

**ORDINANCE NO. (O)20-07**

**AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING CHAPTER 25, USE REGULATIONS, SECTIONS 25.1.A.3, NOISE, AND 25.1.B.6, CONVENIENCE USES AND OTHER RELATED SECTIONS OF THE ORO VALLEY ZONING CODE; REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER**

**WHEREAS**, on March 13, 1981, the Mayor and Council approved Ordinance (O)81-58, which adopted that certain document entitled “Oro Valley Zoning Code”(OVZC); and

**WHEREAS**, the proposed code amendments eliminated the unusably low existing noise threshold of “40 *decibels*” and has updated the noise threshold by using national and international standards and a qualified noise expert, and

**WHEREAS**, the proposed code amendment to noise amendment standards located in Section 25.1.A.3 of the Oro Valley Zoning Code, is only for new “noise generating” uses and replaces an overly simplistic approach that does not account for the type of adjacent land uses or time of day; and

**WHEREAS**, the proposed code amendment to convenience uses in Section 25.1.B.6 of the Oro Valley Zoning Code allows Town Council to reduce the required separation requirements for convenience uses (gas stations, drive-thru restaurants, convenience markets and/or carwashes) when they are determined to be redundant and unnecessarily punitive, based on site specific characteristics.

**WHEREAS**, the Planning and Zoning Commission held two duly noticed meetings on June 2, 2020 and July 7, 2020 and voted to recommend approval of amending Chapter 25, Use Regulations, Sections 25.1.A.3, Noise and 25.1.B.6, Convenience Uses and other related sections of the Town of Oro Valley Zoning Code; and

**WHEREAS**, the Mayor and Council have considered the proposed amendments and the Planning and Zoning Commission’s recommendation and finds that they are consistent with the Town's General Plan and other Town ordinances and are in the best interest of the Town.

**NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Oro Valley that:**

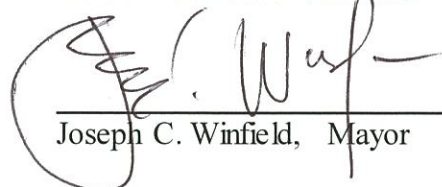
**SECTION 1.** that certain document entitled Chapter 25, Use Regulations, Sections 25.1.A.3, Noise and 25.1.B.6, Convenience Uses of the Town of Oro Valley Zoning Code, attached hereto as Exhibit “A” and incorporated herein by this reference, and declared a public record on September 16, 2020 is hereby adopted

**SECTION 2.** All Oro Valley ordinances, resolutions or motions and parts of ordinances, resolutions or motions of the Council in conflict with the provision of this Ordinance are hereby repealed.

**SECTION 3.** If any section, subsection, sentence, clause, phrase, or portion of the resolution or any part of the General Plan Amendment adopted herein 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.

**PASSED AND ADOPTED** by the Mayor and Council of the Town of Oro Valley, Arizona, this 16<sup>th</sup> day of September, 2020.


**TOWN OF ORO VALLEY**

  
\_\_\_\_\_  
Joseph C. Winfield, Mayor

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Tobin Sidles, Legal Services Director

**ATTEST:**

  
\_\_\_\_\_  
Michael Standish, Town Clerk

Date: 9/18/2020

Date: 9-18-2020

PUBLISH: DAILY TERRITORIAL  
SEPTEMBER 22, 23, 24, 25, 2020

POSTED 9/22/20 - 10/22/20

# EXHIBIT "A"

## **Section 25.1 Requirements for Specific Uses**

This section applies to all non-residential uses, excluding parks. The requirements specified herein are in addition to those in the corresponding zoning district.

### **A. General Requirements for All Non-Residential Uses**

#### **1. Fire Access:**

At least two (2) driveways should be provided for circulation and emergency vehicle access, subject to Fire Marshal review.

#### **2. Conceptual Architecture; Subject to Planning Zoning Commission Approval:**

- a. Accessory structures (structures other than the primary building(s) such as screen walls, gas station canopies, carports, signage structures) shall be coordinated with the primary building(s) in terms of materials, colors and style.
- b. Exterior finishes of a building shall not exceed a reflectivity of sixty percent (60%).

