

ORDINANCE NO. 94-06

AN ORDINANCE REGULATING NOISE WITHIN THE CITY OF WENDOVER, TOOELE COUNTY, UTAH.

**RECITALS**

1. The City of Wendover is authorized to adopt and enforce lawful and reasonable ordinances regulating and controlling the activities, conduct and conditions which create noise and nuisances within the City;

2. The City is authorized to provide licensing requirements for activities which impact the health, safety and welfare of its citizens; and

3. The City is authorized to provide criminal penalties for the violations of the City's ordinances.

**BE IT ORDAINED BY THE WENDOVER CITY COUNCIL:**

Section No. 1 Ordinance Enacted. There is hereby enacted an Ordinance, consistent with the law of the State of Utah, regulating noise within the City of Wendover, Tooele County, Utah to read it its entirety as set forth in the Exhibit A, attached hereto and incorporated herein by this reference.

Section No 2. Repealer. All other ordinances and regulations previously adopted by the relating to noise are repealed as of the effective date of this Ordinance.

Section No. 3. Severability Clause. The provisions of this Ordinance and all regulations thereunder, are severable. If any provision of this Ordinance is held invalid or unenforceable for any reason, said invalidity or unenforceability shall not affect any other provision of this Ordinance or its application under a different circumstance.

Section No. 5. Effective Date: This Ordinance shall become effective 20 days after publication or posting or 30 days after final passage by the governing body, whichever is earlier.

PASSED AND ADOPTED BY THE WENDOVER CITY COUNCIL THIS  
3rd DAY OF MAY, 1994.

  
MAYOR

ATTEST:

  
CITY RECORDER

WEND\ORD\NOISE.ADP

POSTED 5/10/94

# City of Wendover

WESTERN GATEWAY TO UTAH

P. O. BOX 326

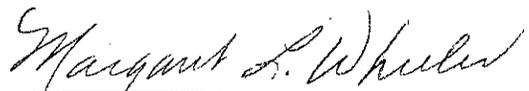
WENDOVER, UTAH 84083

## CERTIFICATE OF POSTING ORDINANCE

I, the duly appointed and acting recorder for the City of Wendover, hereby certify that copies of the foregoing Ordinance No. 94-06 were posted at three public places within the municipality this 10th day of May, 1994 which public places are;

1. Wendover Utah City Offices
2. Fred's Market
3. Wendover City Post Office

Dated this 10th day of May 1994

  
RECORDER

# WENDOVER CITY NOISE ORDINANCE

## 1-101. SHORT TITLE -- POLICY.

(1) This Ordinance and the regulations set forth herein shall be known as the Wendover City Noise Ordinance.

(2) In the interest of the health safety and welfare of the residents and businesses of the City of Wendover, it is the policy of the City to establish reasonable regulations governing noise and activities causing noise within the City. The City intends to prohibit the making, creation or maintenance of excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual or unnatural in their time, place and use, and which are a detriment to the public health, comfort, convenience, safety, welfare, prosperity, and peace and quiet of the residents of the City.

## 1-102. DEFINITIONS AND STANDARDS.

All terminology used in this ordinance, and not defined below, shall be in conformance with applicable American National Standards Institute publications including, but not limited to, to S1. 1-1960, R 1971, or those from its successor publications or bodies. For purposes of this ordinance, certain words and phrases used herein are defined as follows:

(1) 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.

(2) Ambient Sound Pressure Level: The sound pressure level of the all-encompassing noise associated with a given environment, usually a composite of sounds from any sources. It is also the A-weighted sound pressure level exceeding 90 percent of the time based on a measurement period, which shall not be less than 10 minutes.

(3) Continuous Sound: Any sound that exists, essentially without interruption, for a period of 10 minutes or more

(4) Cyclically Varying Noise: Any sound that varies in sound level so that the same level is obtained repetitively at reasonable uniform intervals of time.

(5) Decibel: Logarithmic and dimension less unit of measure often used in describing the amplitude of sound. Decibel is abbreviated dB.

