

**CITY OF MOAB, UTAH
ORDINANCE NO. 2021-07
AN ORDINANCE REPEALING AND REPLACING
MOAB MUNICIPAL CODE CHAPTER 8.24
AND AMENDING SECTION 10.04.230(B)**

WHEREAS, excessive noise and vibration are serious hazards to public health, welfare, safety, and quality of life;

WHEREAS, numerous studies have found that noise pollution increases anxiety, depression, high blood pressure, heart disease, and stroke and that small increases in unwanted ambient sound have significant health effects and that noise aggravates health conditions by inducing higher levels of stress;

WHEREAS, a substantial body of science and technology exists by which excessive noise and vibration may be substantially abated;

WHEREAS, people have a right to and should be ensured an environment free from excessive noise and vibration that may jeopardize their health, welfare, or safety or degrade their quality of life;

WHEREAS, pursuant to Utah Code Annotated §10-8-76 Noise Abatement, a municipality may regulate noise;

WHEREAS, pursuant to Utah Code Annotated §41-22-13 Prohibited Uses, “no person may operate an off-highway vehicle in connection with . . . damage to the environment which includes . . . excessive mechanical noise;”

WHEREAS, pursuant to Utah Code Annotated §10-8-84 Ordinances, rules, and regulations -- Passage – Penalties, a municipal legislative body may “pass all ordinances and rules, and make all regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and duties conferred by this chapter, and as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city;”

WHEREAS, it is the policy of the City of Moab to prevent noise pollution and excessive noise which may jeopardize the health, comfort, convenience, welfare, peace or safety of its citizens or degrade their quality of life.

NOW, THEREFORE BE IT ORDAINED by the Moab City Council that:

1. Moab Municipal Code Chapter 8.24 be repealed in its entirety and be replaced with the following:

8.24.010 Short Title

This Ordinance is titled and may be cited as the Noise Control Ordinance or Chapter of the

City of Moab.

8.24.020 Scope

This Chapter shall apply to the control of all noise originating within the limits of the City of Moab.

8.24.030 Terminology and Definitions

A. Terminology

All terminology used in this Chapter not defined below shall be in conformance with federal, state, and local law and applicable publications of the American National Standards Institute (ANSI) or its successor body.

B. Definitions

The following definitions shall apply to this Chapter:

“Agriculture” means the science and art of the production of plants and animals useful to man, including the preparation of plants and animals for human use and disposal by marketing or otherwise. (Utah Code Annotated §4-1-109.) The growing of soil crops in the customary manner in the open. It shall not include livestock-raising activities, nor shall it include retailing of products on the premises. (Moab Municipal Code §17.06.020.)

“Agricultural industry or business” means an industry or business involving agricultural products in manufacturing, packaging, treatment, sales, intensive feeding, or storage, including but not limited to animal feed yards, fur farms, food packaging or processing plants, commercial poultry or egg production, and similar uses as determined by the Planning Commission. (Moab Municipal Code §17.06.020.)

“All-terrain type I vehicle” means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain. (Utah Code Annotated §41-22-2(2).)

“All-terrain type II vehicle” means any motor vehicle 80 inches or less in width, traveling on four or more low pressure tires, having a steering wheel, non-straddle seating, a rollover protection system, and designed for or capable of travel over unimproved terrain, and is:

- (a) an electric-powered vehicle; or
- (b) a vehicle powered by an internal combustion engine and has an unladen dry weight of 2,500 pounds or less.

All-terrain type II vehicle does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or

farm tractors as defined under Section 41-1a-102. (Utah Code §41-22-2(3).)

“All-terrain type III vehicle” means any other motor vehicle, not defined in Utah Code §41-22-2, Subsection (2), (3), (12), or (22), designed for or capable of travel over unimproved terrain. All-terrain type III vehicle does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Utah Code §41-1a-102. (Utah Code §41-22-2(4).)

“A-Weighted Sound Level” means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network and Fast response setting. The level so read is designated dB(A) or dBA.

“C-Weighted Sound Level” means the sound pressure level in decibels as measured on a sound level meter using the C-weighting network and the Fast response setting. The level so read is designated dB(C) or dBC.

“Commercial Use” means activity involving the sale of goods or services carried out for profit. (Moab Municipal Code §17.06.020.)

