located within a commercial area, industrial area or other area not zoned as a single-family residential zoning district or multi-family residential zoning district pursuant to the city Land Development Code.

“Period” of a periodic quantity shall mean the smallest increment of time for which the function repeats itself.

“Periodic quantity” means oscillating quantity, the values of which recur for equal increments of time.

“Person” means an individual, firm, association, partnership, joint venture or corporation. For the purpose of section 8.25.060, person shall also include an owner of property, tenant, lessee, manager, agent, or other person entitled to lawfully possess (or who claims lawful possession of) such property at the time of the offense.

“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.

“Residential area” means an area located within a single-family residential or multi-family residential zoning district pursuant to the city Land Development Code.

“Sound level (noise level)” in decibels (dB) is the sound measured with the A-weighting and slow response by a sound level meter.

“Sound level meter” means an instrument including a microphone, an amplifier, an output meter, and frequency weighting networks used to measure sound levels which satisfies the pertinent requirements in American National Standard Specifications for Sound Level Meters S1.4-1983 or the most recent revision thereof.

8.25.030 Noise

(A) *Exemptions.* The following uses and activities shall be exempt from noise level regulations in this section, but may be subject to other city regulations, including but not limited to the regulations in the Land Development Code:

- (1) The operation of air-conditioning, pool or spa equipment when it is properly functioning in accordance with manufacturer's specifications;
- (2) The operation of power tools and lawn maintenance equipment in a commercial area or industrial area, or over 250 feet of a residential property line when operated on commercial or industrial property, between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, or between the hours of 9:00 a.m. and 6:00 p.m. on weekends or federal holidays. All engine-driven equipment used in these activities shall be operated with a muffler or noise-reducing equipment in accordance with manufacturer's specifications. The operation of power tools and lawn maintenance equipment, excluding emergency work, in commercial or industrial areas at all other times shall be subject to the community noise standards;
- (3) The operation of power tools and lawn maintenance equipment in a residential area between 7:00 a.m. and 8:00 p.m., but only if said equipment is properly functioning with all mufflers and noise-reducing equipment in accordance with manufacturer's specifications. The operation of lawn maintenance equipment in residential areas at all other times shall be subject to the community noise standards;
- (4) Non-amplified noises resulting from the activities such as those planned for school, governmental or community groups or duly authorized by such groups;
- (5) Noises of safety signals, warning and alarm devices, emergency generators, storm warning sirens, emergency pressure relief valves or horns and the authorized testing of such equipment;
- (6) Noises resulting from emergency work as defined in section 8.25.020;
- (7) Noises of church chimes;
- (8) Noises created by aircraft;
- (9) Public or utility owned or operated stationary mechanical equipment so long as such equipment is properly functioning pursuant to manufacturer's specifications;
- (10) Road and street noise generated from the normal operation of traffic except as regulated herein, or any emergency or safety warning devices, such as, but not limited to, vehicle horns or back-up beepers;
- (11) Work by or on behalf of the city, the state, or the federal government, between the hours of 8:00 p.m. and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 8:00 p.m.;
- (12) 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;
- (13) Sound from any mobile garbage collection vehicle;

(14) Noises from permissible consumer fireworks and their use as defined in SCC 8.50 except between the hours of 12:30 a.m. and 7:00 a.m.

(B) *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 sound level meter. The meter shall be set for slow response speed, except that for impulse noises or rapidly varying sound levels, fast response speed may be used. Prior to measurement, the meter shall be verified, and adjusted according to the manufacturer's specifications by means of an acoustical calibrator.

(C) *Allowable noise levels.*

(1) It is unlawful for any person to create any noise which would cause the noise level measured from any location at or within the property line of the complainant's property to exceed the following community noise standards for more than 15 minutes in commercial areas and industrial areas and for more than five minutes in residential areas:

Table I. Community Noise Standards

Zone	Time	Noise Standard Maximum dB(A)
Residential area	10:00 p.m.—7:00 a.m.	50
	7:00 a.m. – 10:00 p.m.	60
Commercial area	10:00 p.m. – 7:00 a.m.	65
	7:00 a.m. – 10:00 p.m.	65
Industrial area	10:00 p.m. – 7:00 a.m.	65
	7:00 a.m. – 10:00 p.m.	70

(2) If the measurement location is on a boundary between two zoning districts, the lower noise standard shall apply.

8.25.040 Special noise sources.

(A) *Power plant equipment.* It is unlawful for the noise level of power plant equipment during normal operation to exceed the industrial community noise standards set forth in section 8.25.030.

