

1-1-1 Introduction

Within reason certain noise levels must be tolerated by all citizens within the city limits of Apache Junction for normal functions of the city to continue.

Children playing, construction equipment, barking dogs, amplified musical instruments, trash trucks, airplanes and loud parties are all examples of noise found within our community.

However, the policy of the City of Apache Junction prohibits any noises that are detrimental to the health, safety and welfare of the citizens of Apache Junction and are subject to regulation, such as:

- A.** Occur after 10:00 p.m. but before 6:00 a.m.
- B.** Any activities that produce any loud, excessive, unusual or unnecessary disruptive and/or annoying noises.
- C.** Disturbs the peace and quiet of a residential zoned property or a reasonable person of normal sensibilities.

1-1-2 Standard Noise Offenses

- A.** It is hereby declared to be a public nuisance and it is unlawful for any person, firm or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store or any place of public amusement, entertainment or accommodation, to play or permit to be played any music or musical instrument or instruments whether played by individuals, orchestra, radio, phonograph, music box or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet or otherwise interfere with or annoy the comfortable enjoyment of life or property of any considerable number of persons in the neighborhood and is no less a nuisance because the extent of the annoyance inflicted is unequal.

1-1-3 Unnecessary Vehicle Noise

- A.** 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 cut-out, by-pass or similar muffler elimination appliance.
- B.** No person shall intentionally operate any vehicle at such a speed on a curve, straight-of-way or turn, or accelerate or decelerate such vehicle in such a manner as to create loud and unreasonable noise through the squealing of tires upon the pavement, or to cause damage to the roadway, or to cause the surface of the roadway to be displaced in any manner including throwing dirt, gravel, stone or other roadway surface or material upon the surface into the air.
- C.** No person shall violate any of the provisions of division (A) above while upon the surface of any parking lot or parking space of any public place.
(Prior Code, § 12-2-15) (Am. Ord. 1356, passed 4-6-2010)
- D.** Operating or permitting 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 peace and quiet of any reasonable person of normal sensibilities or neighborhood in the vicinity.
- E.** Operating or permitting the operation of any sound amplification system in or on a vehicle in such a manner that the sound is plainly audible at a distance of fifty (50) feet, or in such a manner that it causes a person's normal sensibilities to be aware of vibration accompanying the sound at a distance of fifty (50) feet.

1-1-4 Animal Noise

A. It is unlawful and hereby declared a public nuisance for any person to harbor or keep any animals that habitually bark, howl, yelp, squeal, shriek or make any other sounds that disturb the peace and quiet of the neighborhood, or in such a manner as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by a considerable number of persons. When investigating public nuisance allegations, the Enforcement Officer shall take into consideration all factors that support any such allegations, including but not limited to: distances that the complaining parties live from the offensive premises, number of complaining witnesses, number of complaining parties residing on the street or in the vicinity of the offensive premises, duration that the conditions existed, prior history of similar complaints, and communications between the complainants and the offending party.

B. Before an Enforcement Officer cites any person for an animal noise nuisance under division **(A)** above, the complaining party and the alleged offender must first agree to participate in a civil hearing process administered by the City Manager. The City Manager shall appoint three city residents who shall convene to hear the complainant's allegation against the offending party. The Arizona Rules of Evidence shall not apply to these proceedings. The panel shall allow both the complainant and the alleged offender to state their side and shall allow any evidence the panel deems helpful in deciding whether there has been a violation of division **(A)**. The panel shall make the determination within 5 calendar days after the hearing, and shall make its findings in writing, signed by all three panel members. The City Manager shall send the written determination to the Enforcement Officer, the complaining party and the alleged offender.

C. There is no monetary penalty in a finding against the alleged offender. However, the Enforcement Officer shall monitor the alleged offender's property for additional violations. Should the Enforcement Officer have probable cause through written witness statements that the noise has continued, and it interferes with the reasonable use and enjoyment of the complaining party's property and in what manner, the Enforcement Officer shall prepare a class 1 misdemeanor noise citation and serve it on the offender. The violation shall be prosecuted by the City Attorney's office. If found guilty of a violation of division **(A)** or if the offender pleads guilty, the court shall impose a fine of no less than \$1,000, 12 months summary probation and 30 calendar days suspended jail sentence. The court may also impose other penalties as it deems fit, including but not limited to, the requirement the defendant use anti-barking devices on the animal.

(Ord, 1465, passed 12-4-2018)

1-1-5 Public Works

A. At no time shall equipment noise from any facility exceed an exterior noise level of 65 dBA three feet from the source of the noise if the facility is located in the ROW adjacent to a business or industrial zone. Any facility located within 500 feet of any rural or residential zone, or a residential or school use, shall not exceed 55 dBA three feet from the source of the noise.

B. Consistent with current federal laws, at the time of modification of SWF, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise, and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.

C.

1-1-6 Home Based Occupations

- A. *Indoor operation.* The home occupation shall be conducted indoors and shall not produce a noise, odor, vibration, glare or light that is noticeable beyond the property line for single-family zoning districts, beyond the adjoining walls for multi-family zoning districts or beyond the unit spaces of manufactured home and trailer parks, as determined by the director or designee.

