



City Council Report

Date: November 21, 2022
To: City Council
Through: Scott Butler, Assistant City Manger
From: Ken Cost, Police Chief
Ed Wessing, Assistant Police Chief
Subject: Amending Title 6, Chapter 12 – Offensive, Excessive, and Prohibited Noises (Citywide)

Purpose and Recommendation

Adopt an Ordinance amending Title 6, Chapter 12, of the Mesa City Code (Police Regulations – Offensive, Excessive, and Prohibited Noises) by restructuring the City Code to more clearly state the noise prohibitions in a manner similar to adjacent communities, such as Gilbert and Tempe, while being mindful of Mesa’s urban areas and businesses and industries that operate within Mesa, including aeronautical and industrial.

Background and Discussion

This Ordinance seeks to balance the needs of all businesses and residents to regulate and prevent excessive, unnecessary, or offensive sound, noise, and vibration that disrupts, jeopardizes, or is detrimental to the health, welfare, safety, comfort, repose, and quality of life of the citizens of the City.

The intent of this Ordinance is to make the City’s noise ordinance more similar to adjacent communities. This Ordinance is not intended to affect aeronautical or industrial activities that create a level of noise a reasonable person would expect in a large metropolitan area, including the use of the City’s two airports and the ability of industries surrounding the City’s airports to continue their aeronautical and industrial businesses.

The following are each of the primary areas of the City’s current noise ordinance that this Ordinance proposes to update:

Violation Factors

The current City Code has some challenging elements for enforcement purposes

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based on the requirements for what is a prohibited noise. This Ordinance would provide more clarity while generally regulating the same noises as the current City Code, such as those caused by vehicles, animals, sound amplification systems, and people. The proposed new language in the Ordinance modifies the current City Code by regulating noise based on a variety of important factors similar to how the Town of Gilbert and City of Tempe regulate noise.

If this Ordinance is adopted, the factors that would be used by those City officials determining whether a sound or noise is unreasonable would include: volume and intensity of the sound or noise; proximity of the source of the sound or noise to residential structures on residential property; zoning and permitted land uses of the property or area from which the sound or noise emanates; whether the sound or noise is recurrent, intermittent, or constant; time of day, especially a sound or noise occurring between 10:00 p.m. and 6:00 a.m.; the volume and intensity of background noise, if any; whether the sound or noise is enhanced in volume or range by any type of electronic or mechanical means; and whether the sound or noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

The proposed language does not include a maximum decibel requirement but, if such a requirement is desired by Council, staff would propose that the Ordinance in its current form be adopted and then the City may consider consulting a sound expert to determine whether amending the City Code to set maximum decibel levels for certain areas is recommended or needed.

General Exemptions

This Ordinance would also modify the exemption requirements compared to the current City Code. The City's current noise ordinance generally exempts noise made by emergency work involving fires, accidents, disasters, and utilities; governmental units or agencies; parades concerts, or festivals approved by the City; athletic, musical or cultural activities or events conducted by schools; activity permitted under the zoning code; construction repair, remodeling, demolition, drilling, wood cutting, crafts and hobbies, excavation work; and landscaping during certain hours. The proposed update in this Ordinance provides all of the same general exemptions except that activity permitted under the zoning code is instead a factor to be considered when determining reasonableness rather than a general exemption. In addition, this Ordinance would allow landscaping at golf courses and private parks one hour earlier than the current City Code. Temporary licenses and permits issued by the City may also include some limitations related to noise.

Temporary Exemptions

The current City Code allows for temporary exemptions to be granted by the City Manager after considering a set of defined factors. This Ordinance similarly allows for temporary exemptions to be requested and granted based on a set of factors, but clarifies how to submit a temporary exemption request, where the exemption is kept

on file if granted, and allows City Management to require the exemption requestor to provide notice to potentially impacted properties. City Management would also be authorized to grant a standing agricultural exemption as needed and without specific request.

Responsibility

The current City Code and this Ordinance both allow for owners or property managers to be held responsible for an activity when the person responsible cannot be found, and for multiple City departments to enforce the City Code.

Penalty/Fines

Under the current City Code, a first violation is a \$250 fine. A second violation is a \$500 fine. A third violation is a \$2,500 fine. Under this Ordinance, the penalty would be a fine of no less than \$250 and up to \$1,500 for a first violation. For a second violation within 24 months, the penalty would be a fine of no less than \$500 and up to \$2,500. For a third violation within 24 months, the penalty would be a fine of no less than \$750 and up to \$2,500. This Ordinance also adds a habitual offender provision making it a class 1 misdemeanor for a person to commit a noise violation after previously having been found responsible for 3 separate civil violations within a 12-month period.

Alternatives

Do not adopt the Ordinance, which would leave the Mesa City Code Title 6, Chapter 12 unchanged.

Fiscal Impact

There is no cost to the Mesa Police Department or City of Mesa to amend Mesa City Code Title 6, Chapter 12.

Coordinated With

The City Attorney's Office