#### **3. Noise**

- ~~a. Noise from internal loudspeakers, paging systems, live entertainment or stereo speakers shall not exceed forty (40) decibels at the property line of any adjacent property used or intended for residential purposes.~~
- a. A NOISE IMPACT STUDY IS REQUIRED AS PART OF CONCEPTUAL DESIGN OR TENANT IMPROVEMENT FOR ANY USE WHICH MAY GENERATE NOISE BEYOND THE ON-SITE PROPERTY BOUNDARY. USES WHICH REQUIRE A STUDY INCLUDE DRIVE-THRU RESTAURANTS, LIVE ENTERTAINMENT AT BARS OR RESTAURANTS, PIPED IN AMBIANCE MUSIC, VEHICLE REPAIR SHOPS, VEHICLE WASHES OR OTHER SIMILAR USES AS DETERMINED BY THE PLANNING AND ZONING ADMINISTRATOR.
- b. ANY STUDY REQUIRED IN SECTION 25.1.A.3.a SHALL DEMONSTRATE CONFORMANCE WITH THE LIMITS ESTABLISHED IN TABLE 25-1.A. IF SOUND PRESSURE LEVELS EXCEED THESE LIMITS, A NOISE ABATEMENT PLAN TO ACHIEVE CONFORMANCE SHALL BE REQUIRED.



**TABLE 25-1.A**

Land Use of Receiving Premise	Time	One Hour Average limits*	Maximum Sound limits**	One Minute Limits***
Single Family Residential	7 a.m. to 7 p.m.	55	75	65
	7 p.m. to 10 p.m.	50	70	65
	10 p.m. to 7 a.m.	45	65	65
Multi-Family Residential	7 a.m. to 7 p.m.	60	80	65
	7 p.m. to 10 p.m.	55	75	65
	10 p.m. to 7 a.m.	50	70	65
Commercial, Office, Institutional, Schools, Parks and Open Space, Animal Husbandry	all hours	65	85	70
Hospitals, Hotels	7 a.m. to 7 p.m.	65	85	70
	7 p.m. to 10 p.m.	60	80	65
	10 p.m. to 7 a.m.	55	75	65
Technological Park (Industrial)	all hours	75	90	75

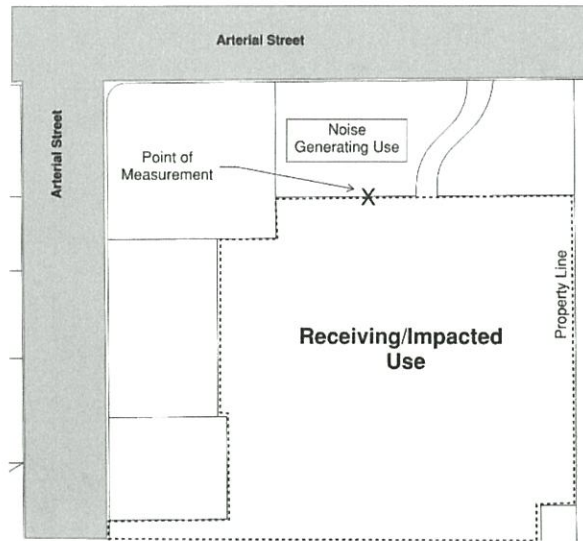
\* Measured as One-hour Equivalent-Continuous Sound Pressure Level (dBA)

\*\* Measured as Fast Exponential Time Weighted Sound Pressure Level (dBA)

\*\*\* Measured as Octave Band Equivalent-Continuous Sound Pressure Level, unweighted 16, 31.5 and 62 Hz Bands (dB)

- c. ALL MEASUREMENTS IN TABLE 25-1.A SHALL BE REPRESENTED AT THE NEAREST PROPERTY BOUNDARY OF THE USE RECEIVING SOUND FROM THE NOISE SOURCE AS INDICATED IN THE FIGURE 25-1.A.

FIGURE 25.1.A NOISE STUDY MEASUREMENT LOCATION



MEASUREMENTS SHALL BE TAKEN FROM A POINT NO LESS THAN TWELVE FEET FROM THE NOISE SOURCE OR ANY STRUCTURE.