“Construction” means any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

“Decibel (dB)” means a unit for measuring the volume of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

“Demolition” means any dismantling, intentional destruction or removal of structures, utilities, public or private roadway surfaces, or similar property.

“Device” means any mechanism that is intended to produce, or that actually produces noise when operated or handled.

“Emergency vehicle” means a vehicle used in response to a public emergency or to protect persons or property from an imminent exposure to danger.

“Emergency Work” means any work performed for the purpose of preventing or alleviating the conditions, physical trauma, or property damage threatened or caused by a state of emergency.

“Gross Vehicle Weight Rating” (GVWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle shall be used.

“Harmful Industrial Noise” means noise as defined in Utah Code Annotated §34A-2-501.

“Impulsive Sound” means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

“Industrial Use” means activity involving the manufacturing, processing, warehousing, and fabrication of goods and material. (Moab Municipal Code §§17.36.010 - 020.)

“Motor Vehicle” means a self-propelled vehicle intended primarily for use and operation on the highways. “Motor vehicle” does not include: (a) an off-highway vehicle; or (b) a motor assisted scooter as defined in Utah Code Annotated §41-6a-102. (Utah Code Annotated §41-1a-102(40).) Nor does it include vehicles moved solely by human power; motorized wheelchairs; an electric personal assistive mobility device; an electric assisted bicycle; a motor assisted scooter; a personal delivery device, as defined in Section 41-6a-1119; or a mobile carrier, as defined in Utah Code Annotated §41-6a-1120. (Utah Code Annotated §41-6a-102(40)(a)-(b).)

“Motorboat” means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion (Utah Code Annotated §73-18-2) and any vessel which operates on water and which is propelled by a motor, including but not limited to, boats, jet skis, barges, amphibious craft, water ski towing devices, and hovercraft.

“Motorcycle” means a motor vehicle, other than a tractor, having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or an autocycle. (Utah Code Annotated §41-1a-102(42) and §41-6a-102(41).)

“Muffler or Sound Dissipative Device” means a device for abating sound of escaping gases of an internal combustion engine.

“Noise” means any sound that is harmful to the health, well-being, or quality of life of humans or animals.

“Noise Pollution” means any sound in an environment which is (a) is harmful to the health, well-being, or quality of life of humans or animals; or (b) unreasonably annoys or disturbs a reasonable person of normal sensitivities; or (c) endangers or injures personal or real property.

“Off-highway vehicle” (OHV) means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.” (Utah Code Annotated §41-22-2(14).)

“Person” means an individual; an association; an institution; a corporation; a company; a trust; a limited liability company; a partnership; a political subdivision; a government office, department, division, bureau, or other body of government; and any other organization or entity. (Utah Code Annotated §68-3-12.5(18).)

“Places of Worship” means a specially designed structure or consecrated space where individuals or a group of people come to perform acts of devotion, veneration, or religious study. Buildings constructed or used for this purpose include temples, churches,

synagogues, convents, monasteries, and mosques. (Moab Municipal Code §§17.06.020.)

“Plainly Audible” means any sound that can be detected by a person using their unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

“Powered Model Vehicle” means any self-propelled airborne, waterborne, or land-borne plane, vessel, or vehicle, which is not designed to carry persons, including, but not limited to, any unmanned aerial vehicle, model airplane, boat, car, or rocket.

“Public Roadway” means that portion of the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel and improved, designed, or ordinarily used for vehicular travel within the City’s jurisdiction and excluding any state highways. (See Utah Code Annotated §41-6a-102(26) and (58).)

“Public Space” means any real property or structures which are owned or controlled by a governmental entity.

“Pure Tone” means any sound which can be distinctly heard as a single pitch or a set of single pitches.

“Real Property Boundary” means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

“Residential Use or Dwelling” means a structure or portion of a structure that is designed, occupied, or intended to be occupied as living quarters and includes facilities for cooking, sleeping, and sanitation; but not including hotels, motels, clubs, boarding houses, or any institution such as an asylum, hospital, or jail where human beings are housed by reason of illness or under legal restraints; private property used for human habitation; commercial living accommodations and commercial property used for human habitation; recreational and entertainment property used for human habitation; community service property used for human habitation. (See Moab Municipal Code §§17.06.020.)

