

Proposed Paradise Noise Control Ordinance (Draft 8-28-09)

Section 1: Declaration of findings and policy.

- A. Excessive noise is a public nuisance and a serious hazard to the public health and welfare, safety, and the quality of life; and
 - B. A substantial body of science and technology exists by which excessive noise may be substantially abated; and
 - C. The people have a right to and should be ensured an environment free from excessive noise that may jeopardize their health or welfare or safety or degrade the quality of life; and
 - D. It is the policy of the Town of Paradise to prevent excessive noise which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.
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Section 2: Definitions.

All terminology used in this ordinance, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- A. "dBA" means the sound pressure level in decibels measured using the "A" weighting network on a sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure of 20 micropascals.
- B. "Impulsive sound" means a sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.
- C. "Noise" means the intensity, duration and character of sounds, from any and all sources.
- D. "Noise disturbance" means any sound which: a) endangers or injures the safety or health of humans or animals; or b) annoys or disturbs a reasonable person of normal sensitivities; or c) endangers or injures personal or real property; or d) exceeds the noise levels identified in Table 1 of this ordinance.
- E. "Person" means any individual, corporation, partnership, association, governmental body, state agency or other entity whatsoever.
- F. "Plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

G. "Property boundary" means the surveyed line at ground surface, which separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.

H. "Pure tone" means any sound that is judged to be a single pitch or set of single pitches by the enforcement officer.

I. "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property.

J. "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the American National Standards Institute Specification S1.4-1971.

Section 3: Prohibited Acts

A. Noise Disturbances Prohibited: No person shall make or cause to be made any noise disturbance.

B. Specific Prohibition: Violations of this ordinance shall include, but not be limited to, the following acts, and causes thereof which either annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities:

1. Radios, Television Sets, Sound Amplifiers, Musical Instruments and Similar Devices: Operating, playing or permitting the operation or playing of any sound reproductive device, musical instrument, or similar device which produces, reproduces, or amplifies sound:

(a) In or from a motor vehicle at a sound level exceeding 50 dBA as measured from the nearest curb or edge of the roadway or which is plainly audible more than 25 feet in any direction from the motor vehicle from which the sound emanates; or

(b) In such a manner as to create a noise disturbance across a real property boundary.

2. Loudspeakers and public-address systems: Using or operating any loudspeaker, public-address system or similar device between the hours of 8:00 p.m. and 9:00 a.m. of the following day such that the sound therefrom creates a noise disturbance across a real property boundary.

3. Animals and birds: Owning, possessing or harboring any animal or bird that frequently or for continued duration makes or creates a noise disturbance across a residential real property boundary. A noise disturbance is created by a dog barking continually for 10 minutes or intermittently for 30 minutes. Because of the agricultural and rural heritage, tradition and source of family income established in the Town of Paradise for many decades and the desire to preserve the same, this provision shall not apply to cattle, horses, mules, donkeys, sheep, goats, pigs, or chickens.

4. Loading and unloading: Loading, unloading, opening, closing or other handling of boxes, crates, containers, bales, cans, drums, refuse or similar objects or the pumped loading or unloading of materials in liquid, gaseous, powder or pellet form between the hours of 10:00

p.m. and 7:00 a.m. the following day when the sound therefrom creates a noise disturbance across a residential real property boundary.

5. Motor vehicles (including cars, trucks, tractors, motorcycles, snowmobiles, all-terrain vehicles, and the like):

(a) Operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle on a public right-of-way or public space within 150 feet of a residential area for a period of longer than five minutes in any sixty-minute period while the vehicle is stationary for reasons other than traffic congestion or emergency work.

(b) Operating or permitting the operation of any motor vehicle so out of repair or in such a condition as to create a noise disturbance.

(c) Operating or causing to be operated any motor vehicle not equipped with a muffler or other sound dissipation device in good working order and in constant operation. No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipation device on a motor vehicle.

(d) Spinning or squealing the tires of any motor vehicle, or racing or revving the engine of a motor vehicle.

(e) Operating an engine brake (also known as compression or Jacob brake) within the Town limits, except for the aversion of imminent danger.

(f) Allowing noise from a motor vehicle alarm to continue in excess of 15 minutes' duration after it has been activated.

6. Explosives, Firearms, And Similar Devices: Using or firing of explosives, firearms, or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right of way without first obtaining a special variance. Such permit need not be obtained for the use of Class C common State approved fireworks from 9:00 a.m. to 12:30 a.m. during the three days before, on the day of, and three days following July 4, July 24, January 1, and the Chinese New Year.

7. Miscellaneous sound producers: Creating or emitting a noise which constitutes a noise disturbance by any manner, including but not limited to a horn, siren, bell, musical instrument, tool, engine, etc.

Section 4: Maximum permissible noise levels.

A. No person shall cause or permit noise to intrude into the property of another person at a level which exceeds the maximum permissible noise levels set forth below in this section. Noise measurement for the purposes of enforcing the provisions of this ordinance may be made at any point within the receiving property.

B. The noise limitations established are as set forth in Table 1 after any applicable adjustments provided for herein are applied. Sound level readings, made with a sound level meter operating in

slow response mode, that exceed the limitations listed in Table 1 shall be considered *prima facie* evidence of noise disturbance; however, use of a sound meter is not required for identification of noise disturbances.

Table 1: Maximum permissible noise levels according to zone and time period.