- d. WHEN BACKGROUND SOUND INTERFERES, THE PROPERTY BOUNDARY IS NOT ACCESSIBLE, OR HIGHER SOUND PRESSURE LEVELS OCCUR WITHIN THE RECEIVING PROPERTY, AN ALTERNATIVE MEASUREMENT LOCATION MAY BE APPROVED AS DETERMINED BY THE PLANNING AND ZONING ADMINISTRATOR.
- e. THE PLANNING AND ZONING ADMINISTRATOR RESERVES THE RIGHT TO PUBLISH AND MODIFY NOISE ABATEMENT TECHNICAL BULLETIN ESTABLISHING PROTOCOL FOR THE MEASUREMENT OF NOISE DURING THE DEVELOPMENT REVIEW PROCESS.
- f. A BACKGROUND NOISE CORRECTION IN ACCORDANCE WITH THE TOWN OF ORO VALLEY NOISE ABATEMENT TECHNICAL BULLETIN SHALL BE MADE IF THE BACKGROUND SOUND PRESSURE LEVEL IS WITHIN TEN DECIBELS OF THE AMBIENT SOUND PRESSURE LEVEL.
- g. NOISE SOURCES WITH A-WEIGHTED EQUIVALENT-CONTINUOUS SOUND PRESSURE LEVEL OR OCTAVE BAND EQUIVALENT-CONTINUOUS SOUND PRESSURE LEVEL CHARACTERISTICS SHALL ADD THE ADJUSTMENTS LISTED IN TABLE 25-1.B. IF MORE THAN ONE SPECIAL CHARACTERISTIC APPLIES TO A NOISE SOURCE, ONLY THE LARGEST ADJUSTMENT SHALL BE APPLIED.

TABLE 25-1.B

SOUND SOURCE CHARACTERISTIC	ADJUSTMENT (DECIBEL)
REGULAR IMPULSIVE	5
HIGHLY IMPULSIVE	12
TONAL	5

- h. ANY MITIGATION MEASURES IDENTIFIED IN A NOISE ABATEMENT PLAN ARE REQUIRED AS PART OF CONCEPTUAL DESIGN OR TENANT IMPROVEMENT TO ENSURE NOISE

LEVELS ARE IN COMPLIANCE WITH TABLE 25-1.A. MITIGATION MEASURES MAY INCLUDE:

- i. ACOUSTIC INSULATION
  - ii. ENHANCED BUFFER YARDS AND SOUND WALLS
  - iii. REGULATION OF OPERATING HOURS
  - iv. OTHER SIMILAR MEASURES AS APPROVED BY THE PLANNING AND ZONING ADMINISTRATOR
- i. NOTHING IN THIS SECTION SHALL REGULATE NOISE OR SUPERCEDE NUISANCE NOISE REGULATIONS IN TOWN CODE.
  - j. ~~No external speakers, except for drive-through order purposes, piped-in ambient music that is not discernible (less than forty (40) decibels) from on-site property lines, special events and/or approved outdoor entertainment venues, shall be permitted on the premises.~~
  - k. SOUND PRESSURE LEVEL MEASUREMENTS WILL BE MADE USING A TYPE I SOUND LEVEL METER (SLM) CALIBRATED IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS AS REQUIRED IN THE TOWN OF ORO VALLEY NOISE ABATEMENT TECHNICAL BULLETIN.
  - l. EXEMPTIONS
    - i. ALERTING PERSONS TO THE EXISTENCE OF AN EMERGENCY.
    - ii. PERFORMANCE OF EMERGENCY WORK.
    - iii. PERFORMANCE OF AN ACTIVITY FOR WHICH, PURSUANT TO THIS CODE, THE PLANNING AND ZONING ADMINISTRATOR HAS EXPRESSLY GIVEN A TEMPORARY SPECIAL USE PERMIT.
    - iv. AIRCRAFT AND AIRPORT OPERATIONS.
    - v. WARNING DEVICES REQUIRED ON VEHICLES BY ANY STATE OR FEDERAL LAWS OR REGULATIONS.
    - vi. THE LAWFUL OPERATION OF MOTOR VEHICLES ON A RIGHT-OF-WAY.
    - vii. THE OPERATION OF ESSENTIAL SERVICE VEHICLES (E.G., POLICE AND FIRE VEHICLES, SANITATION AND STORMWATER MANAGEMENT VEHICLES).
    - viii. NONCOMMERCIAL UNAMPLIFIED PUBLIC SPEAKING AND PUBLIC ASSEMBLY ACTIVITIES CONDUCTED ON ANY PUBLICLY OWNED PROPERTY.
    - ix. CONSTRUCTION ACTIVITIES IN ACCORDANCE WITH TOWN CODE

