

ORDINANCE NO. 02-12

ROLL CALL

VOTING	YES	NO
G. WAYNE ANDERSEN <i>Mayor (votes only in case of tie)</i>		
ROD DART <i>Council member</i>	X	
RICHARD M. DAVIS <i>Council member</i>	X	
BRANDON B. GORDON <i>Council member</i>	X	
STEVE LEIFSON <i>Council member</i>	X	
KEIR A. SCUBES <i>Council member</i>	X	

I MOVE this ordinance be adopted: Councilmember Scoubes

I SECOND the foregoing motion: Councilmember Leifson

ORDINANCE No. 02-12

AN ORDINANCE AMENDING PROVISIONS OF THE NOISE ABATEMENT ORDINANCE

WHEREAS, Spanish Fork City has adopted a noise abatement ordinance in order to protect the health and well being of its residents; and

WHEREAS, a number of noise complaints have been made, for which no relief could be obtained, due to the requirements of the noise ordinance, even though the noise complained of was very obnoxious in some of the instances; and

WHEREAS, The City Council finds the amendments to the noise ordinance best protects the interest of quiet neighborhoods, while allowing commercial growth and activity to take place;

NOW THEREFORE, be it ordained and enacted by the Spanish Fork City Council as follows:

I.

Spanish Fork Municipal Code Title 9, Chapter 32 is hereby amended to read as follows:

Chapter 9.32 Noise

9.32.010	Scope and Purpose
9.32.020	Definitions
9.32.030	Classifications
9.32.040	Noise Measurement Procedures
9.32.050	Noise Limits
9.32.060	Exceptions
9.32.070	Violation

9.32.010 Scope and Purpose

The Council finds that the creation and/or continuation of loud, continuous, or obnoxious noises can be a danger to the general health, safety, welfare, and well being of the residents of the City. The goal of this chapter is to regulate, and if necessary, abate noises which constitute a danger to the general health, safety, welfare, and well being of the residents of the City.

9.32.020 Definitions

For the purposes of this ordinance, certain words and phrases used herein are defined as follows:

"Continuous Sound" means any sound that exists, essentially without interruption, for a period of two (2) minutes or more.

"Decibel" means logarithmic and dimensionless unit of measure often used in describing the amplitude of sound. Decibel is abbreviated dB.

"Emergency Work" means work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.

"Motor Vehicles" shall include, but not be limited to automobiles, trucks, motorcycles, snowmobiles, recreational vehicles, minibikes, go-carts, aircraft and motorboats.

"Noise" means an undesired or harmful sound.

"Noise Source" means any instrument or device or any thing which produces, reproduces or amplifies sound. The term shall include multiple sources of sound.

"Person" means a person, firm, association, partnership, joint venture, corporation or other legal entity, public or private in nature.

"Residential/Agricultural", "Commercial" or "Industrial" zones shall conform to the zone designations set forth in the city zoning codes.

9.32.030 Classifications

The creation of noise within the City generally may be classified under one of three headings: (1) Sounds of commerce and industry: In this category are those noises necessarily made by commercial vehicles in process of transporting persons or goods, necessary noises of construction or demolition and other sounds necessarily connected with the carrying on of modern business life. Enforcement agencies of the City are hereby specifically authorized to work with the producers of this type of noise to either eliminate, modify and/or muffle such sounds in a way that will allow

progress to continue while minimizing the disturbing effects of the noise. Such noises, when they reach such a stage that they become harmful or disturbing, are declared to be a public nuisance and shall be abated. Refusal to modify excessive noise is a violation of this chapter.

(2) Public disturbance noises: In this category are those noises which because of their intensity, the decibel level, the constancy of the noise or proximity to residences, businesses and generally inhabited areas, create a disturbance to human life and efficiency. Included in this category and typical thereof, though not exclusive of others not so listed, would be the following:

- (a) inadequately or defectively muffled vehicles, engines and motors;
- (b) loud machinery and pneumatic apparatus;
- (c) amplified music or other amplified sounds;
- (d) miscellaneous noises, including those of machinery, gunfire, etc., when their emission creates a public disturbance, either because of the intensity, or disturbing nature and/or the time of the emission. Noises of these categories are a violation of this chapter and are further determined to be a nuisance which may be abated by the proper authorities in the City,

(3) Intentionally caused noises: In this category are those noises which are caused for the sake of making noise without regard to the comfort, sleep, or general health and welfare of other persons. Production of such noise is unlawful and constitutes a misdemeanor. Typical of these type of noises are the following:

- (a) improperly muffled vehicle engines, when the same are rapidly accelerated or decelerated, and especially during such hours that they are likely to interfere with the sleep or peaceful calm of residential neighborhoods;
- (b) sounds that are mechanically, pneumatically or electronically produced or amplified, when the same are not enclosed within a building or enclosure which absorbs the sound, so as not to disturb the surrounding area;
- (c) sounds or music created or amplified within a public building or enclosure with such volume and intensity that the sound produced is actually or potentially dangerous to hearers within the enclosure.

