

6C
12-7-09



City Council Report

Date: December 7, 2009
To: City Council
Through: Christopher J. Brady, City Manager
From: Vicki L.H. Myers, Chief of Police
Subject: Noise Ordinance - Amendment
Citywide

Strategic Initiatives



Purpose and Recommendation

The Mesa Police Department (MPD) is respectfully requesting that City Council consider amending Title 6, Chapter 12, Offensive, Excessive, and Prohibited Noises; Section 4, Unruly Gathering, to include public places so that enforcement of the Noise Ordinance is consistent and uniform throughout the City of Mesa (City) and Section 9, Enforcement, to include any other City Department as a means of enforcement.

Background

The City of Mesa's (City) Prohibited Noise Ordinance became effective on September 24, 2009. With implementation of the ordinance, two minor administrative issues have surfaced that require amending the ordinance:

- Section 4, Unruly Gatherings, should be amended to include public places so that application and enforcement is consistent and uniform throughout the City.
- Section 9, Enforcement should be amended to allow for enforcement by other City Departments, as designated by the City Manager.

Recommendations

Title 6, Chapter 12, Section 4, Unruly Gatherings, gives the Mesa Police Department the authority to enforce its provisions on private property but not on public property. Amending the Code to include public property would allow for uniform and consistent application and enforcement throughout the City.

Additionally, the language of Section 9, Enforcement, gives the authority to the Mesa Police Department to enforce its provisions. As written, however, the ordinance does

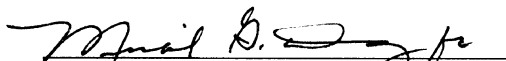
not clearly stipulate that these provisions can also be enforced by other City Departments such as the Neighborhood Services Department. Amending the Code to allow for enforcement by other City Departments will make it consistent with current enforcement practices in the city; for example, Animal Control Officers in the Neighborhood Services Department enforce noise complaints generated as a result of howling, barking, meowing, squawking, etc. animals.

Alternatives

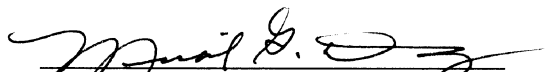
The Council could choose to make no changes to the Mesa City Code, Title 6, Chapter 12, Offensive, Excessive, and Prohibited Noises.

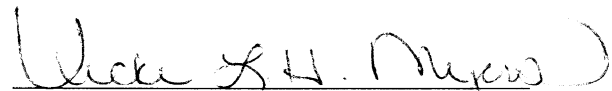
Fiscal Impact


There is no fiscal impact as a result of the proposed amendments.


Nancy Sorensen, Staff Attorney


John Meza, Assistant Chief
Office of Operations


Michael Denney, Assistant Chief
Chief of Staff


Vicki L.H. Myers, Chief of Police


Christopher J. Brady, City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING TITLE 6, CHAPTER 12 OF THE MESA CITY CODE RELATING TO OFFENSIVE, EXCESSIVE, AND PROHIBITED NOISES AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA AS FOLLOWS:

SECTION 1: That Title 6, Chapter 12 of the Mesa City Code, entitled as the "OFFENSIVE, EXCESSIVE AND PROHIBITED NOISES" code is hereby amended as set forth below.

Section 6-12-4: **Unruly Gathering**

A gathering of two (2) or more persons on any private **OR PUBLIC** property, including property used to conduct business, in a manner which disturbs the peace and quiet of a neighborhood or a reasonable person of normal sensibilities and/or creates noise prohibited under 6-12-2.

Section 6-12-9: **Enforcement**

A) The police department **AND ANY OTHER CITY DEPARTMENT AS DESIGNATED BY THE CITY MANAGER** is authorized to enforce the provisions of this section. A complaining member of the public shall not necessarily be required to appear in court before a violator may be found responsible for a violation of this section.

B) Officers responding to a complaint under the provisions of this section may:

1. Advise the concerned parties of the violation and seek to gain voluntary compliance; or
2. Issue a civil infraction violation.

Section 6-12-10: **Penalty**

A) Any person who shall violate any of the provisions of this Chapter or of the Mesa City Code as amended herein shall be guilty of a civil infraction.

B) The penalty for a person found responsible for a first violation shall be a mandatory minimum fine of two hundred and fifty dollars (\$250.00); a mandatory minimum fine of five hundred dollars (\$500.00) for a second violation; and a mandatory minimum fine of two thousand and five hundred dollars (\$2,500.00) for a third or subsequent violation.

C) The Court may, in its own discretion, grant cost recovery for law enforcement services and/or establish a surcharge.

D) Each subsequent violation shall be a separate offense, punishable as hereinabove described.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona this _____ day of _____, 2009.

APPROVED:

Mayor

ATTEST:

City Clerk