## **B. Requirements for Specific Non-Residential Uses**

### **6. Convenience Uses**

#### **a. Standards for All Convenience Uses**

##### **i. Locational Requirements**

- a) Convenience uses shall be a minimum of two hundred fifty (250) feet from any property used or intended for residential purposes.
- b) Convenience uses shall be a minimum of five hundred (500) feet from any public park or school.
- c) The above distances shall be measured from the abutting edge of the residential district to the closest property line or lease line of the convenience use. The limit of



the property line or lease line shall include all required parking, landscaping, and setbacks of the specific convenience use.

d) THE ABOVE DISTANCES MAY BE REDUCED BY TOWN COUNCIL WHEN MAJOR BARRIERS EXIST TO MITIGATE IMPACTS ON ADJACENT RESIDENTIAL, PUBLIC PARK OR SCHOOL PROPERTIES. MAJOR BARRIER(S) INCLUDE BUILDINGS, TOPOGRAPHICAL FEATURES (I.E. HILLSIDES) AND ARTERIAL ROADWAYS AND MUST DEMONSTRATE CONFORMANCE WITH THE FOLLOWING:

- i. NOISE SHALL NOT EXCEED THE LEVELS LISTED IN TABLE 25-1.A
- ii. ODOR ABATEMENT SHALL BE IN ACCORDANCE WITH SECTION 25.1.A.6
- iii. VISIBILITY OF DRIVE-THRU USES AND STACKING LANES SHALL BE MITIGATED IN ACCORDANCE WITH SECTION 25.1.B.8. AND SCREENED IN ACCORDANCE WITH SECTION 27.6.C.5.

e) Convenience uses shall be ancillary to and located in shopping centers, office parks, or a combination of a shopping center and office park. ~~Convenience uses shall not be permitted in office parks in an R-6 district.~~

ii. Number of Convenience Uses per Center

a) The total number of convenience uses shall not exceed one (1) pad per four and one-half (4.5) acres of shopping center or office park. No more than one (1) drive-in, drive-through, gas station, or convenience use shall be permitted for every nine (9) acres of office park.

iii. Access

a) No convenience use shall have direct vehicular access onto any street which provides a lower level of service than a collector street.

b) All convenience uses shall be accessed through a common driveway serving the center or office park. If traffic safety warrants, one (1) direct access per arterial frontage may be approved by the Town Engineer for an individual convenience use.

c) All convenience uses shall provide access points to the internal circulation driveways and parking areas of the center unless otherwise approved by the Town Council.

iv. Timing of Development

a) Convenience uses shall not be open for business until a minimum of fifty percent (50%) of the net floor area for the non-convenience use structures within the shopping center have been constructed.



## Section 31 Definitions

### **AMBIENT SOUND**

SOUND FROM ALL NORMAL EXISTING SOURCES NEAR AND FAR AT A GIVEN LOCATION, INCLUDING THE NOISE SOURCE BEING EVALUATED.

### **BACKGROUND SOUND**

SOUND FROM ALL EXISTING SOURCES NEAR AND FAR THAT MAY INTERFERE WITH A SOUND PRESSURE LEVEL MEASUREMENT, NOT TO INCLUDE THE NOISE SOURCE BEING EVALUATED.

### **DECIBEL (dB)**

A UNIT OF LEVEL WHICH DENOTES THE RATIO OF TWO QUANTITIES THAT ARE PROPORTIONAL TO POWER AS DEFINED IN THE NOISE ABATEMENT TECHNICAL BULLETIN.

