



Town of Huachuca City

The Sunset City

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ORDINANCE NO. 18-05

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF HUACHUCA CITY, COCHISE COUNTY, ARIZONA, AMENDING THE TOWN CODE TITLE 9 “PUBLIC PEACE, MORALS AND WELFARE” CHAPTER 9.05 “GENERAL OFFENSES” SECTION 9.05.100 “NOISE” BY DELETING CURRENT SECTION 9.05.100 IN ITS ENTIRETY, AND REPLACING IT WITH NEW PROVISIONS FOR NOISE STANDARDS BASED UPON A REASONABLE PERSON STANDARD; ADOPTING ENFORCEMENT PROCEDURES AND ESTABLISHING SANCTIONS FOR VIOLATIONS.

WHEREAS, the Town Council of the Town of Huachuca City has adopted by Resolution No. 84-002 a code known as the Town Code of the Town of Huachuca City, Arizona [the “Code”], and has amended and republished the Code from time to time, as authorized by A.R.S. 9-240 (B) (28); and

WHEREAS, the Code, Title 9 “PUBLIC PEACE, MORALS AND WELFARE” Chapter 9.05 “GENERAL OFFENSES” Section 9.05.100 “NOISE” establishes standards for noise with the Town; and

WHEREAS, the Town Council has determined that it would be in the best interests of the Town and its residents to update the Town’s noise standards by adopting a new noise ordinance; and

WHEREAS, the Town Council previously adopted Resolution No. 2018-03 declaring “Noise Ordinance: Reasonable Person Standard” a public record of the Town; and

WHEREAS, as required by the Code, section 2-5-4, this Ordinance was first read at a public meeting of the Town Council on February 8, 2018, and at a subsequent meeting on February 22, 2018.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Huachuca City, as follows:

SECTION 1. “Noise Ordinance: Reasonable Person Standard,” a public record of the Town, three copies of which are on file in the office of the Town Clerk, is hereby approved and adopted.

SECTION 2. The Code, Section 9.05.100 “NOISE” is amended by deleting the current provisions in their entirety and replacing them with “Noise Ordinance: Reasonable Person Standard.”

SECTION 3. Criminal Penalty - As provided in the Code, Section 1.05.110, any person found guilty of violating any provision of the Code, including this Ordinance, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed one thousand dollars or by imprisonment for a period of not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

SECTION 4. Civil Penalty - Upon conviction any person who violates any provision of this chapter thereof may be punished and subject to a civil penalty, not exceeding \$500.00. Each and every day any such violation continues shall be deemed and considered a separate offense.

SECTION 5. Any owner, responsible party or other person having control over a structure or parcel of land who causes, permits, allows, facilitates or aids or abets any violations of any provision of this Ordinance, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1.05.110 of the Code.

SECTION 6. Any owner, responsible party or other person having control over a construction project, business, or event who causes, permits, allows, facilitates or aids or abets any violations of any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1.05.110 of the Code.

SECTION 7. A violation of this section is hereby declared to be a public nuisance. In the event of a continuing violation of this section, the town attorney is hereby authorized to pursue a request for injunctive relief in a court of competent jurisdiction. In the event that an injunction is issued pursuant to this subsection, the court may also award reasonable attorney's fees in favor of the town.

SECTION 8. The remedies herein are cumulative and nonexclusive. In the event a defendant fails to comply with any civil enforcement action commenced under this section, the town may file a criminal charge against the defendant. Notwithstanding the foregoing, a civil enforcement action shall not be a prerequisite to the filing of a criminal charge, and a police officer, town attorney, or other authorized town employee may elect to file criminal charges at any time, request injunctive relief, or pursue such other relief as may be available. Use of the civil infraction alternative is not mandatory and shall be at the discretion of the town official undertaking enforcement action on an alleged violation of this section.

SECTION 9. A prosecution which is pending on the effective date of this Ordinance and which arose from a violation of an ordinance repealed by this Ordinance, or a prosecution which is started within one year after the effective date of this Ordinance arising from a violation of an ordinance repealed by this Ordinance, shall be tried and determined exactly as if the Ordinance had not been repealed.

SECTION 10. If any section, subsection or portion of this Ordinance is for any reason held to be invalid or unenforceable by the decision of a court of competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions hereof.

SECTION 11. The Town Clerk is hereby directed, pursuant to the Code, sections 2-5-080 and 2-5-090, to post this Ordinance in three or more public places within the Town, and to publish this Ordinance as required by A.R.S. 9-812 and 39-204.

SECTION 12. This Ordinance is effective on March 25, 2018.

PASSED AND ADOPTED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF HUACHUCA CITY, COCHISE COUNTY, ARIZONA, THIS 22ND DAY OF FEBRUARY, 2018.


Ken Taylor, Mayor

ATTEST:


Jennifer Fuller, Town Clerk

Approved as to Form:


Thomas Benavidez, Town Attorney