

Briefing Memo

To: Alta Town Council

From: Town Marshal Mike Morey

Date: July 5, 2022

Re: Existing noise ordinance and proposed noise ordinance

Councilmembers,

Please consider at least the following points when reviewing the draft noise ordinance revision. The ordinance language is pasted below for quick reference or linked in this document.

- The language is problematic in that [5-3B-1](#) does not include any language regarding time, place, or manner where certain conduction would be a violation. It really creates a subjective standard that if someone perceives a noise as offensive it is a violation.
- Section [5-3B-2 A](#): contains serious constitutional issues pertaining to government restrictions on free speech. It grants the Marshal authority to favor events of cultural, political, intellectual, or religious interest, AND requires the applicant to submit content.
- Section [5-3B-2 A](#): prohibits speakers from being mounted to the exterior of a building. Many properties are in violation of this part.

The Marshal's Office struggles with event organizers such as weddings and parties asking for clear guidelines on how late music can be played or whether a permit is required. This usually ends up with some type of unenforceable verbal guidance. It also presents challenges on how to defensibly respond to complaints.

The Town Attorneys have drafted an ordinance template for your consideration at the upcoming council meeting. I believe it is included in your meeting materials.

The staff is soliciting your guidance by introducing this as an agenda item. We are hoping to learn the Council's will in terms of establishing a balance between the economic viability of our business community and the peace and comfort of those affected by these activities.

For reference, here are the text sections in our existing ordinance: Article B Disturbing the Peace:

[5-3B-1: NOISE:](#)

It is a class C misdemeanor and, upon conviction, subject to penalty as provided in section 1-4-1 of this code, for any person to disturb the peace or quiet of any neighborhood, family or person by loud or unusual noises, by tumultuous or offensive conduct. (1980 Code § 13-331; amd. 2010 Code)

[5-3B-2: LOUDSPEAKERS:](#)

A. Permit Required: It is an infraction and, upon conviction, subject to penalty as provided in section 1-4-1 of this code, for any person to maintain, operate, connect or suffer or permit to be maintained, operated or connected any calliope or radio apparatus, sound device or any talking

machine or loudspeaker attached thereto in such a manner that the loudspeaker or amplifier causes the sound from such radio apparatus or sound device or talking machine to be projected directly therefrom outside of any building, vehicle or out of doors; provided, that the town marshal may grant a permit to so broadcast any events or happenings of cultural, political, intellectual or religious interest. Every person desiring a permit to so broadcast shall make application, file a statement showing the place where he proposes to broadcast, the times and probable duration, and the nature, topics or titles of said broadcast. Said permit shall not be arbitrarily denied and when an application for a permit is denied, the town marshal shall set forth in writing and with particularity the grounds for so denying the application for a permit. (1980 Code § 13-333; amd. 2010 Code)

B. Exception: Nothing herein contained shall be construed to prevent the operation of a radio apparatus, sound device, amplifier or talking machine used in a reasonable manner by any person within any building, vehicle or structure even though the sound therefrom may be heard on the outside of such building, vehicle or structure; provided, that the said apparatus, sound device, amplifier or talking machine shall not project the sound therefrom directly outside of any building, vehicle or out of doors and; provided further, that no such radio apparatus, sound device, amplifier or talking machine is in any way fastened to or connected with any outside wall or window in any building, vehicle or structure so that sound therefrom is projected outside of such wall or window. (1980 Code § 13-333)

Thank you in advance for your consideration.