

NO. 20-1246

**AN ORDINANCE REGULATING NOISE WITHIN THE CITY LIMITS;
PROVIDING FOR PENALTIES FOR VIOLATION OF THIS
ORDINANCE AND REPEALING ORDINANCE NO. 415.**

SECTIONS:

- I Statement of Policy; general and specific violations**
- II General Noise Ordinance**
- III Specific (per se) Noise Ordinance**

SECTION I: Declaration of Policy

In order to control unnecessary, excessive and annoying sounds emanating from within the City Limits, it is hereby declared to be the policy of the City of Grants to prohibit such sounds generated from all sources as specified under this ordinance.

Also, it is hereby determined that certain sound levels are detrimental, per se, to the public health, welfare and safety, and contrary to the public interest.

SECTION II: General Noise Ordinance

1. Unnecessary Noises Prohibited.

WITHIN THE CITY OF GRANTS, it shall be unlawful for any person to create any unreasonably loud, annoying, disturbing or unnecessary noise, or noise of such character, intensity or duration as to be detrimental to or degrade the repose, life, safety or health of others.

2. Acts Constituting Violation.

The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this Chapter, but said enumeration shall not be deemed to be exclusive:

(A) **Horns, Signaling Devices:** The bounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the Municipality, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time.

(B) Radios, Phonographs: The using, operating, or permitting to be placed, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in any such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, or open area such as yards or city parks, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine, or device between the hours of 8:00 p.m. and 7:00 a.m. when school is in session or between the hours of 10:00 p.m. and 7:00 a.m. during the summer months when school is not in session in such a manner as to be plainly audible at a distance of twenty-five feet (25') from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this Section.

(C) Loud Speakers, Amplifiers for Advertising: The using, operating or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure, or area; provided, that a permit may be issued to any person or organization by the City Administrator for the use of any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device for the producing or reproducing of sound, if the City Administrator shall find that such use will not impair the public health, comfort, convenience, safety, or welfare of the Municipality, said permit to be for a period not to exceed two (2) consecutive days. Exception to this period are City sponsored activities.

(D) Yelling, Shouting: Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 8:00 p.m. and 7:00 a.m. when school is in session and 10:00 p.m. and 7:00 a.m. during the summer months when school is not in session or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence or of any persons in the vicinity.

(E) Animals, Birds: The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(F) Steam Whistles: The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work as a warning of fire or danger, or upon the request of proper City authorities.

(G) Exhausts: The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(H) Defect in Vehicle or Load: The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(I) Loading, Unloading, Opening Boxes: The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(J) Construction or Repairing of Buildings: The erection, including excavating, demolition, alteration or repair of any building or other types of construction or demolition, other than between the hours of 7:00 a.m. and 6:00 p.m. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the City Administrator, which permit may be granted for a period not to exceed three (3) day or less while the emergency continues. If the City Administrator should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highway within the hours of 6:00 p.m., and 7:00 a.m., on week days or Sunday, and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m., and 7:00 a.m., on week days or Sunday upon application being made at the time the permit for the work is awarded or during the progress of the work.

(K) Schools, Courts, Churches, Hospitals: The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while

the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital; provided, conspicuous signs are displayed in such streets indicating that the same is a school, hospital, or court street.

(L) Hawkers, Peddlers: The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(M) Drums: The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(N) Metal Rails, Pillars and Columns, Transportation Thereof: The transportation of rails, pillars or columns of iron, steel or other material over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(O) Blowers: The operation of any noise creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler devise sufficient to deaden such noise.

(P) The Creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment, or condominium which unreasonably interferes with the peace, comfort and repose of owners or possessors of real property; the Code Enforcement Officer shall advise the person originating continuous noise, owning or in possession of the property from which the continuous noise originates that such noise is a nuisance and must be limited in a manner which promotes commerce, the use, value and enjoyment of property, sleep and repose, and the quality of the environment.

3. Violation.

A. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and shall be subject to 90 days in jail and/or a \$500.00 fine.

B. Each occurrence of such violation shall constitute a separate offense and shall be punishable as such. The provisions of this ordinance shall not be construed as permitting conduct not prescribed herein and shall not affect the enforceability of any other applicable provisions of law.

C. The City of Grants Police Department or the Code Enforcement Officer is hereby directed to enforce this Ordinance.

4. 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 acting in time of emergency;

(C) Noises resulting from emergency work;

(D) Noise resulting from lawful fireworks and noisemakers used for a celebration of an official holiday; and

(E) Noise resulting from activities of temporary duration permitted law for which a license or permit has been approved by the City Administrator or appointed designed in accordance with subsection of this Code.

