ORDINANCE NO. 19-06

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF
YOUNGTOWN, ARIZONA, AMENDING THE CODE OF YOUNGTOWN,
ARIZONA, TITLE 8 HEALTH AND SAFETY, CHAPTER 8.16 NOISE, BY
ADDING NEW SECTION 8.16.040 SOUND LEVEL LIMITS AND
RENUMBERING SECTION 8.16.040 EXEMPTIONS TO SECTION 8.16.050
EXEMPTIONS AND AMENDING THAT SECTION TO ADOPT ADDITIONAL
EXEMPTIONS, ALL RELATED TO DEFINING ACCEPTABLE SOUND-
LEVEL LIMITS IN THE TOWN FOR RESIDENTIAL AND
COMMERCIAL/MIXED-USE AREAS; PROVIDING FOR SEVERABILITY;
PROVIDING PENALTIES; AND DECLARING AN EMERGENCY.

WHEREAS, the Common Council of the Town of Youngtown prohibits unreasonably loud and disturbing noises and noises detrimental to the life, health, public peace and welfare in Chapter 8.16 of the Youngtown Town Code; and

WHEREAS, the Common Council desires to amend the Youngtown Town Code to add acceptable sound-level limits within residential and commercial districts in the Town and time of day restrictions to provide additional clarity and enforcement options to address noise complaints; and

WHEREAS, the Common Council has determined that it is in the best interest of the Town and of the health, safety and welfare of its citizens to provide reasonable regulations for sound-level limits within the Town.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Youngtown, Arizona, as follows:

Section I.   In General.

The Code of Youngtown, Arizona, Title 8 Health and Safety, Chapter 8.16 Noise is hereby amended by adding Section 8.16.040 Sound Level Limits, to read as follows (additions in ALL CAPS):

8.16.040   SOUND LEVEL LIMITS.

A.   DEFINITIONS. UNLESS THE CONTEXT OTHERWISE REQUIRES, THE FOLLOWING
       WORDS, TERMS, AND PHRASES SHALL HAVE THE MEANINGS ASCRIBED TO
       THEM IN THIS SECTION. ANY TERMINOLOGY USED IN THIS SECTION SHALL BE
       INTERPRETED IN CONFORMANCE WITH DEFINITIONS USED BY THE AMERICAN
       NATIONAL STANDARDS INSTITUTE (ANSI) OR ITS SUCCESSOR BODY, AS
       APPLICABLE.

"A BAND LEVEL" MEANS THE TOTAL SOUND LEVEL OF ALL NOISE AS MEASURED WITH A SOUND LEVEL METER USING A-WEIGHTING NETWORK. THE UNIT IS THE DB(A).

"DECIBEL" OR DB(A) MEANS A SOUND PRESSURE THAT IS TWENTY (20) TIMES THE LOGARITHM TO THE BASE 10 OF THE RATIO OF THE PRESSURE OF SOUND TO THE REFERENCE PRESSURE, 2×10^{-5} NEWTON/METER^2.

"IMPULSE NOISE" MEANS A NOISE OF SHORT DURATION, USUALLY LESS THAN ONE (1) SECOND, WITH AN ABRUPT ONSET AND RAPID DECAY.

"SOUND LEVEL" OR NOISE LEVEL, IN DECIBELS, MEANS THE SOUND MEASURED WITH THE A - WEIGHTING AND SLOW RESPONSE BY A SOUND LEVEL METER.

"SOUND LEVEL METER" MEANS AN INSTRUMENT INCLUDING A MICROPHONE, AN AMPLIFIER, AN OUTPUT METER, AND FREQUENCY WEIGHTING NETWORKS FOR THE MEASUREMENT OF SOUND LEVELS WHICH SATISFIES THE PERTINENT REQUIREMENTS IN AMERICAN STANDARD SPECIFICATIONS FOR SOUND LEVEL METERS S1.4-1971 OR THE MOST RECENT REVISION THEREOF.

B. MEASUREMENT CRITERIA. FOR THE PURPOSE OF ENFORCEMENT OF THIS SECTION, NOISE LEVEL SHALL BE MEASURED ON THE A-WEIGHTED SCALE WITH A SOUND LEVEL METER SATISFYING AT LEAST THE APPLICABLE REQUIREMENT FOR TYPE 1 SOUND-LEVEL METERS AS DEFINED IN AMERICAN NATIONAL STANDARD S 1.4-1971 OR THE MOST RECENT REVISIONS THEREOF. THE METER SHALL BE SET FOR SLOW RESPONSE SPEED, EXCEPT THAT FOR IMPULSE NOISES OR RAPIDLY VARYING SOUND LEVELS, FAST RESPONSE SPEED MAY BE USED. PRIOR TO MEASUREMENT, THE METER SHALL BE VERIFIED, AND ADJUSTED TO ±0.3 DECIBEL BY MEANS OF AN ACOUSTICAL CALIBRATOR.

