

**TITLE 7  
PUBLIC PEACE AND SAFETY**

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**7.01  
MISCELLANEOUS OFFENSES.**

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- 7.01.010 Conduct at or Near Schools.**

1. It shall be unlawful for any person to annoy, disturb or otherwise prevent or attempt to prevent the orderly conduct of the activities, administration or classes of any school or college in the City.
2. It shall be unlawful for any person to harass, assault or molest any student or employee of any school or college while in or at such school or college or school building or parking lot or on any grounds thereof, in the City.
3. It shall be unlawful for any person to loiter in, about, or on any school or college grounds or buildings, either on foot, or in or on any vehicle, without having some lawful reason to do so.
4. It shall be unlawful for any person to conduct himself in an obscene, lewd, wanton or mischievous manner about or on any school or college building or grounds in the City.

5. It shall be unlawful for any person to park or move a vehicle in the immediate vicinity of, or on the grounds of, any school or college in the City for the purpose of annoying or molesting the students or employees thereof, or to induce, entice or invite students or employees into or on the vehicle for any unlawful purpose.

**7.1.020 Obstructing Access to Premises;  
 Disturbing Passersby.**

It is unlawful for any person to remain standing, lying or sitting on any street or highway or on any sidewalk, stairway, doorway, drive approach, window, or in front of any business, dwelling, school, church, sport or recreation facility, theater, or other gathering place in such a manner as to obstruct the free passage of persons, obstruct access of persons to or from premises, or to remain willfully thereon in said manner after being requested to move by any police officer. It is unlawful for any person to cause such obstruction as described herein, whether by themselves or by use of vehicles or other devices.

**7.1.030 Curfew for Minors.**

1. **Purpose.** The governing body of Payson City finds, due to a seemingly ever increasing incidence of violence and other crime among juveniles in Utah County, being both drug related and gang related, that such crimes may be significantly inhibited and reduced by the enactment and enforcement of local law establishing a curfew prohibiting juveniles from remaining idly and purposelessly on the public streets late at night.
2. **Definitions.**
  - a. "Care and custody" means the legal authority of a parent or guardian to supervise or otherwise be responsible for a minor, or the express authority given from such parent or legal guardian of a minor to a responsible adult to supervise or otherwise be responsible for the activities and care of the minor.
  - b. "Emergency errand" means any errand or travel undertaken to directly and immediately seek or prevent or reduce the consequences of an illness or injury, criminal or potential criminal activity, or fire or other accident and shall include the seeking of aid and assistance from medical or emergency personnel or the purchase of medications.

- c. "Minor" means any unmarried, unemancipated person who is not a member of the armed forces of the United States and who is under the age of sixteen (16) years for the purposes of Section 3 hereof or who is under the age of eighteen (18) years for the purpose of Section 4 hereof.
- d. "Public places" means any place open to the public whether privately owned, including but not limited to, parking lots and the interiors and exteriors of commercial establishments such as restaurants, stores or places of entertainment.
3. **Curfew for Minors Under the Age of Sixteen (16).** It shall be unlawful for any minor under the age of sixteen (16) years to remain or loiter upon any of the sidewalks, streets, alleys or public places in Payson City between the hours of 11 p.m. and 5 a.m. the following morning.
4. **Curfew for Minors under the age of eighteen (18).** It shall be unlawful for any minor under the age of eighteen (18) years to remain or loiter upon any of the sidewalks, streets, alleys or public places in Payson City between the hours of 11 p.m. and 5 a.m. Sunday through Thursday and between the hours of 1 a.m. and 5 a.m. Friday through Saturday.
5. **Parental Liability.** It shall be unlawful for any parent, guardian or other person having care and custody of any minor to knowingly allow or permit the minor to violate the provisions of this chapter.
6. **Exceptions.** The provision of this chapter shall not apply to any circumstance in which a minor is:
- Accompanied by a parent, guardian, or other responsible adult having care and custody of such minor;
  - Engaged in a legitimate trade, employment or occupation which requires the minor's presence in or on the sidewalks, streets, alleys or public places while working at or traveling to and from such employment;
  - Engaged on an emergency errand directed by the minor's parent, guardian or other responsible person having care and custody.
  - In a motor vehicle engaged in normal interstate travel beginning in, traveling through, or ending in Payson City.
  - Attending or engaged in traveling between the minor's home or place of residence and a place where any religious, municipal, social, entertainment, sporting, political, library, or school function is occurring; or
- f. Within the boundaries of the minor's place of residence.
7. **Enforcement.**
- Any minor who is in violation of the provisions of this chapter is subject to arrest and citation.
  - Upon arrest, the minor shall be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor.
  - It shall be unlawful for any parent, guardian or other person charged with the care and custody of a minor, who is in violation of this chapter, to knowingly refuse to appear and take custody of said minor after being ordered to do so by a peace officer.
  - Any person who violates the provisions of this chapter is guilty of a class B. Misdemeanor.
8. **Severability.** If any section, sub-section, sentence or word of this chapter is held, by a court of competent jurisdiction, to be invalid, the remaining unaffected portions shall remain in full legal force and effect.
- 7.01.040 Leaving Children in Vehicle.**
- It shall be unlawful for any person having in his care, custody, control or under his guidance any child under six (6) years of age to leave such child unattended in any automobile, truck, trailer or other vehicle upon a public street, alley or parking lot open to the public. A child is unattended within the meaning of this section if he is left in the vehicle alone or if not alone, the oldest person with the child is under twelve (12) years of age.
- 7.01.050 Discharge of weapons**
- It shall be unlawful for any person to discharge any firearm or gun of any kind or nature within all land use zones within the City limits with the exception of the A-5 Agricultural and A-5-H Annexation Holding Zones, whether on public or private property. It shall also be unlawful to discharge or shoot a bow and arrow, blowgun, wrist rocket, slingshot, or any other type of instrument designed to propel or throw missiles capable of doing bodily harm on public or private property (including development archery ranges) in such a manner as to endanger persons or property or to cause the projectile or missile to cross into property owned by another when the person