ZONE OF RECEIVING PROPERTY	Time of day or night		
	10:00 p.m. to 7:00 a.m.	7:00 p.m. to 10:00 p.m.	7:00 a.m. to 7:00 p.m.
Zone R	48 dBA	53 dBA	58 dBA
Zone RA or CN	50 dBA	55 dBA	60 dBA

1. Correction for character of sound: For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in Table 1 shall be reduced by 5 dBA.
2. Noise limitations listed in Table 1 do not apply to licensed motor vehicles operating on public rights of way. Noise levels measured at a distance of 25 feet from a vehicle operating on a public right of way shall be less than a) 88 dBA if the vehicle has a gross vehicle weight of 10,000 pounds or more, or b) 80 dBA if the vehicle has a gross vehicle weight of less than 10,000 pounds.

Section 5: Exemptions.

A. The following shall be exempt from the provisions of this ordinance between the hours of 7:00 a.m. and 10:00 p.m., provided that such activities, tools or equipment generate less than 85 dBA at or within any real property boundary of a residential property:

1. Sounds originating from residential property relating to temporary projects for the maintenance or repair of vehicles, homes, grounds and appurtenances, including but not limited to sounds from domestic power tools, or lawn and garden equipment when operated with a muffler.
2. Sounds created by the installation or repair of essential utility services.
3. Sounds originating from temporary construction sites as a result of construction activity.

B. The following shall be exempt from all provisions of this ordinance:

1. Sounds created by emergency equipment and work necessary in the interests of law enforcement or for health safety or welfare of the community.

2. Sounds created by warning devices and alarms not operating continuously for more than five minutes, or bells, chimes, and carillons.
3. Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible.
4. Sounds from electrical substations and existing stationary equipment used in the conveyance of water, waste water, and natural gas by a utility.
5. Sounds created by non-stationary equipment being used for normal agricultural purposes.
6. Sounds from snow blowers, snow throwers, and snow plows when operated with a muffler for the purpose of snow removal, provided that such equipment generates less than 85 dBA at or within any real property boundary of a residential property.
7. Sounds originating from officially sanctioned parades, sporting events, and other public events.
8. Sounds created by un-amplified human voices, except when these are deemed to be in violation of Part 13-330 (Disturbing the Peace) of the Paradise Town Code.
9. Sounds caused by natural phenomena.

C. Nothing in these exemptions is intended to preempt more restrictive ordinances in other Parts of the Paradise Town Code.

D. Nothing in these exemptions is intended to preclude the Town from requiring installation of the best available noise abatement technology consistent with economic feasibility.

Section 6: Variances and implementation schedules.

A. Variances may be granted to any person from any particular requirement of this chapter, if findings are made that immediate compliance with such requirement cannot be achieved because of special circumstances rendering immediate compliance unreasonable in light of economic or physical factors, encroachment upon an existing noise source, or because of non-availability of feasible technology or control methods. Any such variance or renewal thereof shall be granted only for the minimum time period found to be necessary under the facts and circumstances.

B. Variances shall be issued only upon written application to the Paradise Planning and Zoning Commission, and after providing information including but not limited to:

1. The name and address of the applicant.
2. The nature and location of the noise source for which such application is made.
3. The reason for which the permit of variance is requested, including the hardship that will result to the applicant or the public if the permit of variance is not granted.
4. The nature and intensity of noise that will occur during the period of the variance.

5. The section or sections of this chapter for which the permit of variance shall apply.
 6. A description of interim noise control measures to be taken by the applicant to minimize noise and the impact occurring therefrom.
 7. A specific schedule of noise control measures that shall be taken to bring the source into compliance with this ordinance within a reasonable time.
- C. No variance shall be issued for a period of more than 30 days except upon due notice to the public with opportunity to comment. Public hearings may be held, when substantial public interest is shown, at the discretion of the Planning and Zoning Commission.
- D. The permit of a special variance may be revoked by the Planning and Zoning Commission if:
1. There is a violation of one or more conditions of the variance; or
 3. There is a material misrepresentation of fact in the permit application; or
 4. There is a material change in any of the circumstances relied upon by the Commission in granting the variance.
- E. Sources of noise, subject to this ordinance, upon which construction begins after the effective date hereof shall immediately comply with the requirements of this ordinance, except in extraordinary circumstances where overriding considerations of public interest dictate the issuance of a variance.
- F. Any person aggrieved by any decision of the Planning and Zoning Commission in relation to the granting or denial of a variance may appeal to the Paradise Town Council.

Section 7: Enforcement policy and penalties.

- A. Enforcement of this ordinance shall be undertaken only upon receipt of a complaint made by a person who resides, owns property, or is employed in the area affected by the noise disturbance, except for parks and other public property, where any person can make a complaint. Enforcement shall be carried out by a law enforcement officer, the mayor, or the mayor's designee.
- B. Penalties:
1. Any person who violates any provision of this ordinance shall be first issued a written warning.
 2. Any person who willfully or knowingly violates any provision of this ordinance, or violates any provision of this ordinance within a one-year period after receiving a warning or fine shall be guilty of a class B misdemeanor and shall be fined for each offense a sum of not less than one hundred dollars (\$100.00) and not more than two hundred fifty dollars (\$250.00).
 3. The business license of any person who violates any provision of this chapter may be suspended, revoked or not renewed, pursuant to the provisions of this code if the violation is

related to, caused by or results from the conduct or operation of the business for which the business license is issued by the Town.

4. Each day of violation of any provision of this chapter shall constitute a separate offense.

Section 8: Effective date.

This ordinance shall become effective on the date it is approved by the Town Council. It is the intention of the Town to periodically review the provisions hereof as new information becomes available for the purpose of making amendments as appropriate.