



Ride with Respect  
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April 27th, 2021

Grand County Commission  
125 E. Center Street  
Moab, UT 84532

Moab City Council  
217 E. Center Street  
Moab, UT 84532

Dear Grand County Commissioners & Moab City Council Members:

Ride with Respect (RwR) applauds you for starting to take a serious look at sound regulations, and we appreciate the discussion you've had thus far, but the approved county ordinance and draft city ordinance need several adjustments before noise concerns can be resolved in a practical and lasting manner. RwR is addressing the county and city together because you are both addressing the same issue, both consulting with the firm Noise Pollution Clearinghouse, and both attempting to make your policies compatible.

#### Process

First let me explain why RwR didn't submit detailed comments prior to the commission meeting last Tuesday. In fact I was producing comments based on the April 16th draft that was posted on Grand County's agenda center. After planning and hosting the third sound-testing demonstration on April 19th, the county attorney kindly sent me an updated draft, although it was not posted on the agenda center. I continued producing comments that evening and the following morning, only to receive an April 20th draft. Again, I appreciate receiving it from the county attorney, but it was not posted on the agenda center. In fact, at present the only draft posted on the agenda center is the original one from April 16th. Anyway the April 20th draft fundamentally changed how motorcycles would be regulated (from sound measurements to EPA labels only), further setting back my comment progress to the point that I couldn't submit comments in time for your meeting.

Fortunately, unlike the ATV business-license ordinance and LUC that involved a moratorium deadline, the noise ordinance had no such deadline. I figured that I could explain the need for more time on the new draft of the noise ordinance but, during Citizens to Be Heard, comments on the noise ordinance were prohibited with the rationale that a public hearing on the matter already took place. In fact the drafts had changed so significantly since the public hearing that I think the county should allow and in fact encourage comment on the new direction. Instead of going into details, I simply emailed the commission and staff that I have serious concerns about the latest draft, and would appreciate more time to discuss it before voting on the matter. The commission voted anyway, and said that they can amend the ordinance anytime.

Also during the meeting, the county attorney said that the latest version isn't in the agenda packet, but that I forwarded it to the ATV businesses and members of the Motorized Trails Committee (MTC). I did forward the ATV business-license ordinance and LUC drafts to ATV businesses 12 hours prior to the April 15th meeting in which the commission voted on them. I did it as a courtesy to the county attorney for emailing me the drafts 14 hours prior

to the meeting, as no drafts had been posted on the agenda center at that point. However I didn't forward the ATV business-license ordinance and LUC drafts to the MTC. Further I didn't forward the draft noise ordinance to the ATV businesses or the MTC, and I hadn't said that I would do so, just for the record. The process and decisions could be more thorough if given more time which, given the subject's technical and consequential nature, is warranted in my opinion.

### Progress

Second let's recognize the progress made. RWR has promoted regulating sound for many years and, while the following points were initially challenged by local officials and people on both sides of the issue, we seem to be reaching agreement that:

1. Education (e.g. Throttle Down) is critical but cannot fix the problem on its own,
2. Engineering solutions (including alternate routes) are limited by private property in Spanish Valley,
3. Lowering speed limits is likewise limited (primarily by side effects like reduced efficiency),
4. Local government should utilize resources like sound testing before expecting industry reform,
5. Local government shouldn't count on the state granting permission to restrict the street use of UTVs,
6. Quieter mufflers can bring the most popular UTV models in line with other sport models,
7. Regulating sound should involve actually measuring sound in order to be objective,
8. Measuring motor vehicles in use would be ideal but has major limitations for enforcement,
9. Measuring motor vehicles while stationary can feasibly catch excessively-loud vehicles,
10. Stationary sound testing can be done by pulling over vehicles rather than relying on a check point,
11. Sound meter features (e.g. decibel averaging, tach synching, wireless comm.) aid enforcement, and
12. Local government should consult an OHV sound expert for its noise ordinance and enforcement.