shooting the projectile or missile does not have permission to use such property for the purpose of discharging the weapon or devise. The provision prohibiting the discharge of firearms shall not apply to peace officers in the performance of their official duties, to the authorized use of established firing ranges or to any other lawful act.

**7.01.055 Discharge of Weapons in the A-5 Agricultural and A-5-H Annexation Holding Zones**

(a) Within the A-5 Agricultural Zone and the A-5-H Annexation Holding Zone, the discharging of weapons is allowed for hunting purposes subject to the following regulations:

(b) A person may not, without written permission from the owner or other person in charge, discharge a firearm across, into or within 600 feet of:

- (1) a house or dwelling; or
- (2) any structure where an animal is kept or fed including a barn, poultry yard, corral, feeding pen, or stockyard; or
- (3) orchard, standing cornfield, standing silo, vehicle, or farm equipment.

(c)(1) Night hunting is allowed pursuant to Section 23-13-17 Utah Code Annotated, 1953 (as amended) and Section 13.3.4 of the Utah County Ordinance, which ordinances are hereby incorporated herein by reference.

**7.01.060 Littering.**

It shall be unlawful for any person to throw or place litter in or on any street, alley, sidewalk, public buildings or grounds or on any private property without the permission of the owner. It shall also be unlawful for any person distributing handbills to throw any handbill on any street, alley, sidewalk, public grounds, or the yard or lot of any private property. For purposes of this section "litter" shall include, but shall not be limited to any bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, unused food, cigarette butts, cigar stump, quid of tobacco, rubbish, or similar refuse discarded as no longer being useful.

**7.01.070 Register for Lodging Establishments.**

It shall be unlawful for any keeper, manager, clerk or other person having permanent or temporary charge of a hotel, motel, or other boarding or lodging house to rent a room to any guest without keeping a register containing the following:

1. the name and signature of the guest.
2. the address of the normal residence of the guest.
3. the number or letter of any room assigned to the guest.
4. the dates of entrance and departure of the guest.
5. the license number and make and type of any vehicle driven by the guest.

**7.01.080 Befouling Public Places.**

It shall be unlawful for any person to urinate or defecate in any public place or on private property where the act is open to public view.

**7.01.090 Noise Control.**

1. Definitions generally.

All terminology used in this section and not defined in the following sections shall be in conformance with applicable American Standards Institute Publications. For the purposes of this chapter, certain words and phrases used in this chapter are defined as set forth in the following sections.

2. A-weighted sound pressure level

"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.

3. Ambient sound pressure level

"Ambient sound pressure level" means the sound pressure level of the all-encompassing noise associated with a given environment, usually a composite of sounds from many sources. It is also the A-weighted sound pressure level exceeded ninety percent of the time based on a measurement period which shall not be less than ten minutes.

4. Continuous sound

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

5. Cyclically varying noise

"Cyclically varying noise" means any sound which varies in sound level such that the same sound level is obtained repetitively at reasonably uniform intervals of time.

## 6. Decibel

"Decibel" means the logarithmic and dimensionless unit of measure often used in describing the amplitude of sound. Decibel is denoted as dB.