“RMS Sound Pressure” means the square root of the time averaged square of the sound pressure, denoted P_{rms}

“Sound” means an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

“Sound Level or Noise Level” means the weighted sound pressure level obtained by the use of a sound level meter and frequency-weighting network, such as A or C, as specified in the American National Standards Institute (ANSI) or the International Electrotechnical

Commission (IEC) specifications for sound level meters (ANSI S1.4, IEC 61672-1, or IEC 61672-2, or the latest approved revisions thereof).

“Sound Level Meter” means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averaging device, output meter, and weighting networks used to measure sound pressure levels.

“Sound Pressure” means the instantaneous difference between the actual pressure and the average or barometric pressure of a given point in space, as produced by sound energy.

“Sound Pressure Level” (SPL) means 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals ($20 \times 10 \mu\text{N/m}$). The sound pressure level is denoted L_p , or SPL and is expressed in decibels.

“State of Emergency” means a condition in any part of the state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, or safety in the event of a disaster, or to avoid or reduce the threat of a disaster (Utah Code Annotated 53-2a-102 (14)) or any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or any circumstance which may present an imminent threat to the health, safety or welfare of any person, place or property which demands immediate action.

“Street-Legal All-Terrain Vehicle” or “Street-Legal ATV” means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Utah Code Annotated §41-6a-1509 to operate on highways in the state in accordance with Utah Code Annotated §41-6a-1509. (Utah Code Annotated §41-6a-102 (68).)

“Vehicle” means motor vehicle, off-highway vehicle, all-terrain vehicle, street-legal all-terrain vehicle, or motorcycle.

“Weekday” means any day Monday through Friday which is not a legal holiday.

8.24.040 Prohibited Acts

A. Noise Pollution Prohibited

No person shall make, continue, or cause to be made or continued, any noise pollution.

B. Specific Prohibitions

The following acts, and the causing of the following acts, are declared to be in violation of this Chapter:

1. Radios, Televisions, Musical Instruments, and Similar Devices

Using, operating, playing, or permitting the use, operation, or playing of any radio, television, speaker, drum, musical instrument, sound amplifier, personal sound system,

vehicular sound system, or similar device which produces, reproduces, or amplifies sound:

- (a) Between the hours of 10:00 p.m. and 7:00 a.m. the following day Monday – Saturday and 9:00 a.m. on Sunday in such a manner as to create noise pollution across a real property boundary or to be plainly audible at a distance of 50 feet or more in any direction from the device or 50 feet or more from a real property boundary if on private property;
- (b) Between the hours of 7:00 a.m. and 10:00 p.m. Monday – Saturday and 9:00 a.m. on Sunday in such a manner as to create noise pollution across a real property boundary or to be plainly audible at a distance of 150 feet or more in any direction from the device or 150 feet or more from a real property boundary if on private property;
- (c) In such a manner as to be plainly audible at a distance of 50 feet or more in any direction when operated in or on a vehicle on a public roadway or public space, or in a boat on public waters; or
- (d) In such a manner as to create noise pollution to any person, other than the operator of the device, when operated on a common carrier.

2. *Loudspeakers/Public Address Systems*

- (a) Using or operating any loudspeaker, public address system or similar device: (1) between the hours of 10:00 p.m. and 7:00 a.m. the following day Monday – Saturday and 9:00 a.m. on Sunday in such a manner as to create noise pollution or to be plainly audible across a real property boundary within a residential use; or (2) between the hours of 7:00 a.m. and 10:00 p.m. and 9:00 a.m. on Sunday in such a manner as to be plainly audible 50 feet or more from a real property boundary within a residential use;
- (b) Using or operating any loudspeaker, public address system, or similar device: (1) between the hours of 10:00 p.m. and 7:00 a.m. the following day Monday – Saturday and 9:00 a.m. on Sunday on a public roadway or in a public space; or (2) in such a manner as to create noise pollution across a real property boundary of a public roadway or public space or to be plainly audible at 50 feet or more from the device;
- (c) Using or operating any loudspeaker, public address system, or similar device in such a manner that the sound there from is plainly audible 150 feet or more from a real property boundary with a commercial or industrial use.

3. *Street Sales*

The ringing of bells, blowing of horns and bugles, crying of goods by auctioneers and others, and the making of other noises, for the purpose of business, amusement, or otherwise, and all performances and devices tending to the collection of persons on the streets or sidewalks of the City or the offering for sale or selling anything by shouting or

outray within any residential or commercial area of the City.

