



**Ordinance No. 2017-53**

**AN ORDINANCE AMENDING TITLE 6, HEALTH, NUISANCE ABATEMENT, NOISE; CHAPTER 3, NOISE, OF THE MUNICIPAL CODE OF PARK CITY, UTAH**

WHEREAS, the livability and viability of Park City, its residents, businesses, and guests is a high priority and work sessions were held by the Planning Commission on July 26, 2017 and by the City Council on August 17, 2017 to address potential amendments to Title 6, Chapter 3 of the Municipal Code regarding Park City's Noise Ordinance; and

WHEREAS, Park City has a direct interest in protecting the health, economy, and natural environment of our community by addressing noise pollution while at the same time balancing residential and commercial interests; and

WHEREAS, residential complaints regarding noise pollution are often in conflict with adjacent commercial interests; and

WHEREAS, Park City's Noise Ordinance is subject to constitutional challenges due to overbreadth and vagueness;

WHEREAS, members of the City Council find it in the best interest of the public to clarify the Municipal Code from time to time and specifically in this instance to realistically promote best practices by minimizing conflicts in neighboring commercial and residential zones and to enact sound legislation that is able to withstand constitutional scrutiny, and is able to be consistently enforced and understood.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARK CITY, UTAH THAT:

**Section I.** Amendments. Title 6 Chapter 3 of the Municipal Code of Park City is hereby amended to include the following:

**6-3-1. DEFINITIONS.**

For purposes of these regulations, unless otherwise defined in other sections of these regulations, the following terms, phrases, and words shall have the meaning herein given.

(A) A-WEIGHTED SOUND PRESSURE LEVEL. The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is "dB(A)" or "dBA".

(B) AMBIENT SOUND PRESSURE LEVEL. The sound pressure level of the all-encompassing noise associated with a given environment, usually a composite of sounds from many sources. It is also the A-weighted sound pressure level exceeded ninety percent (90%) of the time based on a measurement period which shall not be less than ten (10) minutes.

(A) (C) CONTINUOUS SOUND. Any sound that exists, essentially without interruption, for a period of ten minutes or more.

(B) (D) CYCLICALLY VARYING NOISE. Any sound that varies in sound level so that the same level is obtained repetitively at reasonable uniform levels of time.

(E) DECIBEL. A logarithmic and dimensionless unit of measure often used in describing the amplitude of sound. Decibel is denoted as "dB".

(G) (F) DEVICE. Any mechanism that is intended to produce, or that actually produces noise when operated or handled.

(D) (G) DYNAMIC BRAKING DEVICE. A device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes, commonly referred to as "Jacob's Brake" or "Jake Brake".

(E) (H) EMERGENCY. A situation or occurrence, which in the opinion of the City Manager, Chief of Police, Chief Building Official, or City Engineer, presents an imminent threat to the health, safety or welfare of any person, place or property.

(F) (I) EMERGENCY WORK. Work required to restore property to a safe condition following a public calamity or to protect persons or property from an imminent exposure to danger.

(G) (J) EMERGENCY VEHICLE. A motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

(K) HEATING, VENTILATION, AND AIR CONDITIONING (HVAC). Any system installed on or within a dwelling, facility, building or structure for the purpose of providing heating, ventilation, or air conditioning. HVAC may include furnaces, air exchangers, central air condensing units, evaporative "swamp" coolers, heat pumps, exhaust fans, and other heating and cooling equipment.

(H) (L) IMPULSIVE NOISE. A noise containing excursions usually less than one second, or sound pressure level using the fast meter characteristic.

(I) ~~(M)~~ **MOTOR VEHICLE**. Any vehicle that is self-propelled by mechanical power, including, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, motorcycles, mini-bikes, go-carts, snowmobiles, and racing vehicles.

(J) ~~(N)~~ **MUFFLER**. An apparatus consisting of a series of chambers or baffle plates designated to transmit gases while reducing sound.

(O) **NINETYETH PERCENTILE NOISE LEVEL**. The A-weighted sound pressure level that is exceeded ninety percent (90%) of the time in any measurement period (such as the level that is exceeded for 9 minutes in a 10 minute period) and is denoted "L90".

(K) ~~(P)~~ **NOISE DISTURBANCE**. Any sound that annoys or disturbs a reasonable person(s) with normal sensitivities or that injures or endangers the comfort, repose, health, hearing, peace, or safety of another person(s).

(L) ~~(Q)~~ **NOISE**. Any sound that is unwanted and causes or tends to cause an adverse psychological or physiological effect on human beings.

(R) **PERSON**. Any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any municipal corporation or its officers or employees.

(M) ~~(S)~~ **PLAINLY AUDIBLE NOISE**. Any noise for which the information content of that noise is unambiguously transferred to the listener, including, but not limited to the understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

(N) ~~(T)~~ **PROPERTY BOUNDARY**. An imaginary line at the ground surface, and its vertical extension that separates the real property owned by one person from that owned by another person.

(U) **PUBLIC RIGHT-OF-WAY**. Any street, avenue, boulevard, highway or alley, or similar place, which is owned or controlled by a public governmental entity.

