

ORDINANCE NO. 1141

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF WICKENBURG, ARIZONA, AMENDING THE TOWN OF WICKENBURG CODE, CHAPTER 10 OFFENSES BY REPEALING EXISTING SECTION 10-1-11 NOISE AND FUMES IN ITS ENTIRETY AND ADOPTING NEW SECTION 10-1-11 NOISE AND FUMES GOVERNING THE LEVEL OF NOISE AND DEFINING NOISE VIOLATIONS AND EXEMPTIONS, SETTING TIME LIMITS ON NOISE, PROVIDING FOR VARIANCES AND TEMPORARY EXCEPTIONS TO THE NOISE STANDARDS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PENALTIES

WHEREAS, the Town Council has found that, at certain levels, noises are detrimental to the health, safety and welfare of the citizenry; and

WHEREAS, the Town Council finds that it is in the best interests of the Town and its citizens to adopt regulations prohibiting unnecessary, excessive and offensive noises from all sources subject to its police power.

NOW THEREFORE BE IT ORDAINED by the Mayor and Common Council of the Town of Wickenburg, Arizona, as follows:

Section I. In General.

The Code of Wickenburg, Chapter 10 Offenses is hereby amended by repealing existing Section 10-1-11 Noise and Fumes in its entirety.

The Code of Wickenburg, Chapter 10 Offenses is hereby amended by adopting a new Section 10-1-11 Noise and Fumes to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

Section 10-1-11 Noise and Fumes

A. DEFINITIONS.

1. "A" BAND LEVEL MEANS THE TOTAL SOUND LEVEL OF ALL NOISE AS MEASURED WITH A SOUND LEVEL METER USING A-WEIGHTING NETWORK. THE UNIT IS THE dB(A).
2. COMMUNITY NOISE STANDARDS SHALL MEAN THE NOISE STANDARDS SET FORTH IN SUBSECTION B, UNLESS MODIFIED PURSUANT TO SUBSECTION E OR F.
3. 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, TWO $\times$ 10⁻⁵ NEWTON/METER².

4. **EMERGENCY WORK** MEANS ANY WORK PERFORMED TO PREVENT OR ALLEVIATE PHYSICAL TRAUMA OR PROPERTY DAMAGE THREATENED OR CAUSED BY AN EMERGENCY WHICH HAS 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.
5. **SOUND LEVEL (NOISE LEVEL)** IN DECIBELS (DB) IS THE SOUND MEASURED WITH THE A-WEIGHTING AND SLOW RESPONSE BY A SOUND LEVEL METER.
6. **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 S1.4-1971 OR THE MOST RECENT REVISION THEREOF.

B. ALLOWABLE NOISE LEVELS. IT IS UNLAWFUL FOR ANY PERSON TO CREATE OR PERMIT ANY NOISE THAT PRODUCES A dB(A) BEYOND THAT PERSON'S PROPERTY LINE EXCEEDING THE LEVELS SPECIFIED IN TABLE I. WHERE PROPERTY IS USED FOR BOTH RESIDENTIAL AND COMMERCIAL PURPOSES, THE RESIDENTIAL SOUND LEVELS SHALL BE USED ONLY FOR MEASUREMENTS MADE ON THE PORTION OF THE PROPERTY USED SOLELY FOR RESIDENTIAL PURPOSES.

ZONE	DAY OF THE WEEK	TIME	dB(A)
RESIDENTIAL	SUNDAY THROUGH THURSDAY	7:00 A.M. TO 10:00 P.M.	70
	SUNDAY THROUGH THURSDAY	10:00 P.M. TO 7:00 A.M.	62
	FRIDAY AND SATURDAY	7:00 A.M. TO 12:00 A.M.	70
	FRIDAY AND SATURDAY	12:00 A.M. TO 7:00 A.M.	62
COMMERCIAL	SUNDAY THROUGH THURSDAY	7:00 A.M. TO 10:00 P.M.	72
	SUNDAY THROUGH THURSDAY	10:00 P.M. TO 7:00 A.M.	65
	FRIDAY AND SATURDAY	7:00 A.M. TO 12:00 A.M.	72

	FRIDAY AND SATURDAY	12:00 A.M. TO 7:00 A.M.	65
INDUSTRIAL	SUNDAY THROUGH THURSDAY	7:00 A.M. TO 10:00 P.M.	85
	SUNDAY THROUGH THURSDAY	10:00 P.M. TO 7:00 A.M.	70
	FRIDAY AND SATURDAY	7:00 A.M. TO 12:00 A.M.	85
	FRIDAY AND SATURDAY	12:00 A.M. TO 7:00 A.M.	70