4. Animals and Birds

Owning, possessing, or harboring any animal or bird which for continued duration (for example, more than 50 times per day) howls, barks, squawks, or makes other sounds which creates noise pollution or is plainly audible across a real property boundary of a residential use.

5. Powered Model Vehicles

Operating or permitting the operation of powered model vehicles in such a manner as to create noise pollution across a real property boundary of a residential use or in a public space between the hours of 10:00 p.m. and 7:00 a.m. Monday – Saturday and 9:00 a.m. on Sunday the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set forth for residential land use in Table 1 below and shall be measured at a distance of 50 feet from any point on the path of the vehicle. Maximum sound levels for residential property during the permitted period of operation, shall be governed by Table 1 below.

6. Motorboats

Operating or permitting the operation of any motorboat in any lake, river, stream, or other waterway in such manner as to exceed a sound level of (a) 80 dBA at 50 feet; or (b) 70 dBA at any shoreline; or (c) 80 dBC at any shoreline.

7. Compression Brakes

No person operating a motor vehicle containing a compression brake system or systems shall apply such compression brake system or systems except when such a system or systems are used in an emergency to stop the vehicle.

8. Tampering

The following acts, or causing the following acts, are prohibited:

- (a) The removal or rendering inoperative by any person other than for purposes of maintenance, repair, or replacement, of any muffler, noise control device, or element of design or noise label;
- (b) The use of a product, which has had a muffler, noise control device, or element of design or noise label removed or rendered inoperative.

8.24.050 Sound Levels by Receiving Land Use

A. Maximum Permissible Sound Pressure Levels

No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving

land use category in Table 1 when measured at or within the property boundary of the receiving land use.

**TABLE 1
SOUND LEVELS BY RECEIVING LAND USE**

Receiving Land Use Category	Time	Sound Level Limit	
		(dBA)	(dBC)
Residential, Public Space Agriculture, or Other Non-Commercial or Non-Industrial	7:00 a.m. to 10:00 p.m. Monday – Saturday and 9:00 am Sunday	55	65
	10:00 p.m. to 7:00 am Monday – Saturday and 9:00 am Sunday	50	60
Commercial or Industrial	At all times	60	70

B. Exemptions

The provisions of Table 1 shall not apply to:

1. Those activities already regulated by section 8.24.040(B) Prohibited Acts;
2. The un-amplified human voice Monday - Saturday from 7:00 a.m. to 10:00 p.m. and 9:00 a.m. on Sunday. From 10:00 p.m. to 7:00 a.m. Monday – Saturday and 9:00 a.m. on Sunday, the un-amplified human voice is not exempt from Table 1;
3. Interstate railway locomotives and cars;
4. Vehicles crossing the property line accessing private property or public roadways;
5. Non-stationary farming equipment and all agricultural activities;
6. Emergency vehicles or work;
7. Bells or chimes from places of religious worship;
8. Noise resulting from lawful fireworks and noisemakers used for celebration of an official holiday;
9. Construction activities and operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar device used outdoors in residential areas on Monday - Friday between the hours of 7:00 a.m. to 6:00 p.m., Saturdays 8:00 a.m. to 6:00 p.m. and Sundays 9:00 a.m. to 6:00 p.m. or as

specified in the conditions of approval;

10. Snow removal;
11. The Moab Water Reclamation Facility; and
12. Activities for which a special event or street performer permit has been issued pursuant to Title 4 of the Moab Municipal Code;
13. Any noise resulting from the maintenance of golf courses;
14. The Grand County High School;
15. Public Works activities and operations.

8.24.060 Vehicles on Public Roadways

A. Mufflers, Sound Dissipative Devices, and Labels

1. A vehicle shall be equipped, maintained, and operated to prevent excessive or unusual noise. A motor vehicle shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation. A person may not use a muffler cut-out, bypass, or similar device on a vehicle. (See Utah Code Annotated 41-6a-1626(1)(a)-(c).)
2. No person shall remove or render inoperative, other than for purposes of maintenance, repair, or replacement, any muffler, noise control device, or element of design or noise label.
3. No person shall use a vehicle which has had a muffler, noise control device, or element of design or noise label removed or rendered inoperative.
4. No person shall operate a motorcycle manufactured after December 31, 1985, not equipped with exhaust muffler bearing the Federal EPA required labeling applicable to the motorcycle's model year, stating that the exhaust system meets the 80 dBA standard at 50 feet, as set out in the Code of Federal Regulations Title 40, Parts 205.152 and 205.158.
5. No person shall operate an off-road motorcycle manufactured after December 31, 1985, not equipped with exhaust muffler bearing the Federal EPA required labeling applicable to the motorcycle's model year, stating that the exhaust system meets the 82 dBA standard at 50 feet, as set out in the Code of Federal Regulations Title 40, Parts 205.152 and 205.158.