1-1-7 Equestrian Activities and Uses

- A. *Related events.* Social events and parties shall be subject to the same noise, parking, traffic and health and safety regulations applied to other residential properties within the city.

1-1-8 Construction Activities

- A. It is hereby declared to be a public nuisance and is unlawful for any person, firm or corporation to engage in construction activities as delineated below, within the corporate limits of the city, during the prohibited times set forth in division (D) below, when those activities result in the generation of mechanically or electrically created noise that can be heard by a person with normal hearing within a residential building, the windows of which are closed, if the building is located within 500 feet of the construction site. **CONSTRUCTION ACTIVITIES** include, but are not limited to, the following:

1. The making of an excavation, clearing of surface land and loading or unloading material, equipment or supplies; and
2. The operation of mechanically powered tools, including but not limited to, a cement mixer, pole driver, power shovel, pneumatic hammer, derrick or power hoist.

(Prior Document, § 8-1-5) (Ord. 985, passed 3-18-1997)

- B. The prohibited time periods for construction activity are as follows:

1. Before 5:00 a.m. Arizona State Time and after 6:30 p.m. Arizona State Time, Monday through Friday from April 15 to October 15.
2. Before 6:00 a.m. Arizona State Time and after 6:30 p.m. Arizona State Time, Monday through Friday during the remainder of the year; and
3. Before 7:00 a.m. Arizona State Time and after 5:00 p.m. Arizona State Time on Saturdays and Sundays throughout the year and holidays recognized by the city.

- C. The following activities shall be excluded from such prohibition:

1. Noise generated by work being performed by a resident of a building or structure, which may continue until 9:00 p.m., but may not begin earlier than the times set forth in division (B) above; and
2. Noise resulting from an emergency, including but not limited to, repair of roofs, windows, doors and electrical, plumbing and mechanical equipment.
An **EMERGENCY** means any situation where work must be performed in order to prevent serious physical injury to persons or property.

- D. The construction activities noted in division (B)(2) above may be conducted at prohibited times, if upon written application, a permit is obtained before the activities commence, from the City Manager or a designee. The written application must contain information which

demonstrated that the need to engage in the activity is an urgent necessity and barring the activity would constitute an unreasonable hardship on the applicant.

E. If the City Manager or a designee determines that granting of the permit would impair the public health, safety and welfare, the permit shall be denied. If determined otherwise, the permit shall be granted, and the construction activity allowed to take place during any or all of the prohibited hours.

1. In determining whether to grant the permit, the City Manager or a designee shall balance the hardship to the applicant against the adverse impact on the health, safety and welfare of the persons most likely affected, the adverse impact on the property affected and any other adverse effects of granting the permit.
2. Permits shall be granted by giving written notice to the applicant with any necessary conditions, including a time limit on the permitted activity, which in no case shall exceed 30 days. The permit shall not become effective until all conditions are communicated in writing, understood and agreed upon by the applicant. Noncompliance with any condition in the permit shall be grounds for revocation of the permit. An applicant may appeal the refusal to issue a permit or the revocation of a permit to the Council, who has the final authority to grant, refuse or revoke a permit.

F. Violation of any provision of divisions (C) through (F) above is a misdemeanor and is punishable pursuant to Vol. I, § [1-1-11](#).

(Prior Code, § 10-1-12) Penalty, see Vol. I, § [1-1-11](#)

1-1-9 Airports and Helipads

- A.** *Permit required.* Airports, airstrips, landing areas and helipads shall be permitted only as a CUP as provided in table 5-1 and table 5-3 (see vol. II, 88, 1-5-1 and 1-5-3). The Planning and Zoning Commission and/or City Council may require conditions of approval to protect the public's interest in controlling noise, vibration, glare, light, runway protection zones, over flight areas, fumes, dust, fuel particles, crash hazards. These conditions of approval shall apply to the take-off and landing of any contrivance, now known or hereafter invented, for use or designed for navigation of or flight in the air, including helicopters, fixed-wing aircraft and gliders and lighter-than-air vehicles such as hot air balloons, blimps and dirigibles.

1-1-10 Alternative Energy Structures and Equipment

- A.** *Environmental Standards.* Alternate energy production facilities shall comply with state and federal environmental standards regarding emissions, public health, noise and safety.

1-1-11 Temporary Uses of Structures

- A.** No unreasonable noise impact, public or private disturbances or nuisances shall occur or be permitted to continue as determined by the Zoning Administrator.

1-1-12 CUP, AUP and Building Permits

- A.** A CUP may be granted upon a finding by the Commission that the use covered by the permit, the manner of its conduct and any structure involved will not be detrimental to

persons residing or working in the area, to adjacent property, to the neighborhood or to the public welfare in general. The burden of proof for satisfying the aforementioned requirements shall rest with the applicant. In arriving at the above determination, the Commission shall consider but not be limited to the following factors:

1. Negative impacts arising from the emission of odor, dust, gas, noise, lighting, vibration, smoke, heat or glare.

1-1-13 General Site Development Regulation

- A. *Associated facilities.* Back-up power generators shall comply with the setbacks of the zoning districts and city's noise standards as outlined in Apache Junction City Code, Vol. I, § [10-1-12](#).