C. OTHER NOISES PROHIBITED; STANDARDS FOR EXCESSIVE NOISE.

1. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, AND IN ADDITION THERETO, IT SHALL BE UNLAWFUL 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 OF NORMAL SENSITIVENESS RESIDING IN THE AREA.
2. IT SHALL BE UNLAWFUL FOR ANY PERSON ENGAGING IN THE FOLLOWING ACTIVITIES TO PRODUCE NOISE BEYOND THE PROPERTY LINE OF THE PROPERTY ON WHICH THE ACTIVITIES ARE CONDUCTED AND WHICH DISTURBS THE PEACE AND QUIET OF A NEIGHBORHOOD OR PERSON:
 - a. CREATING OR ALLOWING A LOUD, DISTURBING NOISE IN CONNECTION WITH THE LOADING OR UNLOADING OF ANY VEHICLE;
 - b. OWNING, POSSESSING, HARBORING OR PERMITTING ANY DOMESTICATED ANIMAL OR BIRD WHICH FREQUENTLY OR FOR CONTINUOUS DURATION HOWLS, BARKS, MEOWS, SQUAWKS OR MAKES OTHER SOUNDS;
 - c. ALLOWING OR CAUSING ANY SHOUTING, YELLING, SCREAMING OR ANY OTHER FORM OF RAUCOUS VOCALIZATION BY A PERSON OR GROUP OF PEOPLE; THIS PROVISION IS NOT INTENDED TO PRECLUDE ANY PARTY FROM EXERCISING THEIR CONSTITUTIONAL FIRST AMENDMENT RIGHT TO LAWFUL, PEACEFUL ASSEMBLY.
 - d. ANY NOISE CREATED BY CONSTRUCTION ACTIVITIES INCLUDING, BUT NOT LIMITED TO, REPAIR, REMODELING, DEMOLITION, DRILLING, WOOD CUTTING OR EXCAVATION WORK CONDUCTED FROM 8:00 P.M. THROUGH SUNRISE; EXCEPT THAT A PERSON MAY ENGAGE IN THE ABOVE LISTED

ACTIVITIES AT THAT PERSON'S OWN RESIDENCE FROM
SUNRISE THROUGH 8:00 P.M.

D. GENERAL EXEMPTIONS. THE FOLLOWING ACTIVITIES ARE EXEMPTED
FROM THE PROVISIONS OF SUBSECTIONS A AND B ABOVE:

1. AIR-CONDITIONING EQUIPMENT WHEN IT IS FUNCTIONING IN ACCORD WITH MANUFACTURER'S SPECIFICATIONS AND IS IN PROPER OPERATING CONDITION PROVIDED THAT NO UNIT MAY CAUSE THE NOISE LEVEL MEASURED INSIDE ANY SLEEPING OR LIVING ROOM INSIDE ANY DWELLING UNIT TO EXCEED FORTY-FIVE (45) dB(A) BETWEEN THE HOURS OF 10:00 P.M. AND 7:00 A.M., NOR FIFTY-FIVE (55) dB(A) BETWEEN THE HOURS OF 7:00 A.M. AND 10:00 P.M.;
2. LAWN MAINTENANCE EQUIPMENT WHEN IT IS FUNCTIONING IN ACCORD WITH MANUFACTURER'S SPECIFICATIONS AND WITH ALL MUFFLERS AND NOISE-REDUCING EQUIPMENT IN USE AND IN PROPER OPERATING CONDITION;
3. NON-AMPLIFIED NOISES RESULTING FROM THE ACTIVITIES SUCH AS THOSE PLANNED BY SCHOOL, GOVERNMENTAL OR COMMUNITY GROUPS;
4. 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;
5. NOISES OF SAFETY SIGNALS, WARNING DEVICES AND EMERGENCY PRESSURE RELIEF VALVES;
6. NOISES RESULTING FROM ANY AUTHORIZED EMERGENCY VEHICLE WHEN RESPONDING TO AN EMERGENCY CALL OR ACTING IN TIME OF EMERGENCY;
7. EMERGENCY WORK NECESSARY TO RESTORE PROPERTY TO A SAFE CONDITION FOLLOWING A FIRE, FLOOD, ACCIDENT OR NATURAL DISASTER; TO RESTORE PUBLIC UTILITIES; OR TO PROTECT PERSONS OR PROPERTY FROM AN IMMINENT DANGER;
8. ALL NOISES COMING FROM THE NORMAL OPERATIONS OF RAILROAD TRAINS;
9. NORMAL NOISES ASSOCIATED WITH THE TAKING OFF OR LANDING OF AIRCRAFT;
10. PARADES, CONCERTS, FESTIVALS, FAIRS OR SIMILAR ACTIVITIES THAT REMAIN WITHIN ANY SOUND LIMITS APPROVED BY THE TOWN AND PERMITTED BY A SPECIAL EVENT PERMIT;
11. NOISES OF CHURCH CHIMES;
12. ALL UTILITY EQUIPMENT, INCLUDING WELL PUMPS, TRANSMISSION LINES, POWER PLANT EQUIPMENT, DURING NORMAL OPERATION PROVIDED THAT NO PLANT EQUIPMENT MAY CAUSE THE NOISE LEVEL MEASURED INSIDE ANY SLEEPING OR LIVING ROOM INSIDE ANY RESIDENTIAL DWELLING UNIT TO EXCEED FORTY-FIVE (45)