### Stationary Sound Limits

For years RWR has advocated utilizing stationary sound tests for the specific vehicle types that the Society of Automotive Engineers (SAE) intended when developing them. Matching the intended test to the given type of vehicle makes enforcement more straightforward. For example, it's important not to subject Type III ATVs (which are typically Jeeps with larger tires) to a test designed for dirt bikes (J1287), which the county's approved ordinance does. Please refer to the Motorized Trails Committee's March 15th letter:

"All-Terrain Type I Vehicle and All-Terrain Type II vehicle

SAE J1287

92 dB

All-Terrain Type III Vehicle, automobile, and truck up to 14,000 pounds GVWR

SAE J1492

95 dB

Off-Highway Motorcycle (any motorcycle that is designed for use on trails or natural terrain, regardless of whether or not it is also designed for on-highway use)

SAE J1287

96 dB

On-Highway Motorcycle

SAE J2825

96 dB for engine with less than 3 cylinders or more than 4 cylinders

/ 100 dB for engine with 3 or 4 cylinders

Snowmobile  
SAE J2567  
82 dB"

Note that the MTC's exemption for trucks over 14,000 pounds GVWR was simply based on the observation that 14,000 pounds correlated with other regulations, and it matched the GVWR of the most capable version of one-ton truck available. However after the lengthy discussion on GVWR on April 20th, it's clear that the commission is not taking GVWR lightly, so I presume that the MTC would defer to your decision. After all, the MTC's November 12th letter stated "Because the MTC represents enthusiasts of off-highway motorcycle, ATV, UTV, 4WD, and snowmobile recreation, we support requiring sound standards for those vehicle types (based on SAE J1287, J1492, and J2567 respectively). We encourage Grand County to approach enthusiasts of on-highway motorcycle, car, and heavy-truck use before requiring sound standards for those vehicle types."

In February RwR facilitated a UTV sound-testing demonstration for county and city officials. We are glad to see that the approved county ordinance and draft city ordinance don't limit UTVs to 88 dB by SAE J1287 for model years 2024 and later because it is unrealistic for manufacturers to achieve, especially when it comes their sport models, which are more suitable than utility models for 4WD trails in Moab. A 92 dB limit is justified given the higher levels of non-muffler sound when compared to off-highway motorcycles (aka dirt bikes) for which the J1287 procedure and 96 dB standard were developed (including UTVs' greater sound from tires, drivelines, and the engine's typical operating speed as well as its duty cycle due to the continuously-variable transmission (CVT) or even just the higher payload for models that lack a CVT). A 92 dB limit is attainable for all kinds of UTV, although it may require an aftermarket muffler like the HMF Twin Loop, but the additional cost will significantly help resolve noise concerns. This arrangement is similar to "closed course" models of motorcycle that should have an aftermarket muffler like the FMF Q series installed to bring them below a 96 dB limit.

On April 16th, RwR invited county and city officials to a demonstration with other vehicle types on April 19th, and we appreciate all five county officials who attended especially considering the short notice. In response, the county's April 19th draft adjusted the automobile limit (from 88 dB to 92 dB by J1492), the dirt bike limit (from 90 dB to 92 dB by J1287), and the on-highway motorcycle (aka street bike) limit (from 90 dB by J1287 to 92 dB by J2825) before doing away with stationary sound testing in the April 20th draft. There is a lot more work that went into the MTC's suggested limits (which are endorsed by their respective industry groups, enthusiast groups, and codified by many states).

For automobiles, all five states that codify a stationary sound limit by J1492 (or older methods that are equivalent) have chosen 95 dB. If Grand County regulates automobile equipment more strictly than these states, our own state legislature may intervene. Fortunately a 95 dB limit would be effective (especially in combination with other provisions of the draft noise ordinance like the one against throttle jockeying in addition to traditional tools like citations for speeding or reckless driving). The demo 4WD rig (a 2006 Wrangler TJ Unlimited) that measured 95 dB by J1492 did have an aftermarket muffler, but it is actually of a higher quality and lower sound than most other aftermarket mufflers, and the vehicle was not excessively loud when in use (i.e. passing by). It is one of many automobiles that measures over 92 dB by J1492 yet is not contributing to our noise problem. Even the demo sports car (2016 Ford Mustang GT with ROUSH Stage 3 conversion) that measured 93 dB J1492 is a lot quieter than the street racers that cause a nuisance downtown, which tend to have a rattle at certain RPMs that is captured by J1492 due to an RPM sweep (from idle up to the target engine speed, with the test result being at whichever RPM was loudest). Many car-show vehicles exceed 100 dB by J1492, and they could be exempted (based on time of day / location / manner of use) if you so choose. The 95 dB standard by J1492 is accepted by the Specialty Equipment

Market Association (SEMA).