C. ALLOWABLE NOISE LEVELS.

(1) IT IS UNLAWFUL FOR ANY PERSON TO CREATE ANY NOISE WHICH WOULD CAUSE THE NOISE LEVEL MEASURED AT EITHER THE PROPERTY LINE OR THE AREA OF THE PROPERTY AFFECTED BY THE NOISE EMISSION TO EXCEED THE FOLLOWING COMMUNITY NOISE STANDARDS:

ZONE	TIME	NOISE STANDARD DB(A)
RESIDENTIAL	10:00 P.M.—7:00 A.M.	60
	7:00 A.M.—10:00 P.M.	70

ZONE	TIME	NOISE STANDARD DB(A)
COMMERCIAL AND MIXED USE	10:00 P.M.—7:00 A.M.	60
	7:00 A.M.—10:00 P.M.	80

(2)   IF THE MEASUREMENT LOCATION IS ON A BOUNDARY BETWEEN TWO (2) ZONING DISTRICTS, THE LOWER NOISE STANDARD SHALL APPLY.

D.   SPECIAL USE PERMIT.

(1)   SOUNDS EMANATING FROM ANY EVENT OR ACTIVITY FOR WHICH A SPECIAL USE PERMIT HAS BEEN ISSUED BY THE TOWN SHALL BE GOVERNED BY THE TERMS OF THE SPECIAL USE PERMIT. IT IS UNLAWFUL TO GENERATE LOUD OR EXCESSIVE NOISE IN EXCESS OF ANY NOISE LIMITATIONS IN THE SPECIAL USE PERMIT.

(2)   THE TOWN COUNCIL MAY CONSIDER NOISE IN DECIDING WHETHER TO GRANT OR DENY A SPECIAL USE PERMIT AND RETAINS ALL AUTHORITY TO APPROVE WITH CONDITIONS, OR DENY, SPECIAL USE PERMITS AS OTHERWISE PROVIDED IN THIS CODE AND TOWN REGULATION.

The Code of Youngtown, Arizona, Title 8 Health and Safety, Chapter 8.16 Noise is hereby amended by renumbering Section 8.16.040 Exemptions as 8.16.050 Exemptions and amending it to read as follows (additions in ALL CAPS):

8.16.040   Exemptions.

None of the terms or prohibitions of this chapter shall apply to or be enforced against:

A.   Any vehicle of the town while engaged upon necessary public business;

B.   Excavations or repairs of bridges, streets or highways by or on behalf of the town, at night, when the public welfare and convenience renders it impossible to perform such work during the day;

C.   Emergency vehicles on emergency trips;

D.   BUILDING VENTILATION AND ROUTINE PROPERTY MAINTENANCE ACTIVITIES;

E.   PUBLIC AND SCHOOL PROPERTY USED FOR OFFICIALLY-SANCTIONED GOVERNMENT ACTIVITIES;

F.   TOWN EVENTS AND FUNCTIONS;

G.   EVENTS WITH APPROVED SPECIAL USE PERMITS; AND

H.   NOISES FROM AIRPORT AND VEHICULAR TRANSPORTATION OTHER THAN BLOWING HORNS OR SIGNAL DEVICES WHILE VEHICLES ARE NOT IN MOTION AND EXHAUST DISCHARGE, LOADING, UNLOADING OR OTHER USE OF VEHICLES AS PROHIBITED IN SECTION 8.16.030(A), (E), (F), AND (I).

Section II.   Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III.   Providing for Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section IV.   Providing for Penalties.

Unless otherwise provided, any person found in violation of any provision of this Ordinance shall be responsible under Section 1.12.010 of the Town Code for a civil violation, punishable by a fine not less than fifty dollars ($50) nor more than five hundred dollars ($500) for each violation. Each day that a violation continues shall be a separate offense punishable as herein described. After having been found responsible for committing three (3) or more civil infractions of the same code provision in any twenty-four (24) month period, a person is a habitual offender and may be charged with a class one misdemeanor, punishable by a fine of not less than five hundred dollars ($500) nor more than twenty five hundred dollars ($2500), imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment.

Section V.   Declaring an Emergency.

The immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health, and safety of the Town of Youngtown, and an emergency is hereby declared to exist. This Ordinance shall be in full force and effect from and after its passage, adoption, and approval by the Common Council of the Town of Youngtown.
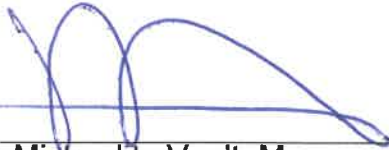
PASSED AND ADOPTED by the Common Council of the Town of Youngtown, Arizona, this 1st day of August. 2019, by the following vote:

AYES: _____7_____

NAYES: ____0_____   ABSENT: ____0_____

EXCUSED: ____0_____   ABSTAINED: ____0_____

APPROVED this 1st day of August, 2019.

Michael LeVault, Mayor

ATTEST:

Mary Reynolds, Town Clerk

APPROVED AS TO FORM:

Gust Rosenfeld, P.L.C, Town Attorneys
By Susan Goodwin

I, MARY REYNOLDS, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 19-06 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN ON THE 1ST DAY OF AUGUST, 2019, WAS POSTED IN THREE PLACES ON THE 2ND DAY OF AUGUST, 2019.

Mary Reynolds, Town Clerk