(Prior Document, § 8-1-5) (Ord. 985, passed 3-18-1997)

1-1-14 Unruly Gathering

- A. Allowing or causing any malicious or willful shouting, yelling, screaming or any other form of raucous vocalization by a person or group of people on any private or public property including property used to conduct business in a manner which disturbs the peace and quiet of a neighborhood or a reasonable person of normal sensibilities.

1-1-15 Abatement of Unruly Gathering

- A. A peace officer may abate an unruly gathering by reasonable means including but not limited to citation and/or order dispersal of the persons attending the gathering.

1-1-16 Outdoor Speaker/Sound System

- A. Maintaining or operating an outdoor speaker that is affixed to any structure or placed upon any property where:
 1. The speaker is audible for a distance of more than one hundred (100) feet from the source; or
 2. The speaker is two hundred fifty (250) feet or closer to a location that is zoned or developed for residential use. This restriction shall not apply to intercommunications systems that are utilized from 8:00 a.m. to 6:00 p.m. for the sole purpose of conducting the internal business affairs of the establishment.

1-1-17 Persons Responsible for Noise Violations

- A. The person responsible for any activity that violates this section shall be deemed responsible for the violation.
- B. If the person responsible for an activity that violates this section cannot be determined, the owner, property manager or agent of the owner, sponsor of the event, lessee or occupant of the property on which the activity is located shall be deemed responsible for the violation.

- C. Any person in attendance who engaged in any conduct causing the disturbance may also be deemed responsible for the violation.

1-1-18 Enforcement

- A. The Police Department and any other City department as designated by the City Manager is authorized to enforce the provisions of this section. A complaining member of the public shall not necessarily be required to appear in court before a violator may be found responsible for a violation of this section.
- B. Officers responding to a complaint under the provisions of this section may;
1. Advise the concerned parties of the violation and seek to gain voluntary compliance;
or
 2. Issue a civil infraction violation.
- C. Violations. It shall be unlawful and a violation of this ordinance for any person to operate or to permit to be operated any site-specific source of sound which when measured at any point of the property line where the noise emission is generated: (a) Creates a sound level in excess of its ambient sound pressure level (LEQ) limit, indicated on Table 1 below:

TABLE 1 - LIMITING SOUND LEVELS FOR LAND USE DISTRICTS		
Zoning District Classifications	LEQ Limits, dBA	
Residential	60dBA{7am-8pm} 55dBA {8pm-7am}	
Commercial or Business	65dBA{7am-10pm} 60dBA{10pm-7am}	
Industrial	70dBA{7am-10pm}	
Rural	65dBA{10pm-7am} 65dBA{7am-9pm} 60dBA{9pm-7am}	

The LEQ limits specified in Table 1 are LEQ for a two (2) minute time interval. Partial LEQ levels may be obtained as necessary to assure an accurate indication of the representative sound environment for the site. (b) Sound projected from property within one (1) zoning district into property within another zoning district of a lesser sound level limit shall not exceed such lesser sound level limit.

1-1-19 Penalty

- A. Any person who shall violate any of the provisions of this Chapter or the City of Apache Junction Code as amended herein shall be guilty of a civil infraction.

- B.** The penalty for a person found responsible for a first violation shall receive a warning; a mandatory minimum fine of two hundred and fifty dollars (\$250.00) for a second violation; and a mandatory minimum fine of five hundred dollars (\$500.00) for a third or subsequent violation.
- C.** The Court may, in its own discretion, grant cost recovery for law enforcement services and/or establish a surcharge.
- D.** Each subsequent violation shall be a separate offense, punishable as hereinabove described.
- E.** Any person or persons making a complaint on a residential or commercial property in which case no citation or action has been issued after the third instance, the person or persons making the complaint may be subject to an administration fee of two hundred fifty dollars (\$250.00). In the event of an anonymous caller to the same residence or commercial property if no citation or action is taken after the third instance, it will be at the discretion of the Police Chief or Commander to not respond or follow up to the call.

1-1-20 Exemptions

The following activities are exempted from the provisions:

- A.** Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster; to restore public utilities; or to protect persons or property from an imminent danger.
- B.** Sound made to alert persons to the existence of an emergency, danger or attempted crime.
- C.** Activities or operations of governmental units or agencies.
- D.** Parades, concerts, festivals, fairs or similar activities that have been approved by the City for a special event permit.
- E.** Athletic, musical or cultural activities or events (including practices and rehearsals) conducted by or under the auspices of public or private schools and public or private colleges or universities.
- F.** Activity, including commercial activity, which is permitted under the zoning code, CUP or development agreement.
- G.** Construction, repair, remodeling, demolition, drilling, landscape maintenance, landscaping, lawn or yard work, wood cutting, including crafts and hobbies, or excavation work conducted between 6:00 a.m. through 8:00 p.m. Mondays through Fridays. Also, a person may engage in or allow such activities at that person's residence between 6:00 a.m. and 8:00 p.m. on Saturdays or Sundays.
- H.** HVAC system that have been deemed running within factory specifications by a licensed HVAC contractor.