For dirt bikes, a limit of 96 dB by J1492 is the law in a dozen states including the surrounding states of NM, CO, WY, and ID. Your consulting firm used a small study from 2005 in California to justify a 90 dB limit. As mentioned in your workshop, the study's actual recommendation is to allow at least 94 dB, and a lot of research has been done since then that finds some dirt bikes with mufflers labeled as EPA compliant measuring up to 96 dB in unmodified condition. The April 19th demo dirt bikes (2012 KTM 350 EXC-F and 2005 Honda CRF250X) with EPA-labeled mufflers measured about 92 dB by J1287, which the April 19th draft ordinance used as justification to set the limit at 92 dB. I have told the county and city that RWR has measured dirt bikes with unmodified EPA-labeled mufflers at well-over 92 dB, and this point has been confirmed by sound professionals who have measured thousands of vehicles. Yet on April 20th the county attorney continued claiming that all motorcycles can meet a 92 dB limit, and the city continues to propose this limit. A 92 dB limit requires exempting EPA-labeled dirt bikes, which creates a huge loophole for people to exploit by removing baffles or drilling out their stock mufflers. The solution is to adopt the 96 dB standard that can be required of every muffler regardless of its label. Further, a 96 dB limit would compel motorcyclists who have noisy mufflers to buy a quieter one because they know it would achieve compliance. However many of them would fail to find a replacement muffler that reliably measures under 92 dB so, if the limit is set at 92 dB, they would be less likely to get a quieter muffler and more likely to just try to evade enforcement.

A final note on dirt bikes is that the county's April 19th draft proposed to subject street-legal dirt bikes to J2825, which was not designed for any kind of dirt bike, and in fact would be too lenient for dirt bikes given that J2825 tests single-cylinder motorcycles at just 2,000 RPM (which is justified for street bikes because they tend to have more torque to essentially idle through town). Therefore we encourage using the MTC's suggested definition of an off-highway motorcycle "any motorcycle that is designed for use on trails or natural terrain, regardless of whether or not it is also designed for on-highway use." This will capture dirt bikes, dual-sport bikes (i.e. street legal dirt bikes), and adventure bikes (which are larger and more street-oriented but still somewhat capable on dirt). All of these models are listed in the J1287 supplement (that shows the test RPM for each model), so they should be subject to J1287. Then the ordinance could regard all motorcycles not designed for use on trails or natural terrain as "on-highway motorcycles" subject to J2825.

Regarding street bikes, it was good to see the county's April 19th draft utilize J2825, but it should distinguish between 3- and 4-cylinder street bikes (which are tested at 5,000 RPM) and all other street bikes (which are tested at 2,000 RPM) for reasons explained in the SAE publication "Development of the J2825 On-Highway Motorcycle Sound Test" that I shared at the April 19th demo. The limit for on-highway motorcycles should be 100 dB for engines with 3 or 4 cylinders and 96 dB for engines with less than 3 cylinders or more than 4 cylinders. For one thing, the SAE does not advise using J2825 to enforce limits below those figures. For another thing, those standards are law in NH and other parts of the U.S. as well as Canada. The demo touring-oriented street bike (2008 BMW K1200GT, which has 4 cylinders) measured 95 dB by J2825, and sounded quiet under normal operation because it could pass by at less than 5,000 RPM. Since your consulting firm asked about another unit of the same model, yes, I measured it at 93 dB. Since your consulting firm asked about maintenance, I should point out that most stock mufflers are a mechanical design that doesn't require repacking like many of the fiberglass-insulated aftermarket mufflers do. The primary way to reduce the sound of a K1200GT would be to replace the muffler, which BMW sells for over \$1,500. The 96/100 dB standard by J2825 and 96 dB standard by J1287 are accepted by the American Motorcyclist Association (AMA) and Motorcycle Industry Council (MIC). Only by adopting these standards (or more lenient ones) can stationary sound limits be enforced on all motorcycles regardless of the labels on their mufflers. In other words, if you set limits stricter than 96 dB, you won't close the enormous loophole that allows mufflers to be extremely loud so long as they have EPA labels.

On April 20th, the county attorney urged abandoning stationary sound testing for motorcycles, stating "The other

issue is that there are two different SAE tests that are applied to motorcycles. And again we're just getting into more complication. So now we're asking law enforcement; it would be three total tests. Off-road would be the J1287 test. You'd have vehicles at J1492. And then you'd have street bikes at J2825. And again it's an additional test, an additional complication for law enforcement for probably very little to zero increased enforcement effect." While officers should be trained to conduct stationary sound testing properly, once you know how to conduct one test, it's easy to learn a second one. They typically vary in just a few ways, and it becomes routine with practice. The complication of learning three tests is far exceeded by the complication of applying a test to different vehicle types than what the SAE intended. The notion that, compared to requiring EPA labels, enforcing J1287 and J2825 offers very little to zero increased effect on curtailing noise is completely wrong.