dB(A) BETWEEN THE HOURS OF 10:00 P.M. AND 7:00 A.M., NOR FIFTY-FIVE (55) dB(A) BETWEEN THE HOURS OF 7:00 A.M. AND 10:00 P.M.;

13. AN EVENT BEING HELD PURSUANT TO A TOWN ISSUED SPECIAL EVENTS PERMIT PROVIDED THAT THE BUSINESS IS OPERATING IN ACCORDANCE WITH THE CONDITIONS OF THE SPECIAL USE PERMIT.
14. NOISES MADE BY LIVESTOCK LOCATED ON PROPERTY ZONED TO ALLOW FOR THE KEEPING OF LIVESTOCK.

E. **TEMPORARY EXEMPTIONS.** THE TOWN MANAGER IS AUTHORIZED TO GRANT A TEMPORARY EXEMPTION FROM THE ALLOWABLE NOISE LEVELS ESTABLISHED BY THIS SECTION IF SUCH TEMPORARY EXEMPTION WOULD BE IN THE PUBLIC INTEREST AND THERE IS NO FEASIBLE AND PRUDENT ALTERNATIVE TO THE ACTIVITY, OR THE METHOD OF CONDUCTING THE ACTIVITY, FOR WHICH THE TEMPORARY EXEMPTION IS SOUGHT. A TEMPORARY EXEMPTION MUST BE IN WRITING AND SIGNED BY THE TOWN MANAGER AND MUST SET FORTH THE NAME OF THE PARTY GRANTED THE EXEMPTION, THE LOCATION OF THE PROPERTY FOR WHICH IT IS AUTHORIZED AND THE DATE(S) AND TIME(S) FOR WHICH IT IS EFFECTIVE. A TEMPORARY EXEMPTION MAY BE GRANTED ONLY FOR THE PERIOD OF TIME THAT IS REASONABLY NECESSARY TO CONDUCT THE ACTIVITY AND, IN NO CASE SHALL EXCEED THIRTY (30) DAYS. THE FOLLOWING FACTORS SHALL BE CONSIDERED BY THE TOWN MANAGER IN DETERMINING WHETHER TO GRANT A TEMPORARY EXEMPTION:

1. THE BALANCING OF THE HARDSHIP TO THE APPLICANT, THE COMMUNITY AND OTHER PERSONS IN NOT GRANTING THE VARIANCE AGAINST THE ADVERSE IMPACT ON THE HEALTH, SAFETY AND WELFARE OF PERSONS ADVERSELY AFFECTED AND ANY OTHER ADVERSE EFFECTS OF THE GRANTING OF THE VARIANCE;
2. THE NEARNESS OF ANY RESIDENCE OR RESIDENCES, OR ANY OTHER USE WHICH WOULD BE ADVERSELY AFFECTED BY SOUND IN EXCESS OF THE LIMITS PRESCRIBED BY THIS ARTICLE;
3. THE LEVEL OF THE SOUND TO BE GENERATED BY THE EVENT OR ACTIVITY;
4. WHETHER THE TYPE OF SOUND TO BE PRODUCED BY THE EVENT OR ACTIVITY IS USUAL OR UNUSUAL FOR THE LOCATION OR AREA FOR WHICH THE VARIANCE IS REQUESTED;
5. THE DENSITY OF POPULATION OF THE AREA IN WHICH THE EVENT OR ACTIVITY IS TO TAKE PLACE;
6. THE TIME OF DAY OR NIGHT WHICH THE ACTIVITY OR EVENT WILL TAKE PLACE;
7. THE NATURE OF THE SOUND TO BE PRODUCED, INCLUDING BUT NOT LIMITED TO WHETHER THE SOUND WILL BE STEADY, INTERMITTENT, IMPULSIVE OR REPETITIVE.

