

ORDINANCE O-20-01

**AN ORDINANCE OF THE CITY OF BISBEE, AMENDING THE CITY CODE,
SECTION 10.1.8, NUISANCE**

WHEREAS, the general public has a right to be free from unreasonable noise, which interferes with the peaceful enjoyment of this community:

WHEREAS, the City must define which penalties will be assessed upon a violation of this Section 10.1.8; and

WHEREAS, it is in the best interests of the City of Bisbee and its citizens to adopt this amendment to the City Code set forth on Exhibit A hereto.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, THAT:

Section 1. The amendments to Chapter 6 of the City Code, as set forth in the attached Exhibit A, incorporated herein by reference, are hereby adopted.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance 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.

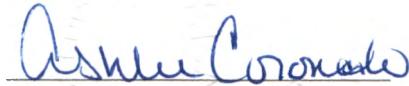
PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Bisbee on this 7th day of April, 2020.

APPROVED:



David Smith, Mayor

ATTEST:



Ashlee Coronado, City Clerk

APPROVED AS TO FORM:



James Ledbetter, City Attorney

EXHIBIT A

10.1.8 Nuisance

- A. Anything, which is injurious to the health of the community; which is offensive to a reasonable person; which is an impediment to the use of property, so as to interfere with the enjoyment or quality of life; or, which unlawfully obstructs the free passage or use of any public park, square, alley, sidewalk, street or highway, is a public nuisance.
- B. It is unlawful for any person to maintain or commit a public nuisance, or to willfully omit to perform any legal duty, relating to the removal of a public nuisance.
- C. Noise can be a nuisance. No person or entity shall create noise that is intermittent or continuous for a period of at least fifteen (15) minutes and which exceeds the property line, disturbing the peace and order of the neighborhood or a person of ordinary sensibilities. All persons and entities, unless an exemption is provided in this Code, are prohibited from producing noise that is intermittent or continuous between the hours of 10:00 p.m. and 6:00 a.m., which exceeds the property line, and disturbs the peace and order of the neighborhood or a person of ordinary sensibilities.
- D. General exemptions to the noise provisions of this article 10.1.8(C), are:
 - 1. 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;
 - 2. Sound made to alert persons to the existence of an emergency, danger or attempted crime;
 - 3. Activities or operations of governmental units or agencies;
 - 4. Parades, concerts, festivals, fairs or similar activities that have been approved by the City under a special events permit;
 - 5. 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;
 - 6. Activity, including commercial activity, which is permitted under the zoning code, subject to provisions of this article 10.1.8(F); and,
 - 7. 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.

E. Any person or entity may apply for a temporary exemption to 10.1.8(C), and a temporary exemption is allowed under the following criteria:

1. The City Manager or designee may grant a temporary exemption from the requirements established by this article if such temporary exemption would be in the public interest and there is no feasible and prudent alternative to the activity.
2. A temporary exemption must be in writing and signed by the City Manager or designee 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.
3. A temporary exemption may be granted only for the period of time that is reasonably necessary to conduct the activity, which in no case may exceed thirty (30) days, unless otherwise specified.
4. The following factors shall be considered by the City Manager or designee in determining whether to grant a temporary exemption:
 - a. 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;
 - b. The nearness of any residence or residences, or any other use;
 - c. The level of the sound to be generated by the event or activity;
 - d. 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;
 - e. The density of population of the area in which the event or activity is to take place;
 - f. The time of day or night which the activity or event will take place; and/or
 - g. The nature of the sound to be produced, including but not limited to whether the sound will be steady, intermittent, impulsive or repetitive.

F. No commercial establishment holding a liquor license, or a public place of amusement, as designated pursuant to Zoning Code Sections 5.2.3 and 5.2.4, shall operate or permit operation of any equipment or device that amplifies sound so as to generate sound louder than average conversational level at a distance of 100 feet or more from the property line of the property from which the noise is being generated.

1. Any business subject to this section operating outdoor sound amplification equipment and devices shall install and direct such equipment or devices inward, toward the business and away from public and private property.
2. A business subject to this section shall cooperate with reasonable requests by enforcement personnel for the purpose of investigating sound levels produced by equipment or devices that amplify sound.

G. Any person or entity who violates any of the provisions of this Section 10.1.8 shall be guilty of a civil infraction and fined according to the following schedule or any successor schedules, adopted by the Council:

1. The first violation includes a fine of \$250.00 for each individual or entity responsible.
2. The second violation includes a fine of \$500.00 for each individual or entity responsible.
3. The third and all subsequent violations include a fine of \$2,500.00 for each individual or entity responsible.
4. The fees and penalties in this Section 10.1.8(G) are to be superseded by a subsequent act of the City Council to adopt a new fee and penalty schedule. Until and in the event these fees and penalties are superseded, this Section 10.1.8(G) controls.