### Data Sources

Your consulting firm insisted that all motorcycles with unmodified mufflers in decent working order will measure under 90 dB by J1287. The April 19th demo disproved this assertion, and really it should've been common knowledge for anyone who has worked in sound regulation for that past quarter century, not to mention the common knowledge that J1287 is not the appropriate stationary test for street bikes. Yet on April 20th the county attorney appeared to be unconcerned, and recommended that the commission hire your consulting firm to help the city police and the county sheriff create a data management plan. Likewise the consulting firm has made poor suggestions to the city, such as prohibiting heavy trucks from idling for more than one minute, which the MTC addressed with the city attorney before she extended it to five minutes.

In contrast, I tried to understand more about the consulting firm. The final report of "Noisy Motorcycles—An Environmental Quality-of-Life Issue," a roundtable sponsored by The INCE Foundation and The Noise Control Foundation in 2013, states:

"Representing the public, Les Blomberg from the Noise Pollution Clearinghouse expressed concern that the SAE J2825 is not strict enough. Because the SAE procedure is quite different from the current federal procedure, he stated there are motorcycles that would fail the EPA test, but pass the SAE test. He would prefer to see an alternative test that would fail every vehicle that is failed by the EPA test. He also wants to make sure that any wording change in the regulation would not require a vehicle to pass the EPA test or the J2825 test. His concern is that such language would allow a driver who fails J2825 to claim that his motorcycle passes the EPA test, which an enforcement officer can't determine. Roundtable participants agreed not to recommend a change in the requirement that motorcycles meet the EPA test standard."

The consulting firm appears to expect perfect enforcement of EPA standards in the field despite obvious limitations that are inherent to all motor vehicles (not just motorcycles). Likewise the consulting firm has advocated banning car alarms and the use of cell phones in public spaces (presumably to talk, not to text). I can relate to the irritation of false alarms and loud phone talkers, but there appears to be a pattern of unrealistic positions. This approach is more characteristic of an advocacy group, and in fact the consulting firm is a 501c3 organization, with past support from Sierra Club and NRDC. The firm's own website touts the fact that CBS News Sunday Morning declared the firm to be "The nation's major anti-noise interest group." How county and city funds are spent is not up to me, but I'd like you to know what you're getting, and how the work may be perceived by affected vehicle owners, businesses, and legislators.

### EPA-Label Requirements

As alluded to in the section on stationary sound limits, thousands upon thousands of EPA-labeled mufflers in use are unacceptably loud, whether through internal modification or decades of deterioration. For example, consider the loudness graph that your consulting firm dramatized by stretching the scale, equating to semi-truck sound

levels (even though the 80 dB federal pass-by standard is at hard acceleration, and motorcycles wind up going a lot faster in that test than semi-trucks, so it doesn't mean that motorcycles are as loud as semi-trucks when following the same flow of traffic), and exploiting the diminishing effect of additional vehicles (e.g. the total sound of 50 semi-trucks simultaneously passing isn't much more than that of 32 semi-trucks). The consulting firm's conclusions relied primarily on a single motorcycle that measured 95 dB by J1287 yet 97 dB by the federal pass-by test (i.e. it passed California's stationary standard yet exceeded the federal pass-by standard by 15 dB). That particular motorcycle, a KTM 525 EXC, had a stock muffler with an EPA label. Even if that motorcycle got louder, it would continue to pass an EPA-label requirement, but would fail to pass a 96 dB limit.

Meanwhile thousands upon thousands of mufflers lacking the EPA label are reasonably quiet, which makes EPA label requirements grossly ineffective at curtailing noise. On April 20th the county attorney stated "100% of motorcycles tested that did not have the EPA stamp required under federal regulation fail 92 dBA at 20' and 80 dBA at 25' standards." First of all, that was a sample size of two motorcycles, where as I have been motorcycling for a quarter of a century, and am keenly familiar with noise culprits, which is a function of the muffler far more than the model of motorcycle. For example, all modern two-stroke dirt bikes lack the EPA label, but most of them have more torque than older versions which allows riders to keep the engine speed low, and the sound dissipates faster than four-strokes. Modern two-strokes are among the quietest dirt bikes despite their lack of EPA labels.