(6) Device: Any mechanism that is intended to produce, or that actually produces noise when operated or handled.

(7) 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 a "Jacob's Brake."

(8) 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.

(9) Emergency Vehicle: A motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

(10) Impulsive Noise: A noise containing excursions usually less than one second or sound pressure level using the fast meter characteristics.

(11) 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, minibikes, go-carts, snowmobiles and racing vehicle.

(12) Muffler: An apparatus consisting of a series of chambers or baffle plates designed to transmit gases while reducing sound.

(13) 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).

(14) Noise: Any sound that is unwanted and causes or tends to cause an adverse psychological or physiological effect on human beings.

(15) Person: Any individual, public or private corporation, partnership, association, firm, trust, estate, the State or any of its departments or political subdivisions, institution, bureau or agency thereof, county, city or any legal entity that is recognized by the law.

(16) 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.

(17) 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.

(18) Public Right-of-way: Any street, avenue, boulevard, highway, alley or similar place that is owned or controlled by a public governmental entity.

(19) Pure Tone: Any sound that can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall consist of the one-third octave band sound pressure level in the band when the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by five dB for frequencies of 500 Hz and above, by eight dB for frequencies between 160 and 400 Hz, and by 15 dB for frequencies less than or equal to 125 Hz.

(20) Repetitive Impulsive Noise: Any noise that is composed of impulsive noises that are repeated at sufficiently slow rates such that a sound level meter set at "fast" meter characteristic will show changes in sound pressure level greater than 10 dB(A).

(21) Sound: A temporal and spatial oscillation in pressure, or other physical quantity with interval forces that causes compression and rarefaction of the medium, and that propagates at finite speed to distant points.

(22) Sound Level Meter: An instrument, including a microphone, amplifier, RMS detector and integrator, time average, output meter or visual display or both, and weighing networks, that is sensitive to pressure fluctuations. The instrument reads sound

pressure level if properly calibrated and is of type two or better as specified in American National Standards Institute Publication 81.4-1971 or its successor publications.

(23) Sound Pressure: the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space due to sound.

(24) Sound Pressure Level: Twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure, which shall be 20 micropascals and abbreviated LP or SPL.

(25) Stationary Noise Source: Any device, fixed or movable, that is located or used on property other than a public right-of-way.

(26) Steady Noise: A sound pressure level that remains essentially constant during the period of observation and does not vary more than 6 d(A) when measured with the "slow" meter characteristic of a sound level meter.

(27) Percentile sound Pressure Level:

(a) Tenth Percentile Noise Level: the A-weighted sound pressure level that is exceeded 10 percent 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.

(b) Ninetieth Percentile Noise Level: The A-weighted sound pressure level that is exceeded 90 percent of the time in any measurement period (such as the level that is exceeded for nine minutes in a 10-minute period) and is denoted L90.

**1-103. GENERAL PROHIBITION OF NOISE.**

In addition to the specific prohibitions outlined in Sections 1-104, 1-105, 1-109 and other applicable sections of these rules and regulations as well as any other applicable ordinances and regulations of the City, it shall be unlawful for any person to produce, continue or cause to be produced or continued any noise disturbance within the limits of Wendover City.

**1-104. SPECIFIC NOISE PROHIBITIONS.**

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

(1) Horns and signaling Devices: The sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place within the City, except as a danger warning signal as provided in the motor vehicle code of the State of Utah, or the sounding of any such signaling device for an unnecessary and unreasonable period of time.

(2) Radios, Television Sets, Musical Instruments and Similar Devices.

(a) 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 such a way that there is a violation of Section 1-105 or otherwise causes a noise disturbance, except as provided in Section 1-104(3).

(b) The operating of any such device between the hours of 9 p.m. and 7 a.m. the following day in such a manner as to be plainly audible at 50 feet (15 meters) from such device when operated within a vehicle parked on a public right-of-way.

