

ORDINANCE 2003-05

**AN ORDINANCE ENACTING TOOELE COUNTY CODE TITLE 6,
CHAPTER 21, CONCERNING NOISE CONTROL**

BE IT ORDAINED BY THE TOOELE COUNTY COMMISSION AS FOLLOWS:

SECTION I - PURPOSE. This ordinance is for the purpose of reducing excessive, unnecessary, or unusually loud noises within the unincorporated limits of Tooele County.

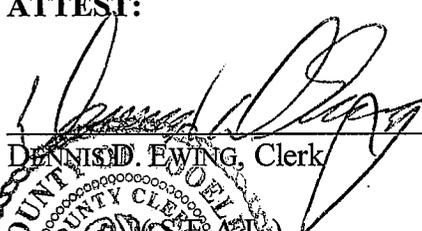
SECTION II - ENACTMENT. Title 6, Chapter 21, of the Tooele County Code is hereby enacted to read as attached hereto.

SECTION III - REPEALER. Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION IV - EFFECTIVE DATE. This ordinance shall become effective 15 days after its passage provided it has been published, or at such publication date, if more than 15 days after passage.

IN WITNESS WHEREOF, the Tooele County Commission, which is the legislative body of Tooele County, passed, approved and enacted this ordinance this 8th day of April 2003.

ATTEST:


DENNIS D. EWING, Clerk



TOOELE COUNTY COMMISSION

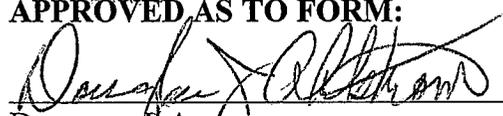

DENNIS ROCKWELL, Chairman

Commissioner Rockwell voted aye

Commissioner White voted aye

Commissioner Lawrence voted aye

APPROVED AS TO FORM:


DOUGLAS W. AHLSTROM
Tooele County Attorney

TITLE 6

PUBLIC SAFETY

CHAPTER 21

NOISE CONTROL

Section

6-21-1. Purpose.

6-21-2. Definitions.

6-21-3. Powers and duties.

6-21-4. Noise emergency orders

6-21-5. Specific noise prohibitions.

6-21-6. Zoning district noise levels.

6-21-7. Sound level measurement.

6-21-8. Exemptions.

6-21-9. Permits.

6-21-10. Motor vehicle noise.

6-21-11. Notice.

6-21-12. Enforcement.

6-21-13. Definitions.

6-21-14. Right to appeal.

6-21-15. Penalty.

6-21-1. Purpose.

These regulations establish minimum standards:

(a) to reduce the making and creation of excessive, unnecessary, or unusually loud noises within the limits of Tooele County;

(b) to prevent the making, creation, or maintenance of such excessive, unnecessary or unusually loud noises that are prolonged, unusual, or unreasonable in their time, place, or use, and that affect and are a detriment to public health, comfort, convenience, safety, or welfare of the residents of Tooele County; and

(c) to secure and promote the public health, comfort, convenience, safety, welfare and the peace and quiet of persons in Tooele County.

6-21-2. Definitions.

As used in this chapter:

(1) "A-weighted sound pressure level" means the sound pressure level as measured with a sound-level meter using the A-weighted network. The standard notation is dB(A) or dBA.

(2) "Ambient sound pressure level" means the sound pressure level of the all-encompassing noise associated within a given environment, usually a composite of sounds from many 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 ten minutes.

(3) "Continuous sound" means any sound that exists essentially without interruption for a period of ten minutes or more.

(4) "Cyclically varying noise" means any sound that varies in sound level so that the same level is obtained repetitively at reasonable uniform levels of time.

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

(6) "Device" means any mechanism that is intended to produce or that actually produces noise when operated or handled.

(7) "Dynamic braking device" means 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" means any 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" means a motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

(10) "Health department" means the Tooele County Health Department.