The demo dirt bike with a stock muffler that has no EPA label (2021 KTM 350 XC) measured over 98 dB by J1287. RWR agrees that this is too loud, and the owner is in the process of adding a cap to reach 96 dB or a whole new muffler such as the FMF Q to reach 94 dB. As the bike deteriorates or is accessorized with things like metal skid plates that reflect sound back toward the muffler, this bike will not meet a standard lower than 96 dB. Although RWR encourages EPA compliances, and we walk the walk with our own bikes, there are many reasons why people choose "closed course" models. Skilled youth riders depend on them because they quickly out-grow the entry-level models. Women often prefer the lighter weight of two-stroke engines, all of which are still "closed course" despite major emissions improvements from fuel injection. Racers would rather not spend another ten-thousand dollars on a second bike for non-race riding.

The most popular brand of dirt bike is KTM (which sells alternate models under the Husqvarna and Gas Gas brands), and the vast majority of its dirt-bike models are "closed course," which could be outfitted with a quiet-oriented aftermarket muffler to meet a limit of 96 dB but not 92 dB. Note that quiet-oriented dirt bike mufflers almost always have spark arrestors. On April 20th the county's commission administrator pointed out that you can't legally ride a closed-course model on federal property because it lacks a spark arrestor. However the lack of a spark arrestor actually compels most riders to replace the muffler or at least the end cap, both of which reduce sound for most models. Further, enforcing the spark-arrestor requirement is a better indication of reasonable sound levels than an EPA-label requirement would be. Spark arrestors are also easier than enforcing an EPA-label requirement (by simply inserting a metal wire in the outlet to ensure that it's blocked by the presence of a spark arrestor).

Verifying EPA labels is often challenging in the field. The labels are required of manufacturers, not consumers, which anticipates that the setting of an inspection would be a showroom floor or dealership service department rather than roadside after thousands of miles of use. Consequently the EPA labels on brand-new motorcycles:

1. Lack a contrast with their background on virtually every model,
2. Are placed in a location that's subject to grime or rubbing on most models,
3. Are placed in a location that requires laying down to view on many models,
4. Are placed in a location that requires minor disassembly (e.g. heat shield) to view on some models,
5. Are placed in a location that requires major disassembly (e.g. rear wheel) to view on some models, and

6. May be removed by the consumer without violating EPA regulation

For examples, see this report from motorcycle advocates in New York City:

<http://www.syntheticmachine.net/EPA%20Label%20Survey.pdf>

The lack of contrast is probably due to the fact that the external surface of motorcycle mufflers routinely reach 200F. Extreme heat is the same reason that most EPA labels aren't "stickers" despite how some people continue to refer to them. When your consulting firm suggested using a glove to wipe mud off of muffler to find an EPA label, I wonder if they know that mud from Mancos Shale and other bentonite clay hardens around mufflers like pottery in a kiln. The EPA labels on mufflers are often worn by tire rubbing, and blocked by accessories like storage boxes. To truly verify a label, officers should match the unique code on the muffler label with the unique code stamped on the headset (separate from the VIN), which indicates that the muffler is EPA compliant for use on that particular model of motorcycle. The EPA label on the headset is often worn by cable rubbing, and blocked by accessories like aftermarket fuel tanks (requiring tools to disassemble).

The county attorney said that finding the EPA label was easy on all of the roughly twelve motorcycles that she has tested and/or inspected. I know that she tested one of my motorcycles that does not have its EPA label visible without removing a storage box, which we did not do. Also, once the storage box is removed, an officer would find that the EPA label is upside down and heavily obscured by grime despite that the label faces outward and is only three years old.

On April 20th the county attorney asked "The stamp is required by federal law, so why not leave it there? Why are we incentivizing by creating this loophole for people like the street-bike that we tested, for an individual to buy an illegal muffler when there are millions of mufflers out there that are legal?" As I've said, it's not required of the consumer, and the real loophole is exempting EPA-labelled mufflers from being sound tested. Mufflers lacking an EPA label is no loophole because they would be sound tested just the same. Further there are not millions of mufflers out there with EPA labels for most closed-course models, models that are roughly 25 years old, or custom builds. EPA-labelled mufflers are not only more expensive, but they're unattainable for a substantial portion of motorcycles.

Regarding the reach of motorcycle sound limits or EPA-label requirements, on April 19th the county attorney and commission administrator assured me that the latest draft confines such requirements to Class B roads with the intention of being confined to street-legal motorcycles in residential areas. However the county's approved ordinance makes no such confinement, while it does confine the pass-by sound limits to Class B roads. The ordinance provides a separate definition of street-legal motorcycles from other motorcycles, so it could've easily confined the EPA-label requirement to street-legal motorcycles. Although the ordinance identifies residential areas as its primary goal, it also identifies balancing the natural quiet of the surrounding desert landscape as a secondary goal, which could be used to justify enforcing motorcycle sound limits or EPA-label requirements virtually anywhere in the county.