## 7. Device

"Device" means any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

## 8. Dynamic braking device

"Dynamic braking device," commonly referred to as "Jacobs brake," 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.

## 9. Emergency work

"Emergency work" means work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger.

## 10. Emergency vehicle

"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.

## 11. Impulsive noise

"Impulsive noise" means a noise containing excursions usually less than one second, or sound pressure level 20 dB(A) or more over the ambient sound pressure level using the fast meter characteristic.

## 12. Motor vehicle

"Motor vehicle" means any vehicle which 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 vehicles.

## 13. Muffler

"Muffler" means an apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

## 14. Noise disturbance

"Noise disturbance" means any sound which annoys or disturbs reasonable persons with normal sensitivities, or which injures or endangers the comfort, repose, health, hearing, peace and safety of other persons.

## 15. Noise

"Noise" means any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.

## 16. Percentile sound pressure level

"Percentile sound pressure level" means as follows:

A. Tenth Percentile Noise Level. "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 for one minute in a ten-minute period) and is denoted  $L_{10}$ .

B. Ninetieth Percentile Noise Level. "Ninetieth percentile noise level" means the A-weighted sound pressure level that is exceeded ninety percent of the time in any measurement period (such as the level that is exceeded for nine minutes in a ten-minute period) and is denoted  $L_{90}$ .

## 17. Person

"Person" means any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any municipal corporation or its officers or employees.

## 18. Plainly audible noise

"Plainly audible noise" means any noise for which the information content of that noise is unambiguously transferred to the listener, such as, but not limited to, understanding of spoken speech,

comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

#### 19. Property boundary

"Property boundary" means an imaginary line exterior to any enclosed structure, at the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

#### 20. Public right-of-way

"Public right-of-way" means any street, avenue, boulevard, highway or alley or similar place that is owned or controlled by a public governmental entity.

#### 21. Public Work Vehicles

"Public Work Vehicles" means any publicly owned vehicle used for the health, safety and welfare of the City (ie. snow removal, garbage collection).

#### 22. Pure tone

"Pure tone" means 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 decibels for frequencies of 500 Hz and above, by eight decibels for frequencies between 160 Hz and 400 Hz and by fifteen decibels for frequencies less than or equal to 125 Hz.

#### 23. Repetitive impulsive noise

"Repetitive impulsive noise" means any noise which 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).

#### 24. Sound

"Sound" means a temporal and spatial oscillation in pressure, or other physical quantity, in a medium with interval forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.

#### 25. Sound level meter

"Sound level meter" means an instrument, including a microphone, amplifier, RMS detector and integrator, time averager, output meter and/or visual display and weighting networks, that is sensitive to pressure fluctuations. The instrument reads sound pressure level when properly calibrated and is of Type 2 or better as specified in the American National Standards Institute Publication S1.4-1971, or its successor publication.

#### 26. Sound pressure

"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

"Sound pressure level" means twenty times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure, which shall be twenty micropascals, denoted LP or SPL.

#### 28. Stationary noise source

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

#### 29. Steady noise

"Steady noise" means a sound pressure level which remains essentially constant during the period of observation, i.e., does not vary more than 6 dB(A) when measured with the "slow" meter characteristic of a sound level meter.

#### 30. 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. Noise resulting from emergency work.

D. Noise resulting from lawful fireworks and noise-makers used for celebration of an official holiday.

E. Any noise resulting from activities of temporary duration permitted by law for which a license or permit has been approved by the director of the city-county health department in accordance with Section 35.

F. Any noise resulting from public works vehicles when deemed necessary for the health and safety of the City or as otherwise approved by the City in order to facilitate the completion of public works projects at hours that will not cause traffic congestion during the daytime hours. (ie. snow removal, garbage pickup, nighttime projects by UDOT or other government project).

### 31. General noise prohibitions

In addition to the specific prohibitions outlined in Sections 32, 33 and 38, it is unlawful for any person to make, continue, or cause to be made or continued any noise disturbance within the city. It shall also be unlawful for any person to cause a noise disturbance or to allow to originate from property noise that constitutes a noise disturbance after once being requested to stop making the noise.

### 32. Specific noise prohibitions

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

A. Horns and Signaling Devices. Sounding of any horn or signaling device on any truck, automobile, motorcycle or other vehicle on any street or public place within the city except as a danger warning signal as provided in the Vehicle Code of the state, or the sounding of any such signaling device for an unnecessary and unreasonable period of time.

B. Radios, Television Sets, Musical Instruments and Similar Devices.

1. 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, except as provided for in subsection C of this section, in such a manner as to violate Section 33 or cause a noise disturbance.