9.32.040 Noise Measurement Procedures

(1) It is the intent of the city council to incorporate into the noise ordinance those standards of measurement hereinafter set forth, which will take into account the latest scientific advances in noise measurement and control while at the same time, preserving the common sense and common law determination of what constitutes a disturbance or public nuisance. Therefore, sound level measurements, while universally desirable, shall not be required to demonstrate violation of this chapter if other evidence or testimony establishes the creation of a disturbance or public nuisance.

(2) It is the intention that each separate provision of this chapter shall be deemed independent of all other provisions therein, and if any provision of this chapter be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

(3) In no event shall the peak intensity of sound exceed a sound level in excess of the limits established in section 050, measured in decibels,

(4) The decibel meter or other instrument used to measure the intensity of a noise may be placed at any point on the property line (if the noise source radiates into private property) and shall be at least five (5) feet from any wall and not less than three (3) feet above the ground. If it is not possible to measure five (5) feet from a wall, five (5) dB variance will be allowed. When measurements are made inside buildings or enclosures, readings may be obtained from any area to which persons may have access. The following limits refer to the largest reading obtained, using the above procedure.

9.32.050 Noise Limits

(1) Noise levels shall be based on continuous noise for two minute intervals or intermittent noise which exceeds the level five or more times within a ten minute period. Noise levels shall not exceed the following limits:

Zone	DAY	NIGHT
	6 am - 9 pm	9 pm - 6 am
Residential/Agricultural	65 dB (A)	55 dB (A)
Commercial (including Public Facility Zone and Professional Office Zone)	70 dB (A)	65 dB (A)
Industrial	80 dB (A)	65 dB (A)

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

(3) It shall be unlawful to sustain, in any place of public entertainment, including, but not limited to restaurants, private clubs, cafes, discotheques, or dance halls; any sound levels equal to or in excess of:

One hundred five (105) dBA at any time, (if the sound level exceeds one hundred five (105) dBA at any time, a mandatory ten (10) minutes sound break at a level below eighty-five (85) dBA will be taken). The restriction contained in this subparagraph is in addition to any other applicable limits stated in this chapter

(4) Amplified noise, including music, which can be heard with the human ear at a distance of 200 feet or more from the source of the sound.

(5) Construction noise that is normally associated with building of a building or other infrastructure is limited to the hours of 7:00 a.m. to 9:00 p.m.

(6) Enforcement officials are the Community Development Director, building inspectors, and police officers.

9.32.060 Exceptions

(1) Sounds created by emergency activities or emergency vehicles; or sounds giving warning of emergencies shall be exempt from the provisions of this chapter.

(2) Gunfire sounds emanating from the Spanish Fork Gun Club or police firing ranges shall be exempt from the provisions of this chapter.

(3) Sounds created by parades, carnivals, special public social events, or special construction projects may be exempted from the noise provisions of this chapter. An exemption is granted by a permit from the City Manager, or designee, which must be in writing and shall describe:

(a) the special nature of the exempted event;

(b) the dBA limitation (maximum allowed);

(c) the time period for which the exemption is in force. The permit shall be for one event only. The City Manager, or designee, may impose reasonable conditions on the issuance of a permit as necessary to protect the public peace and welfare. The permit may be withdrawn if the provisions thereof are violated.

9.32.070 Violation

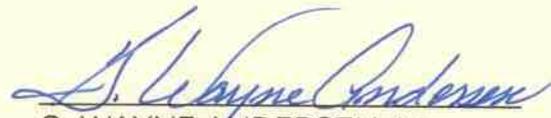
1. Violation of the noise provisions of this chapter, or of the conditions of an exemption permit shall be a class C misdemeanor.

2. A civil action to abate or enjoin a nuisance, or for damages for causing or maintaining a nuisance (including the cost, if any, of cleaning the subject property), may be brought by Spanish Fork City or by any private person directly affected.

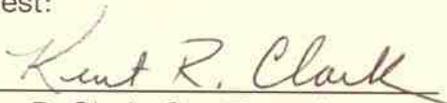
II.

This ordinance shall become effective twenty days after and publication.

DATED this 7th day of February, 2012


G. WAYNE ANDERSEN, Mayor

Attest:


Kent R. Clark, City Recorder