(11) "Impulsive noise" means a noise containing excursions usually less than one second, or a sound-pressure level using the fast meter characteristics.

(12) "Motor vehicle" means 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.

(13) "Muffler" means an apparatus consisting of a series of chambers or baffle plates designed to transmit gases while reducing sound.

(14) "Ninetieth percentile noise level" means 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 ten minute period. It is abbreviated L90.

(15) "Noise disturbance" means any sound that annoys or disturbs a reasonable person with normal sensitivities or that injures or endangers the comfort,

repose, health, hearing, peace, or safety of another person.

(16) "Noise" means any sound that is unwanted and causes or tends to cause an adverse psychological or physiological effect on human beings.

(17) "Owner" means any person who alone or jointly or severally with others:

(a) has legal title to any premise, dwelling, building, or structure with or without accompanying actual possession thereof; or

(b) has charge, care, or control of any premise, dwelling, building, or structure as legal or equitable owner or agent of the owner, or is an executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner.

(18) "Person" means 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.

(19) "Plainly audible" noise means 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.

(20) "Property boundary" means 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.

(21) "Public right-of-way" means any street, road or trail or similar place that is owned or controlled by a public or governmental entity.

(22) "Pure tone" means any sound that can be distinctly heard as a single pitch or a set of single pitches.

(23) "Repetitive impulsive noise" means any noise that is composed of impulsive noises that are repeated at sufficiently slow rates such that a sound level meter set at Afast© meter characteristic will show changes in sound pressure level greater than 10 dB(A).

(24) "Sound" means 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 a finite speed to distant points.

(25) "Sound level meter" means an instrument, including a microphone, amplifier, RMS detector and integrator, time averager, output meter or visual display or both, and weighted networks, that is sensitive to pressure fluctuations. The instrument reads sound pressure level if properly calibrated and is of type 2 or

better as specified in American National Standards Institute Publication S1. 4-1971 or its successor publications.

(26) "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space due to sound.

(27) "Sound pressure level" means 20 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.

(28) "Stationary noise source" means any device, fixed or movable, that is located or used on property other than a public right-of-way.

(29) "Steady noise" means a sound pressure level that remains essentially constant during the period of observation and does not vary more than 6 dB(A) when measured with the Aslow© meter characteristic of a sound level meter.

(30) "Tenth percentile noise level" means the A-weighted sound pressure level that is exceeded ten percent of the time in any measurement period, such as the level that is exceeded to one minute in a ten minute period) and is denoted L10.

(31) "Use district" means a portion of the unincorporated territory of Tooele County, established as a zoning district by the zoning ordinance, within which certain uniform regulations and requirements or various combinations thereof apply.

6-21-3. Powers and duties.

The zoning administrator shall be responsible for the administration of this chapter and shall make inspections of any premises and issue orders as necessary to effect the purposes of this chapter.

6-21-4. Noise emergency orders.

Whenever the health department finds that an noise emergency exists requiring immediate action to protect the public health, safety, or well-being, the director of the health department may issue an order declaring the existence of an noise emergency and require that remedial action be taken. The order shall be effective immediately.

6-21-5. Specific noise prohibitions.

The following acts are declared to be in violation of this chapter:

(1) The sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle, or other within the county, except as a emergency or danger warning signal as provided in the Vehicle Code of the State of Utah.

(2) Using, operating or permitting the use or operation of any radio receiving set, television, phonograph, drum, tape player, compact disc player, musical instrument, or other machine or device for the production or reproduction of sound between the hours of 10 p.m. and 7 a.m. in a way that is plainly audible on public property or on a public right-of-way so as to be a nuisance.

(3) The use or operation of a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any vehicle in or upon any street, alley, sidewalk, park, place, 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 6-21-6, or causing a noise disturbance unless a permit is first obtained as provided by Section 6-21-9.

(4) Selling anything by outcry within any area of the County zoned primarily for residential uses in such a manner as to violate Section 6-21-6. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food, and beverages at licensed or permitted sporting events, parades, fairs, circuses, and other similar public entertainment events.