(B) *Sound trucks; loudspeakers; other sound amplifiers.* It is unlawful to play, operate or use any device known as a sound truck, loudspeaker or sound amplifier, radio or phonograph with a loudspeaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises from any vehicle.

(C) *Motor vehicles.*

(1) *Vehicle repair.* It shall be unlawful for any person within any residential area of the city to repair, rebuild or test any motor vehicle (between the hours of 10:00 p.m. of one day and 7:00 a.m. of the next day) in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance.

(2) *Motor vehicle mufflers.* It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it is unlawful for any person operating any motor vehicle to use a cutout, bypass or similar muffler elimination appliance.

(3) *Braking devices.* It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the city any compression release or other engine braking device designed to aid in the braking or deceleration of any vehicle which results in noise in excess of that which would otherwise be produced from such vehicle without such braking device. The provisions of this subsection do not apply to public safety vehicles.

(4) *Vehicle operation.* Except as authorized by law, 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 based on a distance of 50 feet from the center of the lane or travel within the speed limits specified in the following table:

	Speed Limit of 35 mph or less	Speed Limit of More Than 35 mph
(i) Any motor vehicle with a manufacturer's gross vehicle weight rating of 6,000 pounds or more, any combination of vehicles towed by such motor vehicle, and any motorcycle other than a motor-driven cycle (moped)	88 dB(A)	92 dB(A)
(ii) Any other motor vehicle and any combination of vehicles towed by such motor vehicles	82 dB(A)	86 dB(A)

(D) *Schools, churches and hospitals.* It shall be unlawful for any person to create any noise on any street, sidewalk or public place adjacent to any school, institution of learning or church while the same is in use or adjacent to any hospital, which noise unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital; provided that conspicuous signs are displayed in such streets, sidewalk or public place indicating the presence of a school, church or hospital.

(E) *Burglar alarms.* 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 of the applicable community noise standards set forth in section 8.25.030 do not apply.

(F) *Animals.* 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 of the applicable community noise standards set forth in section 8.25.030 do not apply.

(G) *Specific acts prohibited.*

(1) The playing of any radio, stereo, player, or other sound device, including, but not limited to "boom boxes" or other devices for reproduction or amplification of sound, from a public street, public property or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet or greater in any direction 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.

(2) The playing of any musical instrument, including, but not limited to guitar, keyboard, drums or other musical instrument, from a public street, public property or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet or greater in any direction 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.

8.25.050 Construction of buildings and projects.

(A) *General provisions.* It shall be unlawful for any person to pour concrete or perform construction work in the city, except within the time periods specified herein; at all other times the limits of the applicable community noise standards set forth in section 8.25.030 shall apply. As used in this section, "construction work" shall include (1) operating construction-related equipment, (2) performing outside construction work, (3) performing outside repair work on buildings, structures or projects and (4) operating a pile driver, power shovel, pneumatic hammer, derrick, power hoist or other construction-type device.

(B) *Start/stop times.*

(1) *Concrete.* For the delivery, placement and finishing of concrete and stucco, concrete mixing trucks may be idled, between the hours of 6:00 a.m. and 9:00 p.m. Monday through Saturday or at such other times as authorized by permit. During the period from May 1st through September 30th of each year such work may begin one-half hour before sunrise.

(2) *All other construction; residential zones in or within 250 feet.* All other construction work shall not begin prior to 6:00 a.m. and must stop by 9:00 p.m. Monday through Saturday in or within 250 feet of a residential zone.

(3) *Commercial and industrial zones.* Construction work in commercial and industrial zones not within 250 feet of a residential zone shall not begin prior to 5:00 a.m. and must stop by 9:00 p.m. Monday through Saturday or it may be conducted at such times as authorized by permit.

(C) *Permit.* Construction work may be conducted at different times than otherwise permitted herein if, upon written application, a permit is obtained from the Community Development department. In granting such permit, the director of the Community Development department shall consider: whether construction noise in the vicinity of the proposed work site would be less objectionable at night than during the daytime because of the different population levels or different neighborhood activities; whether obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during the daytime; whether the kind of work to be performed emits noises at such a low level as to not cause significant disturbance of the reasonable peaceful enjoyment of the surrounding neighbors in the vicinity of the work site; whether the neighborhood of the proposed work site is primarily residential in character wherein sleep would be disturbed; whether great economic hardship would occur if the work were spread over a longer time; whether the work will abate or prevent hazard to life or property; and whether the proposed early morning or night work is in the general public interest. The director shall prescribe such conditions, working times, types of construction equipment to be used and permissible noise emissions as the director deems appropriate in the public interest. No permit shall be required to perform emergency work necessary to restore property to a safe condition following a public calamity, work required to protect the health, safety or welfare of persons or property or work by private or public utilities when restoring utility service.