(3) Public Loudspeakers. The use or operation of a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place, easement or public property for the purpose of commercial advertising giving instructions, directions, talks, addresses, lectures or transmission of music to any persons or assemblages of persons in violation of Section 1-105, or cause a noise disturbance, unless a permit is first obtained as provided by Section 1-108.

(4) Hawkers and Peddlers. Selling anything by outcry within any area of the City therein zoned primarily for residential uses in such a manner as to violate Section 1-105. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar public entertainment events.

(5) Animals. Owning, keeping, possessing or harboring any animal or animals that, by frequent or habitual noise making, violates Section 1-105. The provisions of this section shall apply to all private and public facilities, including any animal pounds that hold or treat animals.

(6) Loading Operation. Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage containers or other objects between the hours of 9 p.m. and 7 a.m. the following day in such a manner as to violate Section 1-105 or cause a noise disturbance.

(7) Construction Work. Operating, or causing to be used or operated, any equipment, machinery or vehicle used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto, irrespective of whether such construction actually occurs within the corporate limits of Wendover City.

(a) In residential, agricultural or commercial zones between the hours of 9 p.m. and 7 a.m. the following day.

(b) In any zone where such operation exceeds the sound level limits for a manufacturing zone as set forth in Section 1-105.

(8) Domestic Power Equipment. Operating or permitting to be operated any power equipment rated five horsepower or less used for home or building repair or grounds maintenance, including but not limited to, power saw, sanders, lawn mower, garden equipment or snow removal equipment, in residential agricultural or commercial zones;

(a) Outdoors between the hours of 9 p.m. and 7 a.m. the following day.

(b) Any such power equipment which emits a sound pressure level in excess of 74 dB(A) measured at a distance of 50 feet (15 meters).

(9) Commercial Power Equipment. Operating or permitting to be operated, any power equipment, except construction equipment used for construction activities, rated more than five horsepower including, but not limited to, chain saws, pavement breakers, log chippers or powered hand tools;

(a) In residential, agricultural or commercial zones between the hours of 9 p.m. and 7 a.m. the following day.

(b) In any zone if such equipment emits a sound pressure level in excess of 82 dB(A) measured at a distance of 50 feet (15.25 meters) from the source.

(10) Enclosed Places of Public Entertainment. In any place of public entertainment, permitting the operation of any loudspeaker or other source of sound which produces, at a point that is normally occupied by a customer, maximum sound pressure levels of 100 dB(A) as read with the slow response on a sound level meter, unless a conspicuous and legible sign at least 225 square inches in area is posted near each public entrance stating in large letter "WARNING: SOUND LEVEL MAY CAUSE HEARING IMPAIRMENT." This provision shall not be construed to allow the operation of any loudspeaker or other source of sound in violation of Section 24-22-109 of these rules and regulations.

(11) Fireworks or explosives. The use of explosives, fireworks or discharge guns or other explosive devices that are

audible across a property boundary, public space or right-of-way, without first obtaining a permit as provided by Section 1-108. This provision shall not be construed to permit conduct prohibited by other statues, ordinances or regulations governing such activity.

(12) Racing Events. Permitting any motor vehicle racing event at any place in violation of Section 1-105, without first obtaining a permit, as provided by Section 1-108.

(13) Powered Model Mechanical Devices. Flying a model aircraft, car, boat or other such device powered by internal combustion engines, whether tethered or not, or the firing or the operation of model rocket vehicles or other similar noise-producing devices, between the hours of 10 p.m. and 7 a.m. or in such a way as to violate Section 1-105.

(14) Dynamic Braking Devices. Operating or permitting the operation or use of any truck, automobile, motorcycle or other motor vehicle with a dynamic braking device engaged, except for the avoidance of imminent danger.

(15) Defect in Vehicle. Operating or permitting the operation or use of any truck, automobile, motorcycle or other motor vehicle because of disrepair or way of operation violates Section 1-105.