### **IMPULSIVE SOUND**

SOUND THAT IS CHARACTERIZED BY BRIEF DISTURBANCES OF SOUND PRESSURE, TYPICALLY LESS THAN ONE SECOND, WHEN PEAK SOUND PRESSURE EXCEEDS THE BACKGROUND SOUND PRESSURE.

#### **HIGHLY**

IMPULSIVE SOUND HAVING VERY RAPID ONSET RATE (GREATER THAN 150 DB PER SECOND) TYPICALLY RESULTING FROM IMPACT PROCESSES INCLUDING, BUT NOT LIMITED TO: METAL HAMMERING, WOOD HAMMERING, DROP HAMMERING, PILE DRIVING, DROP FORGING, PNEUMATIC HAMMERING, PICKLEBALL PADDLE AND BALL IMPACTS, PAVEMENT BREAKING, METAL IMPACTS AND RIVETING.

#### **REGULAR**

IMPULSIVE SOUND THAT IS NOT HIGHLY IMPULSIVE SOUND. THIS INCLUDES SPEECH AND MUSIC.

### **NOISE**

ANY SOUND WHICH ANNOYS OR DISTURBS HUMANS OR WHICH CAUSES OR TENDS TO CAUSE AN ADVERSE EFFECT ON HUMANS, DOMESTICATED ANIMALS OR LIVESTOCK.

### **NOISE ABATEMENT PLAN**

A DETAILED PLAN DEMONSTRATING THE MITIGATION MEASURES TO BE TAKEN IN ORDER TO MEET THE NOISE REQUIREMENTS OF THIS CODE.

### **NOISE IMPACT STUDY**

AN ANALYSIS PERFORMED BY A QUALIFIED ACOUSTICAL ENGINEER WHICH DETERMINES THE POTENTIAL NOISE IMPACTS OF A PROPOSED USE.

## **SOUND EXPOSURE LEVEL**

A DESCRIPTOR FOR CHARACTERIZING THE SOUND FROM INDIVIDUAL ACOUSTICAL EVENTS.

### **A-WEIGHTED SOUND EXPOSURE LEVEL**

A SOUND EXPOSURE LEVEL OBTAINED FROM AN A-WEIGHTED SOUND PRESSURE LEVEL.

## **SOUND PRESSURE**

A DISTURBANCE OF THE ATMOSPHERIC PRESSURE WITH RESPECT TO THE MEAN BAROMETRIC PRESSURE PRODUCING THE SENSATION OF HEARING OR VIBRATION MEASURED IN UNITS OF PASCAL (Pa).

### **PEAK SOUND PRESSURE**

THE LARGEST ABSOLUTE VALUE OF THE INSTANTANEOUS SOUND PRESSURE IN PASCALS (Pa) IN A STATED FREQUENCY BAND DURING A SPECIFIED TIME INTERVAL.

### **SOUND PRESSURE LEVEL**

THE SOUND PRESSURE EXPRESSED AS A DECIBEL.

### **A-WEIGHTED SOUND PRESSURE LEVEL**

SOUND PRESSURE LEVEL OBTAINED USING AN 'A' FREQUENCY WEIGHTING FILTER AS DEFINED IN THE TOWN OF ORO VALLEY NOISE ABATEMENT TECHNICAL BULLETIN.

### **EQUIVALENT-CONTINUOUS SOUND PRESSURE LEVEL**

THE SOUND PRESSURE LEVEL OF A STEADY, CONTINUOUS SOUND HAVING THE SAME SOUND ENERGY AS THE TIME VARYING SOUND MEASURED.

## **SOUND LEVEL METER (SLM), TYPE 1**

AN INSTRUMENT USED TO MEASURE SOUND PRESSURE LEVELS MEETING THE STANDARDS FOR ACCURACY ESTABLISHED IN THE TOWN OF ORO VALLEY NOISE ABATEMENT TECHNICAL BULLETIN.

## **TONAL SOUND**

SOUND HAVING ONE OR MORE SINGLE FREQUENCY OSCILLATIONS (PURE TONES) OR THAT IS CONFINED TO A NARROW BAND OF FREQUENCIES MEETING THE CRITERIA FOR TONAL PROMINENCE.