Even if it were limited to residential streets, most access roads to the nearby trails are residential. On April 20th the county attorney dismissed the idea that closed-course models are converted to be street legal by stating "There was an admission that they [closed-course models] are not comfortable to drive on the streets." This refers to a conversation she had with a Marine Corps veteran who certainly couldn't have been referring to the brief street riding needed to reach trailheads or to connect with other trails and towns. He must have been referring to long-distance highway riding, which isn't the only reason to make one's dirt bike street-legal. Not only is riding to the trail easier than trailering, it's less consumptive, as dirt bikes on the open road get better fuel economy than hybrid cars. Also please keep in mind that rules pertaining to Class B roads that are graded dirt would still affect all dirt bikers. Rides are commonly 50- to 100-miles long, and graded roads are needed to connect trails.

Similarly the city's draft ordinance states that motorcycle EPA-label requirements, pass-by sound limits, and stationary sound limits (including the much lower ones during restricted hours) would apply to all public roadways. Moab City includes parts of 4WD trails like Hells Revenge and Moab Rim, which are Class D roads. Therefore all of those requirements and sound limits would apply to street-legal and non-street vehicles alike, and justifications like "just trailer to the trailhead" aren't any consolation. RWR actually encourages making sound regulations reach beyond residential areas to the public lands so long as they're reasonable. Stationary standards like 96 dB by J1287 for dirt bikes wouldn't need distinctions (e.g. city/county, residential/non-residential, paved/dirt, road/trail), rather they should protect all of the county all of the time.

Now that our convictions are clear, please stop asking motorcyclists to follow an EPA-label requirement that applies to manufacturers, while telling them not to worry about this aspect of a new noise ordinance being enforced. Instead make prudent rules that can be enforced uniformly, and I promise we'll help through peer pressure.

### Restricted Hours

The county's approved ordinance and city's draft ordinance that reduce the pass-by sound limits 2 dB during nighttime might work since the reduced traffic should enable reduced acceleration. However the city's proposal to limit all vehicles under 10,000 pounds GVWR to 85 dB by a stationary test would effectively place a curfew on a substantial minority of cars / trucks and the vast majority of motorcycles / UTVs. Stationary sound tests are an equipment requirement, and the equipment obviously doesn't get quieter at night, so it's essentially a method to exclude certain vehicle types. It would not help the city in earning trust that it would regulate vehicles reasonably, as you'd have some restaurant workers unable to use their only vehicles, not to mention tourists trying to get going before 9am on a Sunday in the summer.

### Pass-By Sound Limits

During the April 19th sound demonstration, we made rough measurements of the demo vehicles followed by even rougher measurements of traffic on Mill Creek Drive. Keep in mind that we mostly measured vehicles in the downhill direction, which are several-decibels quieter than vehicles in the uphill direction, which are several-decibels quieter than vehicles on a steeper hill or accelerating from a stop. The presentation during the April 20th commission meeting indicates that pass-by limits would be used primarily at intersections for acceleration. Therefore the limit at fifty feet should be raised from 74 to 80 dB, which is the federal standard for on-highway motorcycles (and 2 dB less than the federal standard for off-highway motorcycles or semi trucks). While these standards involve hard acceleration that can usually be avoided in everyday use, non-stock tires and other common accessories add to the total sound, which makes 80 dB appropriate for enforcement purposes (provided that the ordinance specify a recognized test methodology). If the ordinance specifies that pass-by limits are only for screening, or only for cruising on fairly flat ground, a limit under 80 dB may be appropriate. Just keep in mind that 80 dB at fifty feet is low enough to catch all of the worst offenders.

Perhaps pass-by limits are deliberately strict to compensate for a lack of enforcement. The idea would be that, when people know that they're in violation, they'll at least mind their manners. One limitation of this approach is that the "violators" eventually catch on to the empty threat of enforcement. Another limitation is that being labelled a "violation" can breed contempt. It can also be problematic for officers who will be accused of picking on certain "violators" arbitrarily, while being accused of failing to act by other citizens who will expect enforcement to its fullest extent. If you set a low limit now with the intent to provide a cushion, that intent may be lost as the years go by. Let's retain good officers by giving them reasonable standards to enforce closely and consistently for everyone's benefit.