F. **VARIANCES.** PERSONS WISHING TO CONTINUE ACTIVITIES WHICH COMMENCED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION AND WHICH CREATE NOISE IN EXCESS OF THE ALLOWABLE NOISE LEVELS MAY SEEK A VARIANCE FROM THE TOWN MANAGER. A REQUEST FOR VARIANCE MUST BE IN WRITING AND SIGNED BY THE REQUESTING PARTY. IF APPROVED, THE VARIANCE SHALL BE SIGNED BY THE TOWN MANAGER AND SHALL SET FORTH THE NAME OF THE PARTY GRANTED THE EXEMPTION, THE LOCATION OF THE PROPERTY FOR WHICH IT IS AUTHORIZED, THE DATE(S) AND TIME(S) FOR WHICH IT IS EFFECTIVE AND THE dB(A) LEVEL(S) AUTHORIZED. A VARIANCE SHALL BE GRANTED ONLY IF THE TOWN MANAGER FINDS THAT STRICT ENFORCEMENT OF THE TERMS OF THIS SECTION WOULD CAUSE A HARDSHIP AND NO OTHER REASONABLE ALTERNATIVE OF ENGAGING IN THE ACTIVITY EXISTS. THE FOLLOWING FACTORS SHALL BE CONSIDERED BY THE TOWN MANAGER IN DETERMINING WHETHER TO GRANT A VARIANCE:

1. THE BALANCING OF THE HARDSHIP TO THE APPLICANT, THE COMMUNITY AND OTHER PERSONS IN NOT GRANTING THE VARIANCE AGAINST THE ADVERSE IMPACT ON THE HEALTH, SAFETY AND WELFARE OF PERSONS ADVERSELY AFFECTED AND ANY OTHER ADVERSE EFFECTS OF THE GRANTING OF THE VARIANCE;
2. THE NEARNESS OF ANY RESIDENCE OR RESIDENCES, OR ANY OTHER USE WHICH WOULD BE ADVERSELY AFFECTED BY SOUND IN EXCESS OF THE LIMITS PRESCRIBED BY THIS ARTICLE;
3. THE LEVEL OF THE SOUND TO BE GENERATED BY THE EVENT OR ACTIVITY;
4. WHETHER THE TYPE OF SOUND TO BE PRODUCED BY THE EVENT OR ACTIVITY IS USUAL OR UNUSUAL FOR THE LOCATION OR AREA FOR WHICH THE VARIANCE IS REQUESTED;
5. THE DENSITY OF POPULATION OF THE AREA IN WHICH THE EVENT OR ACTIVITY IS TO TAKE PLACE;
6. THE TIME OF DAY OR NIGHT WHICH THE ACTIVITY OR EVENT WILL TAKE PLACE;
7. THE NATURE OF THE SOUND TO BE PRODUCED, INCLUDING BUT NOT LIMITED TO WHETHER THE SOUND WILL BE STEADY, INTERMITTENT, IMPULSIVE OR REPETITIVE.

G. **OTHER PROHIBITED NOISE.**

1. NO PERSON MAY USE ANY AUTOMOBILE, MOTORCYCLE OR OTHER VEHICLE, ENGINE OR MOTOR OF WHATEVER SIZE, STATIONARY OR MOVING, INSTRUMENT, DEVICE OR THING, IN SUCH A MANNER AS TO CREATE LOUD AND UNNECESSARY GRATING, GRINDING, RATTLING OR OTHER NOISE.
2. NO PERSON MAY OPERATE ANY MECHANICAL DEVICE OPERATED BY GASOLINE, OR OTHERWISE, WITHOUT HAVING A MUFFLER, IN GOOD WORKING ORDER AND IN CONSTANT OPERATION, TO

PREVENT EXCESSIVE OR UNUSUAL NOISE AND SMOKE; AND NO PERSON SHALL USE A MUFFLER CUTOUT, BYPASS OR SIMILAR DEVICE.