5. Permits.

(A) Application for a permit for relief from the noise restrictions in the section on the basis of undue hardship may be made to the City Manager or the appointed designee. The application shall be in writing and set forth the conditions as specified in paragraphs A. (1), (2), or (3) of the subsection entitling the appellant to the relief requested. Any permit granted, including, 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 showing:

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

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

(B) The City Manager or his appointed designee may prescribe reasonable conditions or requirements deemed necessary to minimize adverse effects upon a community or the surrounding neighborhood.

(C) Any person denied a permit by the City Manager or his appointed designee shall have the right to appeal the denial to the governing body. The appeal shall not be entertained unless it is in the form of a verified petition, in writing, filed with the City Manager within five (5) calendar days of the denial, setting forth the condition, as specified in paragraphs A.(1), (2), or (3) of this subsection entitling the appellant to the relief requested.

(D) The City Manager shall not issue a permit for relief from the noise restriction that would conflict with an existing permit.

(E) Special Use Permit Required. All applicants for advertising by use of loudspeakers or sound amplifiers from private property are required to obtain a special use permit from the office of the City Manager after approval and prior to the event of activity. The administrative service charge for issuing the permit is twenty-five dollars (\$25.00). The city may, at its discretion, require:

(1) A one hundred-dollar (\$100) deposit;

(2) A state tax number;

(3) A city business number, and

(4) An environmental improvement agency food and drink permit number.

SECTION III: Specific (per se) Noise Ordinance

1. Noise Level Measurement.

Any noise level measurements made pursuant to this Ordinance shall be performed using a sound level meter as defined in Section 1(o) above.

2. Designated Noise Zone.

The entire territory of the City of Grants is hereby designated as "Noise Zone 1."

3. Exterior Noise Standards.

a. The following noise standards, unless otherwise specifically indicated, shall apply to all residential property within a designated noise zone during the months when school is in session:

<u>Noise Zone</u>	<u>Noise Level</u>	<u>Time Period</u>
1	55 dBA	7:00 a.m. to 8:00 p.m.
	50 dBA	8:00 p.m. to 7:00 a.m.

During the summer when school is not in session, for the noise level of 55 dBA, the time period shall be from 7:00 a.m. to 10:00 p.m. and for the noise level of 50 dBA the time period shall be from 10:00 p.m. to 7:00 a.m.

In the event the alleged offensive noise consists entirely of impact noise, simple tone noise, speech, music, or any combination thereof, each of the above noise levels shall be reduced by five (5) dBA.

b. It shall be unlawful for any person at any location within the City of Grants to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, when the foregoing causes the noise level, when measured on any other residential property, to exceed:

- (1) The noise standard for cumulative period of more than thirty (30) minutes in any hour; or
- (2) The noise standard plus five (5) dBA for a cumulative period of more than fifteen (15) minutes in any hour; or
- (3) The noise standard plus ten (10) dBA for a cumulative period of more than five (5) minutes in any hour; or
- (4) The noise standard plus fifteen (15) dBA for a cumulative period of more than one (1) minute in any hour; or
- (5) The noise standard plus twenty (20) dBA for any period of time.

c. In the event the ambient noise level exceeds any of the first four (4) noise limit categories above, the cumulative period applicable to said category shall be increased to reflect said ambient noise level. In the event the ambient noise level exceeds the fifth noise limit category, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.

4. Interior Noise Standards.

a. The following interior noise standards, unless otherwise specifically indicated, shall apply to all residential property within a designated noise zone during the months when school is in session:

Noise Zone	Noise Level	Time Period
1	55 dBA	7:00 a.m. to 8:00 p.m.
	45 dBA	8:00 p.m. to 7:00 a.m.

During the summer when school is not in session, for the noise level of 55 dBA, the time period shall be from 7:00 a.m. to 10:00 p.m. and for the noise level of 45 dBA the time period shall be from 10:00 p.m. to 7:00 a.m.

In the event the alleged offensive noise consists entirely of impact noise, simple tone noise, speech, music, or any combination thereof, each of the above noise levels shall be reduced by five (5) dBA.

b. It shall be unlawful for any person at any location within the City of Grants to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, when the foregoing causes the noise level, when measured within any other dwelling unit on any residential property, whether within the City or not, to exceed:

(1) The interior noise standard for a cumulative period of more than five (5) minutes in any hour or

(2) The interior noise standard plus five (5) dBA for a cumulative period of more than one (1) minute in any hour; or

(3) The interior noise standard plus ten (10) dBA for any period of time.

c. In the event the ambient noise level exceeds either of the first two(2) noise limit categories above, the cumulative period applicable to said category shall be increased to reflect said ambient noise level. In the event the ambient noise level exceeds the third noise limit category, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.

