

ORDINANCE NUMBER 2016 -10

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA AMENDING THE PARADISE VALLEY TOWN CODE, ARTICLE 8-10 NUISANCE NOISE AND DELETING SECTION 10-7-5 CONSTRUCTION AND RELATED ACTIVITIES

BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA:

Section 1. Articles 8-10 and 10-7 are hereby amended (with deletions shown as ~~strikethroughs~~ and additions shown in **bold type**):

Section 8-10-1 GENERAL PROHIBITIONS

- A. It shall be unlawful for any person to disturb the peace by any of the following: making, continuing, maintaining or causing to be made or continued, within the limits of the Town, any disturbing, excessive, unreasonable or unusually loud or offensive noise which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.
- B. The characteristics and conditions which should be considered in determining whether a violation of the provisions of this section exists should include, but ~~Not~~ **not** be limited to, the following:
- (1) The level of the noise;
 - (2) Whether the nature of the noise is usual or unusual;
 - (3) Whether the origin of the noise is natural or unnatural;
 - (4) The level of the ambient noise;
 - (5) The proximity of the noise to sleeping facilities;
 - (6) The nature and zoning of the area from which the noise emanates and the area where it is received;
 - (7) The time of day or night the noise occurs;
 - (8) The duration of the noise; and
 - (9) Whether the noise is recurrent, intermittent, or constant.

**Section 8-10-2 DECLARATION OF CERTAIN ACTS CONSTITUTING
DISTURBING, EXCESSIVE, OR OFFENSIVE NOISES**

The following activities, among others, are declared to cause disturbing, excessive or offensive noises in violation of this section and are unlawful, namely:

A. Excessive Animal Noise

1. Restrictions on animal noise.

The keeping or maintaining by any person of any animal or animals which by any frequent or long-continued noise causes annoyance or discomfort to a reasonable person of normal sensitiveness in the vicinity is prohibited.

2. Prima Facie Violations

The noise from any such animal or animals that disturbs two or more residents residing in separate residences adjacent to any part of the property on which the subject animal or animals are kept or maintained, or three or more residents residing in separate residences in close proximity to the property on which the subject animal or animals are kept or maintained shall be prima facie evidence of a violation of this section.

B. Yard/Landscape Maintenance Equipment

1. Definitions.

a. **“Summer” shall mean those months from May through September, inclusive.**

b. **“Yard/Landscape Maintenance Device”** as used in this section, shall mean any portable, hand-held or propelled, ridden, carried, or pushed device, which is capable of and intended for landscape and yard maintenance purposes. This includes, but is not limited to, leaf blowers, chain saws, lawn mowers, edgers, or weed or string cutters.

2. Violations.

~~No person shall operate, or cause to be operated, yard/landscape maintenance devices, on properties not subject to a special use permit, between sunset and sunrise on weekdays and Saturdays, and prior to 8:00 a.m. and after sunset on Sundays and on the legal holidays defined in Section 10-7-2 (10) of this Code.~~

Except for those properties where a special use permit provides for a more specific set of noise restrictions, it shall be unlawful for any person to operate, or cause to be operated, a Yard/Landscape Maintenance Device, except between 7 AM and 5 PM on Monday through Friday and between 9 AM and 5 PM on Saturdays and Sundays and on the legal holidays defined in Section 10-7-2 (10) of this Code. Summer hours of operation may start one (1) hour earlier.

C. Burglar alarms

1. Prohibitions.

Audible burglar alarms for structures or motor vehicles are prohibited unless the operation of such burglar alarms can be terminated within 10 minutes of being activated, and remain silent unless another security breach occurs.

2. Emergency disconnections.

Notwithstanding the requirements of this provision, any member of the Police Department of the Town of Paradise Valley shall have the right to take such steps as may be reasonable and necessary to disconnect any such alarm installed in any building, dwelling, or motor vehicle at any time during the period of its activation.

3. Emergency Contact Information.

On or after thirty (30) days from the effective date of this article, any building or dwelling upon which an audible, unmonitored burglar alarm has been installed shall prominently display the telephone number at which communication may be made with the owner of such building or dwelling.

D. Construction and Related Activities

1. Definitions.

a. **“Decibel” shall mean a logarithmic unit of measurement which indicates the ratio between two quantities commonly referred to as electric or sound energy levels, or pressure levels. One decibel on the A-weighted scale is abbreviated “dB (A).”**

b. **“Emergency” means a sudden or unforeseen situation that requires immediate work to prevent or mitigate injury or damage**

to persons or property. An Emergency exists only for the time necessary to remedy the immediate risk of harm.