(5) Owning, keeping, possessing, or harboring any animal or animals that, by frequent or habitual noise making, violates Sections 6-21-6. The provisions of this section shall apply to all private and public facilities, including any animal pounds that hold or treat animals.

(6) Loading, unloading, opening, or otherwise handling boxes, crates, containers, garbage containers, or other objects outside between the hours of 10 p.m. and 7 a.m.

(7) Operating or causing to be operated by equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto:

(a) in residential or commercial zoning districts between the hours of 10 p.m. and 7 a.m.

(b) in any zoning district where such operation exceeds the sound level.

(8) Operating or permitting the operation of any power equipment rated five horsepower or less in residential or commercial zones, including, but not limited to, power saws, sanders, lawn mowers, garden equipment, or snow removal equipment for home or building repair or ground maintenance:

(a) outdoors between the hours of 10 p.m. and 7 a.m.; or

(b) any such power equipment that emits a sound pressure level in excess of 74 dB(A) measured

at a distance of 50 feet (15.25 meters) from the source.

(9) Operating or permitting the operation of any power equipment rated more than five horsepower, including but not limited to, chain saws, pavement-breaker, log chippers, powered hand tools, except equipment used for construction activities:

(a) in residential or commercial land use districts between the hours of 10 pm. and 7 a.m.; or

(b) in any land use district 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) 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 letters, "WARNING: SOUND LEVELS 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 6-21-7.

(11) The use of explosives, fireworks, discharge guns, or other explosive devices outside of approved public recreational facilities that are audible across a property boundary, public space, or right-of-way, without first obtaining a permit as provided by Section 6-21-9. The provision shall not be constructed to permit conduct prohibited by other statutes, ordinances, or regulations governing such activity.

(12) Permitting any motor vehicle racing event at any place in violation of Section 6-21-6 without first obtaining a permit as provided by Section 6-21-9;

(13) Flying a model aircraft 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 6-21-6.

(14) Operating any motor vehicle with a dynamic braking device engaged, except for the avoidance of imminent danger;

(15) Operating or permitting the operation or use of any truck, automobile, motorcycle, or other motor vehicle because of disrepair or mode of operation violates Section 6-21-10.

(16) Operating, 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) Collecting garbage, waste, or refuse between the hours of 10 p.m. and 7 a.m.:

(a) in any area zoned residential or within 300 feet of an area zoned residential; or

(b) in any zoning district so as to cause a noise disturbance.

(18) Operating, causing, or permitting the operation of any motor vehicle or any auxiliary equipment attached thereto either in violation of Section 6-21-10 or in such a way as to cause a disturbance in a residential zone for a consecutive period of 15 minutes or longer.

(19) Creating noise in excess of the residential standard as defined in Section 6-21-6 within the vicinity of any school, hospital, institution of learning, court, or other designated area that requires exceptional quiet while in session. Conspicuous signs shall be displayed in the streets indicating that the same is a quiet zone.

(20) 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 6-21-6 for longer than five minutes in any hour.

(21) Sounding or causing the sounding of any whistle, horn, or siren as a signal for commencing or suspending work or for any other purpose in violation of Section 6-21-6 except as a sound signal of imminent danger.

(22) Operating any recreational vehicle or snowmobile that produces a sound level more than 82 dB(A) at 50 feet (15.25 meters) from the source.

6-21-6. Zoning district noise levels.

(1) It shall be a violation of this chapter for any person to create sustained noise that exceeds the limits set forth for the following receiving zoning districts when measured at the property boundary or at any point within the property affected by the noise:

Use district	10 p.m.-7 a.m.	7 a.m.-10 p.m.
Residential	55 dB(A)	65 dB(A)
Commercial / Agricultural	60 dB(A)	80 dB(A)
Industrial	75 dB(A)	90 dB(A)

(2) When a noise source can be identified and 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) Notwithstanding compliance with sub-section (1) it shall be a violation of this chapter 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.