(D) *Revocation of permits; appeal.* The director may revoke any permit granted hereunder upon complaints based upon substantial evidence that the construction work causes significant disturbance of the reasonable peaceful enjoyment of the surrounding neighbors in the vicinity of the work site. Any person aggrieved by the granting of a permit or the refusal to grant a permit by the city manager or authorized representative may appeal the decision to the city council who shall hear such appeal at the next regularly scheduled meeting of the city council.

(E) *Stop orders.* Whenever any work on a construction project is in violation of the provisions of this section, the director may order the construction project stopped by notice in writing served on any persons responsible for the project, and any such persons shall forthwith stop work on the project until a permit is obtained.

8.25.060 Unnecessary noise in residential areas.

(A) Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful in residential areas for any person without justification to make or continue, or cause or permit to be made or continued, any unnecessary, excessive or offensive noise, which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person residing in the area.

(B) Notwithstanding any other provision of this chapter, and in addition thereto, it shall be unlawful in residential areas for any person without justification to yell, shout, make unreasonably loud and disturbing noise, or allow any such noises to occur on one's property, between the hours of 9:00 p.m.

and 7:00 a.m., or at any time so as to disturb the quiet, comfort, or repose of a reasonable person of ordinary sensitivity. "Unreasonably loud and disturbing noise" means any noise of such character, intensity or duration as to be detrimental to the life or health or well-being of any individual in a residential area, or as to disturb the public peace and quiet of an individual in a residential area. This subsection applies only to those situations where the disturbance is not a result of the content of the communication, but due to the volume, duration, location, timing or other factors not based on content.

(C) The factors that will be considered in determining whether a violation of the provisions of this section exists will include, but not be limited to, the following:

- (1) The volume of noise;
- (2) The intensity of the noise;
- (3) Whether the nature of the noise is usual or unusual;
- (4) Whether the origin of the noise is natural or unnatural;
- (5) The volume and intensity of the background noise, if any;
- (6) The proximity of the noise to residential sleeping facilities;
- (7) The nature and zoning of the area within which the noise emanates;
- (8) The density of the inhabitation of the area within which the noise emanates;
- (9) The time of the day or night the noise occurs;
- (10) The duration of the noise;
- (11) Whether the noise is recurrent, intermittent or constant;
- (12) Whether the noise is produced by a commercial or noncommercial activity;
- (13) Whether it is a pure tone noise;
- (14) Whether it is an impulse noise.

(D) The evidence that may be considered in determining whether a violation of the provisions of this section exists may include any of the following evidence: officer observations, witness statement, photograph, video recording, audio recording, data from a noise app, noise nuisance log, and any other type of evidence as determined by the officer.

8.25.070 Penalties.

(A) *Violations of sections 8.25.030, 8.25.040, and 8.25.050.*

- (1) *Civil violations.* Any person who violates section 8.25.030, section 8.25.040, or section 8.25.050 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 a separate offense.

(2) *Habitual offender.* A habitual offender is a person who commits a violation of this chapter after previously having been found responsible for committing three or more civil violations of this chapter within a 24-month period, whether by admission, by payment of the fine, by default or by judgment after hearing. A habitual offender shall be guilty of a criminal class 1 misdemeanor complaint in the city municipal court against habitual offenders who violate this chapter. For purposes of calculating the 24-month period under this paragraph, the dates of the commission of the offenses are the determining factor.

a. For habitual offenders, upon conviction of a violation of this chapter, the court may impose a sentence of incarceration not to exceed six months in jail; or a fine not to exceed \$2,500.00, exclusive of penalty assessments prescribed by law; or both. The court shall order a person who has been convicted of violation of this chapter to pay a fine of not less than \$500.00 for each count upon which a conviction has been obtained.

b. Every action or proceeding under this chapter shall be commenced and prosecuted in accordance with the laws of the state relating to criminal misdemeanors and the state rules of criminal procedure.

c. Habitual offenders shall not be eligible for a Temporary Use Permit per the Sedona Land Development Code 8.4(D) for six months after the third violation within 24 months and each subsequent violation.

(B) *Violations of section 8.25.060 regarding unnecessary noise in residential areas.*

Criminal penalty. Any person found guilty of violating section 8.25.060 of this chapter shall be guilty of a class 1 misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$2,500 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues is a separate offense punishable as set forth herein or by civil sanction.

(C) *Enforcement.* The police chief and his/her designees, including code enforcement officers as applicable, shall have the authority to enforce the noise regulations contained in this chapter. Nothing in this chapter shall prevent obtaining voluntary compliance by way of warning, notice or education.

(D) *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.