(16) Refuse Compacting Vehicles. Operating or causing or permitting the operation or use of any refuse compacting vehicle that creates a sound pressure level in excess of 74 dB(A) at 50 feet (15.25 meters).

(17) Garbage Collections. Collecting garbage, waste or refuse between the hours of 9 p.m. and 7 a.m. the following day:

(a) In any area zoned residential or agricultural within 300 feet of an area zoned residential or agricultural.

(b) In any zone so as to cause a noise disturbance.

(18) Standard Motor Vehicles. The operating or causing or permitting to be operated any motor vehicle or any auxiliary equipment attached thereto in such a manner as to violate Section 24-22-109 or cause a noise disturbance for a consecutive period u,K< than 15 minutes during which such vehicle is stationary in a residential or agricultural zone.

(19) Quiet Zones. Creating noise in excess of the residential/agricultural standard, as defined in Section 1-105, within the vicinity of any school, hospital, institution of learning, court, or other designated area where exceptional quiet is necessary, while the same is in use, provided conspicuous signs ar displayed in the streets indicating that the same is a quiet zone.

(20) Bells and Alarms. Sounding, operating or permitting the sounding or operation of an electronically-amplified signal from any burglar alarm, bell, chime or clock including, but not limited to, bells, chimes or clocks in schools, houses of religious worship or governmental buildings that fail to meet the standards in Section 1-105 for longer than five minutes in any hour.

(21) Fixed Siren, Whistles and Horns. Sounding or causing the sounding of any whistle, horn or siren a signal for commencing or

suspending work or for any other purpose except as a sound single of imminent danger, in such a manner as to violate Section 1-105 or cause a noise disturbance.

(22) Recreational Vehicles and Snowmobiles.

(a) Operating a recreational vehicle or snowmobile in a way that violates Section 1-105 or causes a noise disturbance.

(b) Selling or operating within Salt Lake County any recreational vehicle or snowmobile built after model year 1977 unless the vehicle produces no more than a maximum should level of 82 dB(A) at 50 feet (15.25 meters) from the source.

**1-105. USE DISTRICT NOISE LEVELS.**

(1) Maximum Permissible Sound Levels.

(a) It shall be a violation of these rules and regulations for any person to operate or permit the operation of any stationary source of sound creating a ninetieth percentile sound pressure level (L90) for any measurement period (not less than 10 minutes unless otherwise provided in these regulations) that exceeds the limits set forth for the following zones when measured at the boundary or at any point within the property affected by the noise:

<u>Zone</u>	<u>9 p.m. - 7 a.m.</u>	<u>7 a.m. - 9 p.m.</u>
Residential-Agricultural	50 dB (A)	55 dB (A)
Commercial (including Research Business Park Zone and Professional Office Zone)	55 dB (A)	60 dB (A)
Manufacturing	75 dB (A)	80 dB (A)

(b) 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.

(2) Correction for Duration of Sound.

(a) It shall be a violation of these rules and regulations for any person to operate or permit the operation of any stationary source of sound within any zones that creates a tenth percentile sound pressure level (L10) of 15 dB(A) greater than the levels set forth for the receiving zones in Section 1-105(1) for any measurement period. Such period shall not be less than 10 minutes.

(b) Notwithstanding the requirement of Section 1-105(2) (a), it shall be a violation of these rules and regulations for any person to operate or permit the operation of any stationary source of sound within any land use district that creates a tenth percentile sound pressure level (L10) greater than 15 dB(A) above the ambient sound pressure level (L90) of any measurement period. Such period shall not be less than 10 minutes.

(3) Correction for Character of Sound.

(a) For any stationary source of sound that emits a pure tone, cyclically varying sound, or repetitive impulsive sound, the limits set forth in Section 9.1 shall be reduced by five dB(A).

(b) Notwithstanding compliance with Section 1-105(3) (a), it shall be a violation of these rules and regulations for any person to operate or permit the operation of any stationary source

of sound that emits a pure tone, cyclically varying sound, or repetitive impulsive sound that creates a noise disturbance.