(4) It shall be unlawful for any person to create any noise disturbance on any street, sidewalk, or public place adjacent to any school, library, or other public institution of learning while it is in use, provided conspicuous signs are displayed on the street, sidewalk, or public place indicating the presence of a school, library or other public institution of learning.

(5) It shall be unlawful for any person to create any unnecessary noise adjacent to any hospital in which the noise interferes with the workings or disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed on the streets, sidewalk, or public place indicating the presence of a hospital.

6-21-7. Sound level measurement.

Sound level measurements shall be made with a sound level meter using the A weighted scale in accordance with standards promulgated by the American National Standards Institute or other reasonable standards adopted and tested by the Tooele County Health Department.

6-21-8. 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 an emergency;

(3) noise resulting from emergency work;

(4) noise resulting from lawful fireworks and noisemakers used for celebration of an official holiday;

(5) any noise resulting from activities of temporary duration permitted by law for which a license or permit has been approved by the health department in accordance with Section 6-21-9;

(6) emergency public announcement systems operated by a public entity; and

(7) noise emanating from agricultural machinery.

6-21-9. Permits.

(1) Applications for a permit for relief from the noise restrictions in this chapter on the basis of undue hardship may be made to the health department. Any permit granted by the health department 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. The requested relief may be granted upon good and sufficient reason showing:

(a) that additional time is necessary for the applicant to alter or modify his activity or operation to comply with these rules and regulations;

(b) that the activity, operation, or noise source will be of temporary duration and cannot be performed in a way that would comply with this chapter; and

(c) that no reasonable alternative is available to the applicant.

(2) The health department may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon a community or the surrounding neighborhood.

(a) The sponsor of a special event, including professional fireworks displays, may seek relief from the noise restrictions in this chapter where the health department shall review requests for relief from noise restrictions associated with special events or public assemblies.

(b) The request shall include:

(i) the dates, time and duration of the event;

(ii) the location of the event;

(iii) the sponsor of the event;

(iv) contact information for the event operator;

(v) a description of the event and the types of noise-making activities expected;

(vi) a map of the event location and the probable location of any stage, speakers, or mixing boards if applicable;

(vii) identification of surrounding zoning districts and any anticipated sound sensitive neighbors;

(viii) a completed Health Department Temporary Mass Gathering Permit application form or equivalent information;

(ix) a request by Tooele County Department of Engineering or Tooele County Sheriff's Department for review by the health department and containing their recommendations; and

(x) any fees that may be required.

(c) The health department shall receive this request at least 30 days prior to the event.

(d) The health department shall review the request and make recommendations to minimize impacts on the surrounding incorporated or

unincorporated areas.

(e) The health department shall return the request with its recommendations to the origination office.

(f) The final review and recommendation for approval or denial shall be filed with the health department at least ten business days prior to the scheduled event and shall include:

(i) any changes to the original application; and

(ii) any variations to the zoning administrator's recommendations that has been approved.

(g) The zoning administrator shall respond to any noise-related matters associated with the events approved by the county.

6-21-10. Motor vehicle noise.

(1) No person shall drive, move, or knowingly permit to be driven or moved a motor vehicle or combination of vehicles exceeding the following noise limits for the category of motor vehicle shown below at any time. Noise shall be measured at a distance of at least 25 feet (7.62 meters) from the near side of the nearest lane(s) being monitored and at a height of at least four feet (1.22 meters) above the immediate surrounding surface.

	Sound pressure level, dB(A)	
	Speed limit 40 mph or less	Speed limit over 41 mph
Any motorcycle	84	88
Motor vehicles with a manufacturers gross vehicle weight 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) Subsection (1) 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 mufflers 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 reduction;
- (b) equipped with a muffler or other noise dissipative device; and
- (c) not equipped with any cut-out, by-pass or similar device.