2. The operating of any such device between the hours of nine p.m. and seven a.m., the following day in such a manner as to be plainly audible at the property boundary of the source or plainly audible at fifty feet (fifteen meters) from such device when operated within a vehicle parked on a public right-of-way.

C. Public Loudspeakers. Using or operating 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 or public property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in such a manner as to violate Section 33 or cause a noise disturbance unless a permit as provided by Section 35 is first obtained.

D. 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 33 or cause a noise disturbance. 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 licensed public entertainment events.

E. Animals. Owning, keeping, possessing or harboring any animal or animals which, by frequent or habitual noise-making, violates Section 33 or causes a noise disturbance. The provisions of this section shall apply to all private and public facilities, including any animal pounds, which hold or treat animals.

F. Loading Operations. Loading, unloading, opening or otherwise handling boxes, crates, containers or other objects between the hours of nine p.m. and seven a.m. of the following day in such a manner as to violate Section 33 or cause a noise disturbance.

G. Construction Work. Operating or causing to be used or operated, any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto:

1. In residential or commercial zones between the hours of nine p.m. and seven a.m. of the following day;

2. In any zone where such operation exceeds the sound level limits for an industrial land use as set forth in Section 33.

H. 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, sander, lawn mower or garden equipment, in residential or commercial zones:

1. Outdoors between the hours of nine p.m. and seven a.m. of the following day;
2. Any such power equipment which emits a sound pressure level in excess of 74 dB(A) measured at a distance of fifty feet (fifteen meters).

I. 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, powered hand tools:

1. In residential or commercial zones between the hours of nine p.m. and seven a.m. of the following day;
2. In any zone if such equipment emits a sound pressure level in excess of 74 dB(A) measured at a distance of fifty feet (fifteen meters).

J. Enclosed Places of Public Entertainment, Operating or permitting to be operated in any place of public entertainment 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 two hundred twenty-five square inches in area is posted near each public entrance stating: "WARNING: SOUND LEVELS WITHIN MAY CAUSE HEARING IMPAIRMENT." This provision shall not be construed to allow the operation of any loudspeaker or other source of sound in such a manner as to violate Section 33.

K. Fireworks or Explosives. The use of explosives or fireworks, or the firing of guns or other explosive devices so as to be audible across a property boundary or on a public space or right-of-way, without first obtaining a permit as provided by Section 35. This provision shall not be construed to

permit conduct prohibited by other statutes, ordinances or regulations governing such activity.

L. Racing Events. Permitting any motor vehicle racing event at any place in such a manner as to violate Section 33 or cause a noise disturbance, without first obtaining a permit as provided by Section 35.

M. Powered Model Mechanical Devices. The flying of a model aircraft powered by internal combustion engines, whether tethered or not, or the firing or operating of model rocket vehicles or other similar noise-producing devices, between the hours of nine p.m. and seven a.m. the following day or in such a manner as to violate Section 33 or cause a noise disturbance.

N. Dynamic Braking Devices (Commonly Referred to as Jacobs Brakes). Operating any motor vehicle with a dynamic braking device engaged except for the aversion of imminent danger.

O. Defect in Vehicle. Operating or permitting to be operated or used any truck, automobile, motorcycle or other motor vehicle which, by virtue of disrepair or manner of operations violates Section 33 or causes a noise disturbance.

P. Refuse Compacting vehicles. The operating or causing or permitting to be operated or used any refuse compacting vehicle which creates a sound pressure level in excess of 74 dB(A) at fifty feet (fifteen meters) from the vehicle.

Q. Standing Motor Vehicles. The operating or causing or permitting to be operated any motor

<u>Use District</u>	<u>9 p.m.-- 7 a.m.</u>	<u>7-a.m.-- 9 p.m.</u>
Residential	50 dB(A)	55 dB(A)
Commercial— Agricultural	55 dB(A)	60 dB(A)
Industrial	75 dB(A)	80 dB(A)

vehicle or any auxiliary equipment attached thereto in such a manner as to violate Section 33 or cause a noise disturbance for a consecutive period longer than fifteen minutes during which such vehicle is stationary in a residential zone.

S. Quiet Zones. Creating noise in excess of the residential standard as defined in Section 33 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 are displayed in the streets indicating that the same is a quiet zone.

T. Bells and Alarms. Sounding, operating or permitting to sound or operate 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, which fails to meet the standards set forth in Section 33 for more than five minutes in any hour.

U. Fixed Sirens, Whistles and Horns. The sounding or causing the sounding of any whistle, horn or siren as a signal for commencing or suspending work, or for any other purpose except as a sound signal of imminent danger, in such a manner as to violate Section 33 or cause a noise disturbance.