**1-105. SOUND LEVEL MEASUREMENT.**

Sound level measurements shall be made with a sound level meter using the "A" weighing scale, in accordance with standards promulgated by the American National Standards Institute or other reasonable standards adopted and tested by the Salt Lake City-County Health Department. Measurements shall be taken on a "per occurrence" basis unless otherwise specified herein.

**1-106. EXEMPTIONS.**

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

(1) Noise of safety signals, warning devices and emergency pressure relief valves.

(2) Noise resulting from any authorized emergency vehicle when responding to an emergency call or in time of emergency.

(3) Noise resulting from emergency work.

(4) Noise resulting from lawful fireworks and noisemakers used for celebration of an official holiday or any other celebration at which the use of fireworks and noise makers has been approved by the City.

(5) Any noise resulting from activities of temporary duration permitted by law for which a license or permit has been approved by the City Council in accordance with Section 1-108.

(6) Operation of Aircraft incident to use of the City Airport.

(7) Operation of railway equipment upon railroad property within the City.

**1-108. PERMITS.**

Application for a permit for relief from the noise restriction in these ordinances on the basis of undue hardship may be made to the City Council. Any permit granted by the City Council or its authorized representative shall contain all conditions upon which said permit has been granted inducing, but not limited to, the effective dates, any time of day, location, sound pressure level, or equipment limitation. The relief requested may be granted upon good and sufficient cause showing:

(a) That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this ordinance; or

(b) That the activity, operation, or noise source will be of temporary duration and cannot be carried on in a manner that would comply with this ordinance; and

(c) That no reasonable alternative is available to the applicant. That other alternatives would be more expensive or less cost-effective shall not, in and of themselves be adequate reasons for concluding no reasonable alternative is available.

The City Council may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon a community or the surrounding neighborhood.

**1-109. MOTOR VEHICLE NOISE.**

(1) No person shall drive, or move, or cause, or knowingly permit to be driven or moved a motor vehicle or combination of vehicles at any time in such a manner as to exceed the following noise limits for the category of motor vehicle shown below. Noise shall be measured at a distance of at least 25 feet (7.5 meters) from the near side of the nearest lane(s) being monitored and at a height of at least four feet (1.2 meters) above the immediate surrounding surface. All measurements shall be made on a "per occurrence" basis. Any single occurrence of noise in excess of the below-stated limits shall constitute a separate violation of this ordinance.

Sound Pressure Level, dB(A)

	<u>Speed Limit</u> <u>40 mph or Less</u>	<u>Speed Limit</u> <u>Over 40 MPH</u>
Motor Vehicles with a manufacturer's gross vehicle rating (GVWR) or gross combination weight rating (GCWR) of 10,000 pounds or more or any combination of vehicles towed by such motor vehicle.	90	94
Any other motor vehicle or any combination of vehicles towed by any motor vehicle.	80	84

(2) This Section shall apply to the total noise from a vehicle or combination of vehicles and shall not be construed as limiting or precluding the enforcement of any other provisions of these rules and regulations concerning motor vehicle muffler for noise control.

(3) No person shall operate or cause to be operated any motor vehicle unless the exhaust system of the vehicle is;

(a) Free from defects that affect sound reductions;

(b) Equipped with a muffler or other noise dissipative device; and

(c) Not equipped with any cut-out, by-pass or similar device.

**1-110. ENFORCEMENT RESPONSIBILITY.**

Wendover City and its Police Department shall have primary enforcement responsibility for this Ordinance.

**1-111. PENALTY.**

Any person violating any provision of this Ordinance shall be guilty of a Class B Misdemeanor, and may be punished by a fine or by imprisonment not to exceed the maximum penalties allowed for such misdemeanors under the law of the State of Utah, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

**1-112. ADDITIONAL REMEDIES.**

Violations of this Ordinance are deemed and declared to be a nuisance, and as such, may be subject to summary abatement by means of a restraining order to injunction issued by a court of competent jurisdiction.

c:\wend\ord\noise