### Property Line Sound Limits

The city's proposed residential property-line sound limits of 55/50 dB for day/night are too low, and even the county's approved limits of 60/55 dB for day/night are too low considering the Fast sound-meter setting that's specified. Such limits would be exceeded by a single bounce of the basketball, bark of the dog, or shut of the tailgate. Unless they're far louder, such fleeting sounds are not the issue, which is why environmental sound readings usually average over the course of minutes or even hours. If this duration is deemed impractical, then at least specify a Slow sound-meter setting, or set limits significantly higher than 60/55 dB. The need to list so many exemptions is an indication that the limit is too strict.

### Plainly-Audible Sound Limits

The city's draft ordinance prohibits vehicle sound that's plainly audible from a distance of 1,000 feet. "Plainly audible" standards are more appropriate for larger city's that consistently have a higher ambient sound level. The Moab city limits includes relatively remote settings. Even on Main Street, there are times when normal operation of a normal vehicle is plainly audible from a distance far greater than 1,000 feet. Therefore the "plainly audible" standard should be limited to places and times when the ambient sound is consistently high, or it should be extended to a distance of 2,000 feet.

The city's draft ordinance also sets limits in terms of dBC, which captures inaudible sounds, and is difficult to get repeated and confirmable results. Fortunately it's generally needed only for industrial zones involving very low frequency sounds, so it could be removed from the city's draft to reduce the burden of enforcement.

### Vehicle-Owner Liability

The city's draft ordinance makes vehicle owners liable for the sound produced by their vehicles when operated by another person. This may make sense when it comes to stationary sound limits because they're an equipment requirement. However it makes no sense for pass-by or plainly-audible sound limits, which measure the manner of use. Vehicle owners should not be held responsible for the behavior of drivers when it comes to noise any more than speed or recklessness.

### Sound-Meter Response Setting

The county's approved ordinance and city's draft ordinance define "dBA" as the sound pressure level using the "A" frequency weighting and the fast response setting (unless otherwise noted or required by testing standards established by the county). The Fast setting measures sound in less than two-tenths of a second, often capturing spikes that aren't detectable by human hearing, and yielding inconsistent results. Recognized test methods that call for a Fast setting either specify a long duration (in the case of environmental sound measurements) or a series of measurements that prove to be consistent (in the case of some vehicle sound measurements). The sound ordinances should define the Slow setting by default (unless otherwise noted or required by testing standards established by the county / city), as this provides a time sample of at least one second.

### Motorboats

The city's draft ordinance prohibits motorboat operation from exceeding "a sound level of (a) 80 dBA at 50 feet; or (b) 70 dBA at any shoreline; or (c) 80 dBC at any shoreline." The state of Utah already quantified the sound limit for motorboat mufflers in R651-222 (enclosed). For engines manufactured after 1992, the state limits sound to 88 dBA by the SAE J2005 stationary test. This test appears comparable to the city's proposed limit of "80 dBA at 50

feet," with the state's limit being 8 dBA higher. The state also limits sound to 75 dBA by the SAE J1970 pass-by test, which appears to be comparable to the city's proposed limit of "70 dBA at any shoreline," with the state's limit being 5 dBA higher. If so, the city shouldn't set equipment requirements stricter than the state's, as equipment requirements are primarily set by states. Instead the city could include the state's motorboat muffler rules if it would aid enforcement.

### Conclusion

Although the rationale may be verbose, RWR's suggested revisions are specific and pragmatic, and I would be happy to answer any questions or concerns in the coming days. Thank you for considering all sides of this critical issue.

Sincerely,

A handwritten signature in blue ink that reads "Clif Koontz". The signature is written in a cursive, flowing style.

Clif Koontz  
Executive Director

**R651. Natural Resources, Parks and Recreation.**

**R651-222. Muffling Requirements.**

**R651-222-1. Mufflers Required.**

Every motorboat operated upon the waters of this State shall at all time be equipped with a muffler or a muffler system in good working order and in constant operation and effectively installed to prevent any excessive or unusual noise.

**R651-222-2. Muffler Defined.**

"Muffler" means a sound suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and prevents excessive or unusual noise.

**R651-222-3. Maximum Sound Level SAE J2005.**

No person shall operate or give permission for the operation of any motorboat upon the waters of this state in such a manner as to exceed the following noise levels:

(1) For engines manufactured before January 1, 1993, a noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by test SAE J2005; or

(2) for engines manufactured on or after January 1, 1993, a noise level of 88dB(A) when subjected to a stationary sound level test as prescribed by test SAE J2005.

**R651-222-4. Maximum Sound Level SAE J1970.**

After January 1, 1992, no person shall operate a motorboat on the waters of this state in such a manner as to exceed a noise level of 75dB(A) measured as specified in test SAE J1970. Provided, that such measurement shall not preclude a stationary sound level test as prescribed by SAE J2005.