5. Exemptions.

The following activities shall be exempted from the provisions of this ordinance:

a. Activities conducted on the grounds of any elementary, intermediate or secondary school or college.

b. Outdoor gatherings, public dances and *shows*, provided said events are conducted pursuant to a license or other authority properly issued by the City of Grants.

c. Activities conducted on any park or playgrounds, provided such park or playgrounds is owned and/or operated by the City of Grants.

d. Any mechanical device, apparatus or equipment used, related to or connected with any emergency or safety machinery, vehicle or work.

e. Noise sources associated with construction, repair, remodeling, or grading of any real property, provided said activities do not take place between the hours of 8:00 p.m. and 7:00 a.m.

f. Mobile noise sources associated with agricultural operations, provided said activities do not take place between the hours of 8:00 p.m. and 7:00 a.m.

g. Noise sources associated with the maintenance of any real property, provided said activities do not take place between the hours of 8:00 p.m. and 7:00 a.m. on weekdays.

h. Any activity to the extent regulation thereof has been preempted by State or Federal law.

6. Special Provisions.

a. Schools, hospitals and churches.

It shall be unlawful for any person to create any noise which causes the noise level at any school, hospital or church while the same is in use to exceed the noise limits as specified in Section (4) and prescribed for the assigned noise zone in which the school, hospital or church is located, or which noise level unreasonably interferes with the use of such institutions or which unreasonably disturbs or annoys patients in the hospital, provided conspicuous signs are displayed in three (3) separate locations within one-tenth of a mile of the institution indicating the presence of such institution.

b. Motor vehicles and motor vehicle racing.

It shall be unlawful to conduct motor vehicle racing, testing, timing or similar noise-producing activities at any location within the City of Grants between the hours of 8:00 p.m. and 7:00 a.m. this subsection shall not apply to any business or activity conducted pursuant to a license or authority properly issued by the City of Grants.

c. Air conditioning and refrigeration.
During the vie year period following the effective date of this ordinance, the noise standards enumerated in Sections (4) and (5) shall be increased by eight (8) dBA where the alleged offensive noise source is an air conditioning refrigeration system or associated equipment which was installed prior to the effective date of this ordinance.

7. Noise Level Measurement.

a. The location selected for measuring exterior noise levels shall be at any point on the affected property.

b. Interior noise measurements shall be made within the affected dwelling unit. The measurement shall be made at a point at least four (4) feet from the wall, ceiling, or floor nearest the alleged offensive noise source and may be made with the windows of the affected unit open.

8. Manner of Enforcement.

The City of Grants Police Department or the Code Enforcement Officer is hereby directed to enforce this ordinance.

9. Variance Procedure.

a. The owner or operator of a noise source which violates any of the provisions of this ordinance may file an application with the City Manager, or his designated agent, for a variance from the provisions thereof wherein said owner or operator shall set forth all actions taken to comply with said provisions, the reasons why immediate compliance cannot be achieved, proposed method of achieving compliance, and a proposed time schedule for its accomplishment.

b. Said application shall be accompanied by a fee in an amount to be set by Council resolution.

c. A separate application shall be filed for each noise source; provided, however that several mobile sources under common ownership, or several fixed sources on a single property may be combined into one (1) application.

d. Upon receipt of said application and fee, the City Manager, or his designated agent, shall refer it with his recommendation thereon within thirty (30) days to the Planning and Zoning Board for action thereon in accordance with the City Planning and Zoning ordinances and regulations.

10. Penalty Provisions.

a. Any person violating any of the provisions of this ordinance shall be deemed to be guilty of a misdemeanor and subjected to 90 days in jail and/or a \$500.00 fine.

b. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. The provisions of this ordinance shall not be construed as permitting conduct not prescribed herein and shall not affect the enforceability of other applicable provisions of law.

11. Savings Provision.

If any of the Sections, subsections, sentences, clauses or phrases are for any reason held to be unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not be thereby affected, since it is the express intent of the Governing Body to pass each section, sub-section, sentence, clause and phrase separately.

12. Repealing Clause.

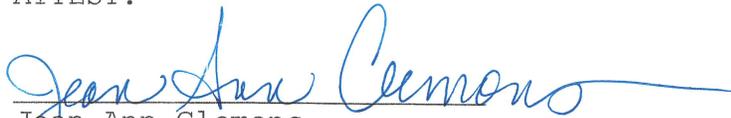
Any and all ordinances, or provisions therein, are hereby repealed to the extent the said ordinances, or specific provisions therein, conflict with the provisions herein.

THIS ORDINANCE NO. 20-1246 PASSED AND ADOPTED BY THE GOVERNING
BODY OF THE CITY OF GRANTS, NEW MEXICO, AND APPROVED BY THE
UNDERSIGNED MAYOR OF THE CITY OF GRANTS THIS 6th DAY OF July, 2020.



Martin W. Hicks
Mayor

ATTEST:



Jean Ann Clemons
City Clerk