(V) **PURE TONE**. Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purpose of measurement, a pure tone shall exist if the one-third (1/3) octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) dB for frequencies of five hundred (500) Hz and above, by (8) dB for frequencies between one hundred sixty (160) and four hundred (400) Hz, and by fifteen (15) dB for frequencies less than or equal to one hundred twenty five (125) Hz.

(W) **REPETITIVE IMPULSIVE NOISE**. Any noise which is composed of impulsive noises that are repeated at sufficiently slow rates such that a sound level meter set at

the "fast" meter characteristic will show changes in sound pressure level greater than ten (10) dBA.

(O) ~~(X)~~ **SOUND**. A temporal and spatial oscillation in pressure, or other physical quantity with interval forces that cause compression or rarefaction of the medium, and that propagates at finite speed to distant points.

(Y) **SOUND LEVEL METER**. An instrument, including a microphone, amplifier, RMS detector and integrator, time averager, output meter and/or visual display and weighing networks, that is sensitive to pressure fluctuations. The instrument reads sound pressure level when properly calibrated and is of type 2 or better as specified in American National Standards Institute (ANSI) publication S1.4-1983 or its successor publication.

(Z) **SOUND PRESSURE**. The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space due to sound.

(AA) **SOUND PRESSURE LEVEL**. Twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure to the reference pressure, which shall be twenty (20) micropascals, denoted LP or SPL.

(P) ~~(BB)~~ **STATIONARY NOISE SOURCE**. Any device, fixed or movable, that is located or used on property other than a public right-of-way.

(CC) **TENTH PERCENTILE NOISE LEVEL**. The A-weighted sound pressure level that is exceeded ten percent (10%) of the time in any measurement period (such as the level that is exceeded for 1 minute in a 10 minute period) and is denoted "L10".

(DD) **USE DISTRICT**. Those districts established by the city zoning ordinance set out at Title 15 of this code, as amended, or its successor title.

### 6- 3- 8. **SPECIFIC NOISE PROHIBITIONS.**

The following acts are declared to be in violation of these rules and regulations:

(B) ~~**RADIOS, TELEVISION SETS, TAPE PLAYERS, COMPACT DISC PLAYERS, MUSICAL INSTRUMENTS, AND SIMILAR DEVICES**~~. Using, operating, or permitting, the use or operation of any radio receiving set, musical instrument, television, phonograph, drum, or other machine or device for the production or reproduction of sound: in violation of Section 6-3-9, or cause a noise disturbance.

~~(1) — between the hours of 10 p.m. and 7 a.m. in a way that is plainly audible beyond the property boundary of the source; or~~

~~(2) — on public property, public rights-of-way, or private property at any time so as to be plainly audible fifty feet (50') (15.25 meters) from the device. Permits to~~

exceed the limits of this section may be issued for special events on public property by the Chief of Police, ~~Building Official or City Manager upon approval from the agency operating the public property.~~ as provided by Section 6-3-11.

**6-3-9. NOISE LEVELS**

~~The making and/or creating of excessive or unusually loud noise or sound within the City as identified in the following Subsection (A), or identified and measured in the manner prescribed in Subsection (B), or in violation of restricted hours as outlined in Subsection (C) is unlawful.~~

(A) ~~On the public right of way or upon public property, from the source or device as to be plainly audible at a distance of fifty feet (50') or on private property, as to be plainly audible at the property line.~~

Maximum Permissible Sound Levels: It is a violation of this chapter for any person to operate or permit to be operated any stationary source of sound in such a manner as to create a ninetieth percentile sound pressure level (L90) of any measurement period (which shall not be less than 10 minutes unless otherwise provided in this chapter) which exceeds the limits set forth for the following receiving land use districts, when measured at or within the property line of the receiving property:

<u>Use District</u>	<u>10:00 P.M. – 6:00 A.M.</u>	<u>6:00 A.M. – 10:00 P.M.</u>
<u>Residential</u>	<u>50 dBA</u>	<u>55 dBA</u>
<u>Commercial</u>	<u>60 dBA</u>	<u>65 dBA</u>

When a noise source can be identified and its noise measured in more than one land use category, the limits of the least restrictive use shall apply at the boundaries between different land use categories.

(B) ~~The noise shall be measured at a distance of at least twenty five feet (25') from the source of the device upon public property or within the public right of way or twenty five feet (25') from the property line if upon private property, and shall be measured on a decibel or sound level meter of standard design and quality operated on the "A" weighing scale. A measurement of sixty five (65) decibels shall be considered to be excessive and unusually loud.~~

Correction for Duration of Sound:

1. It is a violation of this chapter for any person to operate, or permit to be operated, any stationary source of sound within any land use district which creates a tenth percentile sound pressure level (L10) of fifteen (15) dBA greater than the levels set forth for the receiving land use districts in subsection A of this section for any measurement period. Such period shall not be less than ten (10) minutes.

2. Notwithstanding subsection B1 of this section, it is a violation of this chapter for any person to operate, or permit to be operated, any stationary source of sound within any land use district which creates a tenth percentile sound pressure level (L10) greater than (15) dBA above the ambient sound pressure level (L90) of any measurement period. Such period shall not be less than ten (10) minutes.