B. Vehicle Maximum Sound Levels

1. No person shall operate, or cause to be operated, nor shall a vehicle owner allow a person to operate a vehicle on a public roadway at any time in such a manner that the

sound level emitted by the vehicle exceeds the level set forth in Table 2 measured at a distance of 25 feet or more, or 50 feet or more, from the center of the lane of travel.

2. No person shall operate, or cause to be operated, nor shall a vehicle owner allow a person to operate a vehicle on a public roadway in such a manner that it is plainly audible at a distance of 1,000 feet or more in any direction from the vehicle.
3. No person shall operate, or cause to be operated, nor shall a vehicle owner allow a person to operate a vehicle on a public roadway that exceeds 92 dBA when measured from a stationary test at 20 inches from the exhaust outlet and 45 degrees to its exhaust axis, with the vehicle at 50 percent of maximum RPMs of the vehicle between the hours of 7:00 a.m. to 8:00 p.m.
4. No person shall operate, or cause to be operated, nor shall a vehicle owner allow a person to operate a vehicle under 10,000 GVWR on a public roadway that exceeds 85 dBA when measured from a stationary test at 20 inches from the exhaust outlet and 45 degrees to its exhaust axis, with the vehicle at 50 percent of maximum RPMs of the vehicle between the hours of 8:00 p.m. to 7:00 a.m.

**TABLE 2
VEHICLE SOUND LIMITS
(MEASURED AT 50 OR 25 FEET
AT SPEED LIMITS LESS THAN 35 MPH)**

Vehicle Class	25 feet or more	50 feet or more
Motor Vehicles of GVWR or GCWR of 10,000 lbs or more	88 dBA	82 dBA
All other vehicles of GVWR or GCWR of less than 10,000 lbs	80 dBA 7:00 a.m. - 8:00 p.m.	74 dBA 7:00 a.m. - 8:00 p.m.
	78 dBA 8:00 p.m. - 7:00 a.m.	72 dBA 8:00 p.m.- 7:00 a.m.

C. Motor Vehicle Horns and Signaling Devices

Sounding of any horn or other auditory signaling device on or in any vehicle on any public roadway or public space (except as a warning of danger as provided in the vehicle code, or pursuant to a special event permit) is prohibited.

D. Standing Motor Vehicles

No person shall operate or cause to be operated, any motor vehicle with a gross vehicle weight rating (GVWR) in excess of 10,000 pounds, or any auxiliary equipment attached to

such a vehicle, for a period longer than 5 minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public roadway or public space or within 500 feet of a residential use.

8.24.070 Exceptions

A. Emergency Exceptions

The provisions of this Chapter shall not apply to; (a) the emission of sound for the purpose of alerting persons to the existence of a state of emergency, or (b) the emission of sound in the performance of emergency work.

B. Special Exceptions

1. The City Manager or City Council shall have the authority, consistent with this section, to grant special exceptions to this Noise Control Chapter.
2. Any person seeking a special exception pursuant to this section shall file an application with the City Manager. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special exception is sought into compliance with this Chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Any individual who claims to be adversely affected by allowance of the special exception may file a statement with the City Manager containing any information to support their claim. If the City Manager finds that a sufficient controversy exists regarding an application, a public hearing may be held.
3. In determining whether to grant or deny the application, the City Manager shall balance the hardship to the applicant, the community, and other persons of not granting the special exception against the adverse impact on the health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special exception. Applicants for special exceptions and persons contesting special exceptions may be required to submit any information the City Manager may reasonably require. In granting or denying an application, the City Manager shall create a written decision and the reasons for denying or granting the special exception.
4. Any special exception(s) granted shall be granted by notice to the applicant containing all necessary conditions, including a time limit (not to exceed one year) time of day limit, day of week limit, and decibel limit or other restrictions meant to limit noise on the permitted activity. The special exception shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special exception shall terminate the special exception and subject the entity or person holding it to those provisions of this Chapter regulating the source of sound or activity for which the special exception was granted, including enforcement actions.
5. Application for extension of time limit specified in special exceptions or for modification of other substantial conditions shall be in a similar manner to the initial

special exception application process described under subsections 1-4 above.