V. Recreational Vehicles and Snowmobiles.

1. Operating a recreational vehicle or snowmobile in a manner that violates Section 33 or causes a noise disturbance.

2. Selling or operating any new (after model year 1977) recreational vehicle or snowmobile in the city unless such vehicle produces no more than a maximum sound level of 82 dB(A) at fifty feet (fifteen meters).

33. Zoning noise levels

A. Maximum Permissible Sound Levels.

1. It shall be a violation of this section for any person to operate or permit to be operated any stationary source of sound in such a manner as to create a ninetieth percentile sound pressure level ( $L_{90}$ ) of any measurement period (which shall not be less than ten minutes unless otherwise provided in this section) which exceeds the limits set forth for the following receiving zones when measured at the boundary or at any point within the property affected by the noise:

2. When a noise source can be identified and its noise measured in more than one zoning category, the limits of the most restrictive use shall apply at the boundaries between different zone categories.

B. Correction for Duration of Sound.

1. It shall be a violation of this section for any person to operate or permit to be operated any stationary source of sound within any zone which creates a tenth percentile sound pressure level ( $L_{10}$ ) of 15 dB(A) greater than the levels set forth for the receiving zone in subsection A of this section for any measurement period. Such period shall not be less than ten minutes.

2. Notwithstanding subdivision 1 of this subsection, it shall be a violation of this chapter for any person to operate or permit to be operated any stationary source of sound within any land use district which creates a tenth percentile sound pressure level ( $L_{10}$ ) greater than 15 dB(A) above the ambient sound pressure level ( $L_{90}$ ) of any measurement period. Such period shall not be less than ten minutes.

C. Correction for Character of Sound.

1. For any stationary source of sound which emits a pure tone, cyclically varying sound or repetitive impulsive sound, the limits set forth in subsection A of this section shall be reduced by 5 dB(A).

2. Notwithstanding compliance with subdivision 1 of this subsection, it shall be a violation of this chapter for any person to operate or permit to be operated any stationary source of sound which emits a pure tone, cyclically varying or repetitive impulsive sound which creates a noise disturbance.

34. Sound level measurement

Sound level measurements shall be made with a sound level meter using the "A" weighting scale, in accordance with standards promulgated by the American National Standards Institute or other reasonable standards adopted and tested by the city.

35. Permit

A. Applications for a permit for relief from the noise restrictions in this chapter on the basis of undue hardship may be made to the city development services department. Any permit granted by the director of the city development services department or his authorized representative shall contain all conditions upon which the permit has been 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 chapter; 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 chapter; and
3. That no reasonable alternative is available to the applicant.

B. The development services director may prescribe any reasonable conditions or requirements deemed necessary to minimize the adverse effects upon a community or the surrounding neighborhood.

36. Motor vehicle noise

A. 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 in the following table. Noise shall be measured at a distance of at least twenty-five feet (seven and one-half 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.

B. 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 provision of this chapter relating to motor vehicle mufflers for noise control.

C. No person shall operate or cause to be operated any motor vehicle unless the exhaust system of the vehicle is:

1. Free from defects that affect sound reduction;
2. Equipped with a muffler or other noise dissipative device; and
3. Not equipped with any cut-out, by-pass or similar device.

37. Responsibility for enforcement

The city development services department shall have primary, but not exclusive, enforcement responsibility for this chapter as it relates to stationary sources, and joint enforcement responsibility with appropriate law enforcement agencies as it relates to vehicular sources.

38. Additional remedies

Violations of Sections 30 through 36 are deemed and declared to be a public nuisance, and as such may be subject to summary abatement by means of a restraining order or injunction issued by a court of competent jurisdiction.

39. Penalty

Any person violating any of the provisions of this noise ordinance shall be guilty of an infraction for a first offense. A second and subsequent violations shall be deemed a class C misdemeanor. Each occurrence when such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense.

40. Severability

It is the intention of the city council that each separate provision of this noise ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the city council that if any provision of this ordinance be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

<u>Sound Pressure Level, dB(A)</u>		
	<u>Speed Limit 40 mph or less</u>	<u>Speed Limit over 40 mph</u>
Motor vehicles with a manufacturer's 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 vehicles	90	94
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	80	84

**7.01.100 Parks Curfew**

It shall be unlawful for any person to be in any public park between the hours of 11:00 p.m. and 6:00 a.m. of the following day.

**7.01.110 Hazardous Materials.**

**Definitions:**

1. **Discharge** means leakage, seepage, or other release.
2. **Hazardous material** means a substance or material a quantity and form determined by the United States Department of Transportation to be capable of posing an unreasonable risk to health and safety or property.
3. **Person** means any natural person or individual, governmental body, firm, association, partnership, co-partnership, joint venture, company, corporation, joint stock company, trust, estate, or any other legal entity, or their legal representative, agent or assigns.