(C) ~~Hours of restriction are as follows:~~

~~Residential— 10 pm to 7am Monday through Saturday~~

~~Not before 9am Sunday~~

~~Commercial— 10pm to 6am Monday through Saturday~~

Correction for Character of Sound:

1. For any stationary source of sound which emits a pure tone, cyclically varying sound or repetitive impulsive sound, the limits set forth in subsection A of this section shall be reduced by five (5) dBA.

2. Notwithstanding compliance with subsection C1 of this section, it is a violation of this chapter for any person to operate or permit to be operated any stationary source of sound which emits a pure tone, cyclically varying or repetitive impulsive sound which creates a noise disturbance.

#### **6- 3-10. EXEMPTIONS.**

The following uses and activities shall be exempt from noise level regulations:

- (A) Noise of safety signals, warning devices, and emergency pressure relief valves;
- (B) Noise resulting from any authorized emergency vehicle when responding to an emergency call or in time of an emergency;
- (C) Noise resulting from emergency work;
- (D) Noise resulting from lawful fireworks and noisemakers used for celebration of an official holiday;
- (E) Any noise resulting from activities of temporary nature during periods permitted by law for which a license or permit has been approved ~~by the Director~~ in accordance with Section 6-3-11;
- (F) Any noise resulting from snowmaking activities at ski areas; and
- (G) Any noise resulting from the maintenance of golf courses.
- (H) Any noise resulting from snow plowing or removal services.

(I) Ten o'clock whistle.

(J) Noise resulting from a duly licensed and operated Public Outdoor Music Plaza pursuant to Title 4, ~~Chapter 8A~~, of the Municipal Code of Park City.

(K) Noise resulting from the operation of a permitted and approved Heating, Ventilation, and Air Conditioning (HVAC) system, including central air conditioning units, evaporative coolers, or window cooling units, regardless of the time or frequency of operation, provided the system is in good repair and operating within manufacturer's specifications.

### **6-3-11. RELIEF FROM RESTRICTIONS**

~~Requests for relief from the noise restrictions in these rules and regulations may be made by the Building Official as it pertains to building issues and by the Chief of Police as it pertains to special events and community or private functions or events. Upon granting relief, any conditions outlined and agreed upon shall be complied with by the applicant and failure to do so will cause the relief agreement to be suspended.~~

(A) ~~Applications for a permit for relief from the noise restrictions in this chapter on the basis of undue hardship may be made to the Building Official as it pertains to building issues and to the Chief of Police as it pertains to special events and community or private functions or events. Any permit granted by the Building Official or the Chief of Police shall contain all conditions upon which the permit has been granted, including, but not limited to, the effective dates, time of day, location, sound pressure level, or equipment limitation.~~

(B) ~~The relief requested may be granted upon good and sufficient showing:~~

~~(1) That additional time is necessary for the applicant to alter or modify such applicant's activity or operation to comply with this chapter; or~~

~~(2) That the activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with this chapter; and~~

~~(3) That no reasonable alternative is available to the applicant.~~

(C) ~~The Building Official or the Chief of Police may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon a community or the surrounding neighborhood.~~

### **6-3-14 ENFORCEMENT**

The Police Department ~~and Building Department~~ may, upon discovery or report of a violation or violations of this Chapter, issue a criminal written citation for the violation ~~requiring an appearance in court to answer the charges~~, or may file a report with the

City Prosecutor's Office for review and issuance of an information and summons to court to answer the charges.

The Building Department, may, upon discovery or report of a violation or violations of this Chapter, issue an Administrative Code Enforcement (ACE) citation for the violation set out at Title 11, Chapter 19 of this code, as amended, or its successor title.

### **6-3-15. PENALTY**

Any person who is found guilty of violating any of the provisions of these rules and regulations, either by failing to do those acts required herein or by doing a prohibited act, is guilty of ~~an class B misdemeanor, pursuant to U.C.A. Section 26-23-6, as amended. If a person is found guilty of a subsequent similar violation within two (2) years, he is guilty of a class A misdemeanor, pursuant to U.C.A. Section 26-23-6, as amended.~~ Each infraction. Each day such violation is committed or permitted to continue shall constitute a separate violation.

The City Attorney may initiate legal action, civil or criminal, requested by the Department to abate any condition that exists in violation of these rules and regulations. In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating any of these rules and regulations shall be liable for all expenses incurred by the Department in removing or abating any nuisance or other noise disturbance.

**Section II.** Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

**Section III.** Conflict with Existing Ordinances, Resolutions, or Policies. To the extent that any ordinances, resolutions, or policies of Park City Municipal Corporation conflict with the provisions of this ordinance, this ordinance shall prevail.

**Section IV.** Effective Date. This ordinance shall become effective upon publication.

**PASSED AND ADOPTED BY THE PARK CITY COUNCIL this 16<sup>th</sup> day of November, 2017.**

PARK CITY MUNICIPAL CORPORATION

  
Mayor Jack Thomas

Attest:



Michelle Kellogg  
Michelle Kellogg, City Recorder

Approved as to form:

Tricia S. Lake  
Tricia S. Lake, Assistant City Attorney