- c. **“Heavy Equipment” means mechanical equipment that typically generates significant and offensive noise, such as, but not limited to, a loader or backhoe.**
 - d. **“Summer” shall mean those months from May through September, inclusive.**
2. **Except for those properties where a special use permit provides for a more specific set of noise restrictions it shall be unlawful for any person to operate or permit to be operated any Heavy Equipment in any construction, demolition, land clearing, excavation or similar outside construction activity, except between 7 AM and 5 PM on Monday through Friday. Operation of Heavy Equipment is unlawful at all times on Saturdays, Sundays and legal holidays (as defined in Section 10-7-2(10) of this Code). Summer hours of operation may start one (1) hour earlier. The Town Manager, or his designee, may grant exceptions upon written request.**
 3. **It shall be unlawful for any person to deliver or cause to be delivered construction equipment or materials to a construction site except between 7 AM and 5 PM Monday through Saturday. Delivery of construction equipment or materials to a construction site is unlawful on Sundays and legal holidays (as defined in Section 10-7-2 (10) of this Code), except that sprayed termite prevention material may be applied at any time. Summer delivery hours may start one (1) hour earlier. The Town Manager, or his designee, may grant exceptions upon written request.**
 4. **It shall be unlawful for any person to operate or permit to be operated any other device or equipment (that is, equipment that is not already subject to the Heavy Equipment restriction in Section D.1 above) in any building, construction, demolition, land clearing, excavation or similar outside construction activity, alteration, or repair work on any buildings, structures or projects, except between 7 AM and 5 PM Monday through Friday, and between 9 AM and 5 PM on Saturdays, Sundays and legal holidays, (as defined in Section 10-7-2 (10) of this Code). The noise level created on Sundays shall not exceed 75 decibels measured at the nearest property line. Summer hours may start one (1) hour earlier. The Town Manager, or his designee, may grant exceptions upon written request.**

Section 8-10-3 Exemptions

The following uses and activities shall be exempt from the regulations of this Article:;

1. Noises resulting from any authorized emergency or public safety vehicle.;
2. Noises resulting from ~~any authorized emergency work,~~ **the operation of any Heavy Equipment, equipment other than Heavy Equipment, or a Yard/Landscape Maintenance Device during an Emergency.**
3. Noise resulting from activities of a temporary duration for which a license or permit has been granted by the ~~€~~Town.
4. Vehicle back up warning alarms.

Section 8-10-4 Penalty

Any person who violates any provision of this article may be prosecuted for such a violation in accordance with the provisions of article 1-9 of the Paradise Valley Town Code.

Article 10-7 CONTROL OF EXCESSIVE NOISE

Section 10-7-5 RESERVED ~~Construction and Related Activities~~

- ~~A. It is unlawful for any person to operate or permit to be operated any pile driver, power shovel, rotary drill or auger, loader, pneumatic or hydraulic hammer, or bulldozer, in any building, construction, demolition, land clearing, excavation or similar outside construction, between sunset and sunrise on Monday through Friday, and at all times on Saturdays, Sundays and designated legal holidays.~~
- ~~B. It shall be unlawful for any person to perform or cause to be performed the maintenance or servicing of construction vehicles or equipment or to deliver or cause to be delivered construction equipment or materials to a construction site between sunset and sunrise Monday through Saturday, and at all times on Sundays and designated legal holidays except that sprayed termite prevention material may be applied between sunset and sunrise.~~
- ~~C. It is unlawful for any person to operate or permit to be operated any device in any building, construction, demolition, land clearing, excavation or similar outside construction, alteration, or repair work on any buildings, structures or projects, between sunset and sunrise Monday through Saturday, and at all times on Sundays and designated legal holidays, if the noise level created exceeds 45 db(a) measured at the nearest residential or commercial property line.~~

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town 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 3. This ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this _____ day of _____ 2016.

Michael Collins, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney

CERTIFICATION

I, Duncan Miller, Town Clerk, certify that the foregoing is a true copy of Ordinance Number _____ duly passed and adopted by affirmative vote of the Town Council of Paradise Valley at a meeting held on the _____ of _____ 2016. Passage of this Ordinance appears in the minutes of the meeting. The Ordinance has not been rescinded or modified and is now in effect. I further certify that the municipal corporation is duly organized and existing, and has the power to take the action called for by the Ordinance.

Duncan Miller, Town Clerk