**7.01.120 Declaration of Nuisance.**

The actual or threatened discharge of hazardous materials within the City Of Payson is hereby declared a nuisance.

**7.01.130 Liability for Abatement of Nuisance.**

Any person who owns, leases, operates, or controls any facility, equipment, or vehicles from which a discharge of hazardous materials has occurred, or is threatened to occur, shall be liable to the City of Payson for any expenses incurred by the City in connection with preventing, assessing, containing, cleaning up, or disposing of or attempting to prevent, assess, contain, cleanup, or dispose of any such discharge or threatened discharge.

**7.01.140 Riding Skateboards, Roller Skates, or Bicycles:**

1. It shall be unlawful to ride or use a skateboard or roller skates on a public street or sidewalk in areas or upon public properties, including municipal parks, golf course, athletic playing fields, and the Payson City Center complex, that are posted so as to give notice that the use of such methods of conveyance are prohibited in such posted areas.
2. It shall be unlawful to ride or use a skateboard or roller skates on any public street or sidewalk after dark. "After dark" shall mean from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise.

3. It shall be unlawful to ride or use a bicycle on any sidewalk in that area of Payson City bounded by 100 North to 100 South and 100 East to 100 West.

**7.01.150 Open Container**

No person shall drink any alcoholic beverage while driving a motor vehicle or while a passenger in a motor vehicle, whether the vehicle is moving, stopped, or parked on any street or highway.

1. No person shall keep, carry, possess, transport, or allow another to keep, carry, possess or transport in the passenger compartment of a motor vehicle, when the vehicle is on any public street or highway, any container whatsoever which contains any alcoholic beverage if the container has been opened, the seal thereon broken, or the contents of the container partially consumed.
2. For the purposes of this section:
  - a. "Passenger compartment" means the area of the vehicle normally occupied by the driver and his passengers and includes areas accessible to them while traveling such as a utility or glove compartment, but does not include a separate front or rear trunk compartment or other area of the vehicle not accessible to the driver or passengers while inside the vehicle; and
  - b. "Alcoholic beverage" means any beverage with an alcoholic content of 3.2 per centum, or less, by weight.
3. The provisions of subsections (1) and (2) shall not apply to passengers in the living quarters of a mobile home or camper, but the driver of the vehicle will be prohibited from consuming alcoholic beverages as provided in subsection (1).
4. The provisions of Subsection (2) shall not apply to passengers traveling in any duly licensed taxi cab or bus.
5. Any person convicted of a violation of this section is guilty of Class B. Misdemeanor.

**7.01.160 Group Demonstration Area**

**Definitions.** As used in this section:

1. "Demonstration" or "Demonstrating" means all forms of expression of free speech directed toward an organizer or individuals participating in an event, including demonstrations, public assemblies, picketing, speechmaking, marching and holding vigils or services, and all other like forms of conduct which involve the communication or expression of views or grievances.
2. "Demonstrator" means a person demonstrating as an individual or as part of a group of two (2) persons.
3. "Group Demonstration" means a Demonstration engaged in by three (3) or more persons ("Demonstrators") congregated together in close proximity to one another.
4. "Group Demonstration Area" means those areas designated by the City for the location of "Group Demonstrations" within an event area.
5. "Event Area" means the area of the Event bounded by described City streets, on both sides of the street, or other described area when street description is not adequate.
6. "Unlawful Demonstration " means a Demonstration, whether by a "Demonstrator" or a "Group Demonstration" in violation of Local, State, or Federal laws, or held outside the boundaries of a designated "Group Demonstration Area" or use of sound amplification devices or any conduct that is initiated without a City permit when a City permit is required prior to such conduct.

**Application.** An application is required for each protest event and shall be filed in the Payson Police Department. The purpose of the application is to provide the City with adequate information about the event, the anticipated assembly of individuals, and considerations for public safety.

**Establishment.** A City Committee comprising the City Manager, City Attorney and Chief of Police or their designees will review all applications. The Committee may establish a content neutral, free speech, "Group Demonstration Area" for any event which the Committee determines the establishment of a "Group Demonstration Area" would serve a substantial government interest such as traffic flow, crowd control, or public safety on public property. A "Group Demonstration Area" established by the Committee shall be content neutral and appropriately marked as a "Group Demonstration Area". All

"Group Demonstration Areas" shall provide ample opportunity for protestors to communicate their messages, and be of ample size to accommodate the number of persons reasonably anticipated to exercise their free speech rights during the event.