6. The City Manager or City Council may issue guidelines defining the procedures to be followed in applying for a special exception and the criteria to be considered in deciding whether to grant a special exception.

C. Exceptions for Time to Comply

1. Within 60 days following the effective date of this Chapter, the owner of any commercial or industrial source of sound may apply to the City Manager for an exception in time to comply with this Chapter. The City Manager shall have the authority, consistent with this section, to grant an exception, not to exceed 1 year from the effective date of this Chapter.
2. Any person seeking an exception in time to comply shall file an application with the City Manager. The application shall contain information which demonstrates that bringing the source of sound or activity for which the exception is sought into compliance with this Chapter prior to the date requested in the application would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Any individual who claims to be adversely affected by allowance of the exception in time to comply may file a statement with the City Manager containing any information to support their claim. If the City Manager finds that a sufficient controversy exists regarding an application, a public hearing may be held.
3. In determining whether to grant or deny the application, the City Manager shall balance the hardship to the applicant, the community, and other persons of not granting the exception in time to comply, against the adverse impact on health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the exception. Applicants for exceptions in time to comply and persons contesting exceptions may be required to submit any information the City Manager may reasonably require. In granting or denying an application, the City Manager shall create a written decision and the reasons for denying or granting the special exception.
4. Any exceptions in time to comply granted shall be granted to the applicant containing all necessary conditions, including a schedule for achieving compliance. The exception in time to comply shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the exception shall terminate the exception and subject the person holding it to those provisions of this Chapter for which the exception was granted.
5. Application for extension of time limits specified in exceptions in time to comply or for modification of other substantial conditions shall be treated like applications for initial exceptions under subsections 1-4 above, except that the City Manager must find that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modification.
6. The City Manager or City Council may issue guidelines defining the procedures to be

followed in applying for an exception in time to comply and the criteria to be considered in deciding whether to grant an exception in time to comply.

D. Appeals

Appeals of the decision of the City Manager on an application for an exception pursuant to Section B or C above shall be made to the City Council. Any appeal shall state the basis for the appeal. Decisions of the City Council may be made in writing or at a public meeting of the City Council.

E. Special Events

The prohibitions in this Chapter do not apply to activities for which a special event or street performer permit has been issued pursuant to Title 4 of the Moab Municipal Code if that permit has different hour or decibel limit restrictions.

8.24.080 Violation and Enforcement

A. Violation

Any person who is found guilty of violating this Chapter, either by failing to do those acts required in this Chapter or by doing a prohibited act, is guilty of a Class B misdemeanor punishable by a maximum sentence of up to six months in jail and a maximum fine of \$1,000. Each day such violation is committed or permitted to continue shall constitute a separate violation unless limited by Utah law.

B. Enforcement

Any peace officer or code enforcement officer is authorized to enforce the provisions of this Chapter.

8.24.090 Other Remedies

No provision of this Chapter shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this Chapter or from other law. Furthermore, nuisances may be abated by Code Compliance. The City Attorney may initiate legal action, civil or criminal, requested by the City Manager to abate any condition that exists in violation of this Chapter. In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating this Chapter shall be liable for all expenses incurred by the City in undertaking abatement.

8.24.100 Severability

If any provision of this Chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the Chapter shall not be invalidated.

2. Moab Municipal Code Section 10.04.230 be amended as follows:

Idling or Running Prohibited. It is unlawful for any person to park or to cause to park or leave standing, idling, or running any motor vehicle, commercial vehicle, or recreational vehicle as defined in this section on any public road, street, alley or municipal property for a period of time in excess of five minutes. Any vehicle parked or left standing in violation of this subsection may be impounded or removed by any certified peace officer or other designated official, and the owner may be fined as provided in this chapter, except for the following kinds of idling:

This Ordinance shall take effect upon passage.

PASSED by the City Council in a public meeting on _____.

Emily Niehaus, Mayor

ATTEST:

Sommar Johnson, Clerk/Recorder