(4) No person shall operate a watercraft between the hours of 7:00 a.m. and 9:00 p.m. which exceeds 75 dBA as measured on shore. Between the hours of 9:00 p.m. and 7:00 a.m. this sound level shall be 65 dBA as measured on shore.

6-21-11. Notice.

(1) The zoning administrator or enforcing officer shall notify owners or others of violations. If the zoning administrator or enforcing officer has inspected any real property, personal property, or person and has found and determined that the property or person is in violation of this chapter or has reasonable grounds to believe that there has been a violation of any part of this chapter, he shall give notice of the violation to the owner or other responsible person thereof.

(2) Prior to initiating a court complaint for the violation of this chapter, the zoning administrator or enforcing officer shall issue a notice pursuant to Section (1) and shall:

- (a) describe the property;
- (b) give a statement of the cause for its issuance;
- (c) set forth an outline of the remedial action that complies with the provisions of this chapter; and
- (d) set a reasonable time for the performance of any required remedial act.

(3) The zoning administrator shall serve notice pursuant to subsections (1) and (2) upon the owner of the property or other responsible person. Service shall be deemed complete if the notice is:

- (a) served in person;
- (b) sent by certified mail to the last known address of the owner or other responsible person; or
- (c) published in a newspaper of general circulation.

6-21-12. Inspection.

(1) It shall be the duty of the zoning administrator or enforcing officer, upon the presentation of proper credentials, to make inspections of any property on or where noise disturbance is occurring or may occur as is necessary to ensure compliance with these regulations.

(2) Inspections may be made with the consent of the

owner or other responsible person. If consent is not granted, a search may be made pursuant to an administrative search warrant issued by a court of competent jurisdiction.

(3) Any violation of this chapter is declared to be a nuisance and may be subject to summary abatement by a restraining order or injunction issued by a court of competent jurisdiction.

(4) An owner may request a factual report of inspections. Upon request, the owner or other responsible person of any property shall receive a report setting forth all facts found that relate to the compliance status.

6-21-13. Enforcement.

(1) The zoning administrator shall have primary, but not exclusive, enforcement responsibility for these rules and regulations as it concerns stationary sources. Enforcement responsibility for vehicular sources shall be the sheriff's office.

(2) The zoning administrator and other designated officers shall be special function peace officers of the county and shall have the authority to issue citations for the violations of this chapter.

(3) The zoning administrator or an authorized representative shall enforce this chapter and is empowered and directed to institute an appropriate action or proceeding in any case the noise level is illegal or is in violation of any county ordinance or code. To this end the zoning administrator or designee may:

- (a) issue a written notice of violation to the person having charge or control of the source of noise in violation of this chapter;
- (b) abate and remove sources of non-conforming noise;
- (c) initiate action with the Tooele County Attorneys Office for:
 - (i) injunctive relief; or
 - (ii) the filing of criminal charges against violators; or
- (d) issue citations to violators for non-compliance.

6-21-14. Right to appeal.

Within ten calendar days after the zoning administrator has given a notice of violation, any person aggrieved by the notice may request in writing a hearing before the health department. The hearing shall take place within ten calendar days after the request is received. A written notice of the health department's final determination shall be given ten calendar days after adjournment of the hearing. The

health department may sustain, modify, or reverse the action or order.

6-21-15. Penalty.

(1) Any person found guilty of violating any of the provisions of this chapter, either by failing to do those acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Section 26A-24-22, Utah Code Annotated, 1953, as amended. If a person is found guilty of a subsequent similar violation within two years, he is guilty of a class A misdemeanor, pursuant to Section 26A-24-22, Utah Code Annotated, 1953 as amended.

(2) Each day such violation is committed or permitted to continue shall constitute a separate violation.

(3) The county attorney may initiate legal action, civil or criminal, to abate any condition that exists in violation of this chapter.

(4) In addition to other penalties imposed by a court of competent jurisdiction, any person found guilty of violating this chapter shall be liable for all expenses incurred by the zoning administrator in removing or abating any nuisance or other noise disturbance.