**Designation of Area and Duration.** For each event in which the Committee establishes a "Group Demonstration Area", Payson City shall make available to the public, at least 24 hours before the event, a map and description of the location of the event, boundaries of the event, location of the "Group Demonstration Area", boundaries of the "Group Demonstration Area", the hours of the regulations on the "Group Demonstration Area", and any other restrictions. The "Group Demonstration Area", duration of the protest regulations, and other restrictions shall be narrowly tailored to meet the legitimate government interest of crowd control, traffic control, or public safety.

**Restrictions.** In any area designated as a "Group Demonstration Area", protestors may not engage in activities that obstruct or impede pedestrians or vehicles, or harass bystanders with physical contact. Demonstrators may not tie, nail, or otherwise physically attach any banners, signs, pictures, instructional materials, symbols, or other personal property to any city property or private property.

**Sound Amplification Devices.** The Committee may restrict or prohibit the use of mechanical loudspeakers or sound amplification devices in the "Group Demonstration Area" free speech zone, including, but not limited to, megaphones, bullhorns, and electric amplifiers. In any event a permit for the use of sound amplification devices must be obtained prior to the use of any such devices. If the Committee determines that the use of sound amplification devices will substantially interfere with the event or will substantially interfere with crowd control, traffic control, or public safety and that the protestors have a reasonable opportunity to communicate their message without sound amplification.

**Penalties.** Unlawful protest is an infraction, which offense is punishable by a fine in an amount not exceeding \$750.00. If the offense continues after a request by the police to desist, or if a person refuses to comply with the lawful order of the police to protest in the free speech zone, or if a person refuses to comply with the lawful order of the police regarding the use of any mechanical loudspeaker or sound amplification device at an event that the Free Speech Committee has restricted or prohibited such mechanical or sound amplification devices, that

person is guilty of unlawful protest, a class C misdemeanor, which offense is punishable by imprisonment for a term not to exceed 90 days and a fine not exceeding \$750.00 or by both the fine and the term of imprisonment.

## 7.02

### **PORNOGRAPHY AND OBSCENITY**

#### **Sections:**

- 7.02.010 City Endorsement of State Laws**
- 7.02.020 Submission of Movies for Review**
- 7.02.030 Omission to Stop Illegal Use of Land**
- 7.02.040 Licensing**
- 7.02.050 Public Display of Sexual Material**

#### **7.02.010 City Endorsement of State Laws.**

The City Council hereby declares its endorsement of all state laws regulating pornographic and harmful materials and performances and encourages prosecution to the fullest extent possible of any violation of those laws, which may occur in the City.

#### **7.02.020 Submission of Movies for Review.**

1. Every person or entity exhibiting films within the City shall submit to the office of the City Manager during the normal working day, or to the office of the Director of Public Safety on other days or hours one correct copy of every X or R rated film, or any film containing a scene of explicit sexual conduct or a post-puberty topless female or a bottomless person which is to be shown in the City. The film must be submitted at least twelve (12) hours before its first exhibition in the City.
2. The innocent or negligent failure to comply with the requirements of subsection (a) is a malum prohibitum offense punishable by a mandatory fine of one hundred dollars (\$100.00). The willful or knowing failure to comply with the requirements of subsection (a) is a criminal offense punishable as a Class B Misdemeanor.
3. The copy of the film shall be returned to or made available to the party submitting it within the twelve (12) hour time period mentioned in subsection (a).

#### **7.02.030 Omission to Stop Illegal Use of Land.**

1. It shall be unlawful for a landlord or landowner to fail to take reasonable action to stop the illegal

use of his land for prostitution, lewdness, the keeping of immoral places for the exhibition or commercial exploitation of that which is obscene. It shall also be unlawful to fail to remove the wrongdoer from the premises, after receiving official notification of the illegal conduct in writing from the County Attorney or City Attorney, and where there is probable cause for the landlord to believe the criminal conduct does exist.

2. "Reasonable action" in this section includes the prompt termination of tenancy and lawful ejection of the wrongdoers from the premises.
3. All civil or criminal fines, damages, costs or penalties levied against the landlord, landowner or wrongdoer for such illegal activities on the premises after a violation of this section shall be a lien upon the land and property.