3. NO PERSON MAY OPERATE OR USE ANY AUTOMOBILE, MOTORCYCLE OR OTHER VEHICLE, ENGINE OR MOTOR OF WHATEVER SIZE, STATIONARY OR MOVING, ON RACE TRACKS, RACE COURSES, OR OTHER SIMILAR TRACKS OR COURSES AT PLACES OF AMUSEMENT, NOT BEING PUBLIC HIGHWAYS, BETWEEN THE HOURS OF 10:30 P.M. AND 8:00 A.M. ON SUNDAYS THROUGH THURSDAYS, OR BETWEEN THE HOURS OF 12:00 MIDNIGHT AND 8:00 A.M. ON FRIDAYS AND SATURDAYS.
4. NO PERSON SHALL OPERATE SOUND AMPLIFICATION SYSTEMS IN A VEHICLE AT AN EXCESSIVE LEVEL THAT DISTURBS THE PEACE AND QUIET OF A NEIGHBORHOOD OR OTHER PERSONS.
5. 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 THAT THE SOUND IS PLAINLY AUDIBLE AT A DISTANCE OF FIFTY (50) FEET, OR IN SUCH A MANNER THAT IT CAUSES A PERSON TO BE AWARE OF VIBRATION ACCOMPANYING THE SOUND AT A DISTANCE OF FIFTY (50) FEET.
6. IT SHALL BE UNLAWFUL FOR AN OPERATOR OF A DIESEL-POWERED MOTOR VEHICLE HAVING A LOAD CAPACITY OF TWO (2) TONS OR MORE TO ALLOW SAID VEHICLE TO IDLE FOR A PERIOD OF TIME IN EXCESS OF TWO (2) HOURS WHILE LOCATED WITHIN THE TOWN LIMITS. THIS PROVISION SHALL NOT APPLY TO VEHICLES BEING REPAIRED NOR TO VEHICLES IMMEDIATELY ENGAGED IN LOADING OR UNLOADING CARGO.

H. **ENFORCEMENT.** THE POLICE DEPARTMENT, THE BUILDING INSPECTOR, ANIMAL CONTROL OFFICER FOR ANIMAL NOISES AND TOWN PROSECUTOR ARE AUTHORIZED TO ENFORCE THE PROVISIONS OF THIS SECTION.

Section II. Repeal of Conflicting Ordinance.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

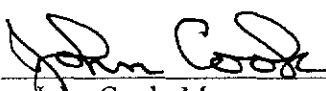
Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

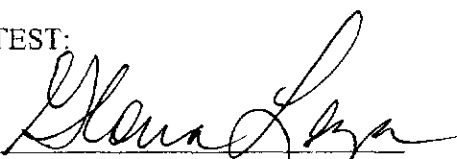
Section IV. Providing for Penalties.

Any person found guilty of violating any provision of this Ordinance shall be subject to the violation and penalty provisions of Section 1-8 of the Wickenburg Town Code. The court shall also enter an order of abatement against a party found responsible for a violation of this article.

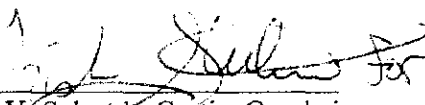
PASSED AND ADOPTED by the Town Council of the Town of Wickenburg, Arizona, this 21 day of July, 2014.

By: 
John Cook, Mayor

ATTEST:

By: 
Gloria Leija, Town Clerk

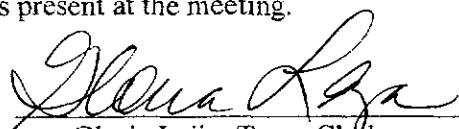
APPROVED AS TO FORM:

By: 
Kelly Y. Schwab, Curtis, Goodwin,
Sullivan, Udall & Schwab, P.L.C.,
Town Attorneys

Number of Councilmembers Present: 7
Number of Votes For: 4
Number of Votes Against: 1
Number of Abstentions: 2

CERTIFICATION

I HEREBY CERTIFY that the foregoing Ordinance Number 1141 was duly passed and adopted by the Common Council of the Town of Wickenburg, Arizona, at a regular meeting held on the 21 day of July 2014, and that a quorum was present at the meeting.


Gloria Leija, Town Clerk