#### **7.02.040 Licensing**

1. Pursuant to its authority to license and regulate occupations and activities as set forth in the Utah Code Annotated and in accord with its duty to declare and abate nuisances and protect the public morals, health and welfare, the City enacts the provisions of this section.
2. It is hereby declared that the willful or knowing public exhibition or commercial exploitation of that which is lewd or obscene is a serious public nuisance, and such conduct on the part of any person constitutes an offense of moral turpitude.
3. The license of any person or other entity licensed to serve or deal with the public manifesting such unlawful conduct shall be suspended for a period of not less than six (6) months and shall not be reinstated until a thorough character investigation of the person or entity is conducted (the expense thereof to be borne by the person or entity up to two hundred ninety-nine dollars (\$299.00) and upon posting of a bond in the amount of one thousand dollars (\$1,000.00) to ensure against further such activity.
4. This licensing section shall be enforced by a civil action or proceedings but the adjudication of a conviction under the state criminal code or city ordinance for an offense dealing with lewdness, obscenity, or pornography shall be conclusively presumed to constitute a violation of this section and shall lead to the mandatory immediate

suspension of the license in accord with the above provisions.

**7.02.050 Public Display of Sexual Material**

1. It shall be unlawful for any person knowingly to place explicit sexual material upon public display, or to knowingly fail to take prompt action to remove such a display from property in his possession or under his control after learning of its existence.
2. For purposes of this section:
  - a. "Explicit sexual material" shall mean any material that appeals to a prurient interest in sex and depicts nudity, actual or simulated sexual conduct, sexual excitement or sadomasochistic abuse. It shall not include material which, taken in context, possesses serious educational value for minors or which possesses serious literary, artistic, political or scientific value. The meanings of "material", "nudity", "sexual conduct", and "sadomasochistic abuse" shall be the same as set forth in Section 76.10.1201, Utah Code Annotated (1953, as amended).
  - b. "Public display" shall mean the placing of material on any motion picture screen, viewing screen, billboard, marquee, newsstand, display rack, window, showcase, display case or similar place so that it is easily visible from a public street, sidewalk or thoroughfare, from the property of others, or in any place where minors are invited as part of the general public.

**7.03  
UNLAWFUL INTOXICATING  
CHEMICAL COMPOUNDS**

1. It shall be unlawful for any person, including a corporation or other entity, to manufacture, distribute, dispense, ingest, inhale, use, possess, purchase, sell, publicly display for sale, attempt to sell, give, trade or barter, any one or more of the following chemical compounds and/or substances, including their salts, isomers, homologues and salts of their isomers and homologues.
  - a. Salvia Divinorum or Salvinorum A; all parts of the plant presently classified botanically as Salvia Divinorum, whether growing or not, the seeds thereof, any extract from any part of

such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;

- b. Pentyl-3-(1-naphthoyl) indole (also known as JWH-018);
  - c. (6a,10a)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol (also known as HU-210 or 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol);
  - d. 2-(3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl) phenol (also known as CP-47,497), and the dimethylhexyl, dimethyloctyl and dimethylnonyl homologues of CP-47, 497;
  - e. 1-Butyl-3-(1-naphthoyl) indole (also known as JWH-073);
  - f. 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl) indole (also known as JWH-200);
  - g. 1-Butyl-3-(2-methoxyphenylacetyl) indole (also known as JWH-250);
  - h. 1-Hexyl-3-(1-naphthoyl) indole (also known as JWH-019);
  - i. 1-Pentyl-3-(4-chloro-1-naphthoyl) indole (also known as JWH-398);
  - j. N-benzylpiperazine (also known as BZP);
  - k. 1-(3-trifluoromethylphenyl) piperazine (also known as TFMPP);
  - l. Any similar structural analogs of the above chemical compounds;
  - m. Any other synthetic cannabinoids.
2. It is not an offense under subsection 1 of this section if the person was acting at the direction of an authorized agent of the City of Payson to enforce or ensure compliance with this law prohibiting the sale of the aforementioned intoxicating chemical compound.

3. If any of the aforementioned intoxicating chemical compounds are found in the possession of any person, they may be confiscated and destroyed by law enforcement officials.
4. This section shall not apply to drugs or substances lawfully prescribed or to drugs or substances which have been approved by the federal Food and Drug Administration or which are specifically permitted by Utah law.
5. Any person found to be in violation of this section will be guilty of a Class B misdemeanor and/or subject to a term of imprisonment not to exceed six months and a fine not to exceed \$1,000 and/or both. Each day during which a violation of subsection 1 occurs shall constitute a separate offense.
6. The City of Payson shall have the authority to seek an injunction to compel compliance of any business which fails to or refuses to comply with this Section.
7. If any provision of this Ordinance is held invalid, such invalidity shall not affect the remaining provisions of this Ordinance which shall remain effective absent the invalid provision, and to this end, the provisions of this Ordinance are declared to be severable.
8. This ordinance shall remain in effect until such time as the State of Utah enacts laws that supersede this ordinance.