**R651-222-5. Muffler Bypass or Alteration Prohibited.**

(1) No person shall operate or give permission for the operation of any motorboat upon the waters of this state that is equipped with an altered muffler, muffler cutout, muffler bypass, or other device designed or installed so that it can be used to continually or intermittently bypass; or reduce or eliminate the effectiveness of any muffler or muffler system installed on a motorboat.

(2) Rule R651-222-5 (1) shall not apply to a motorboat equipped with a muffler cutout, muffler bypass, or other device designed or installed so that it can be used to continually or intermittently bypass; or reduce or eliminate the effectiveness of any muffler or muffler system installed on a motorboat, (a) if the mechanism has been permanently disconnected or made inoperable, where it cannot be operated in the manner described in Rule R651-222-5 (1), or (b) the muffling systems operated by the bypass meet the requirements in R651-222-3.

**R651-222-6. Muffler Removal Prohibited.**

No person shall remove, alter, or otherwise modify in any way a muffler or muffler system on a motorboat, in a manner that will prevent the motorboat from complying with rule R651-222-3.

**R651-222-7. Mufflers Required on Motorboats Sold.**

(1) No person shall manufacture, sell, or offer for sale any motorboat:

(a) that is not equipped with a muffler or muffler system; or

(b) that does not comply with rule R651-222-3.

(2) This rule shall not apply to motorboats designed, manufactured and sold for the sole purpose of competing in racing events only and for no other purpose. Any motorboat exempted under this rule shall be documented as such in the sales agreement and shall be formally acknowledged by signature of the buyer and seller and copies of the agreement shall be maintained by both parties. A copy of the agreement shall be kept on board whenever the motorboat is operated. Any motorboat sold under this exemption may only be operated on the waters of this State in accordance with rule R651-222-8.

**R651-222-8. Muffler Exemptions.**

Except as outlined in rule R651-222-7, the operational provisions of this rule shall not apply to:

(1) motorboats registered in and actually participating in a racing event authorized by the Division or scheduled tuneup periods prior to the racing event; or

(2) to a motorboat being operated by a boat or engine manufacturer for the purpose of testing and/or development and the testing has been authorized by the Division.

**R651-222-9. Enforcement.**

A peace officer who has reason to believe that a motorboat is being operated in excess of the noise levels established in rule R651-222-3, may direct the operator of the motorboat to submit the motorboat to an on-site test to measure the noise level. If the motorboat exceeds the established decibel level, in addition to issuing a summons, the officer may direct the operator to return to the point of embarkation and prohibit operation of the motorboat until the motorboat meets the established decibel level.

**KEY: boating, motorboat noise**

**Date of Enactment or Last Substantive Amendment: October 18, 2005**

**Notice of Continuation: January 5, 2021**

**Authorizing, and Implemented or Interpreted Law: 73-18-11**

March 15th, 2021

Mary McGann, Chair  
Grand County Commission  
125 East Center Street  
Moab, Utah 84532

Dear Commissioner McGann:

The Motorized Trails Committee (MTC) appreciates the opportunity to comment on any changes to Grand County's noise ordinance (Title 11), ATV business licenses (Title 5), and related permitting (Land Use Code). We thank Christina Sloan for meeting with us last week to discuss draft language, and ask to be included in subsequent steps, as even small aspects of this issue can have large consequences for motorized recreation. We wish the City of Moab would do so as well.

### Introduction

We are prepared to support several new regulations, most notably exhaust-sound standards that would require expensive retrofit (i.e. aftermarket exhaust systems designed to be quieter than stock) for a significant minority of off-highway motorcycles, on-highway motorcycles, automobiles, trucks, and snowmobiles. While a 92 dB standard by SAE J1287 would not require a retrofit for the vast majority of UTV models, this would be required for two of the most popular models, thus the majority of UTV owners would need to invest upwards of \$1,000 to meet a 92 dB standard. For a rental fleet of over 100 units, the investment could approach \$100,000. This is by no means a token gesture.

The two popular models that would require a retrofit to meet this 92 dB standard happen to be the same two popular models that have a frequency with more base and less attenuation that stands out and distracts most people. This distracting quality is minimized by the retrofit, so a 92 dB standard for UTVs would resolve most noise concerns in terms of both the sound pressure and the pitch. Uninformed citizens may be leery about the suggestions of even the most responsible motorized-trail enthusiasts but, once implemented, everyone will hear the difference. Grand County will then hear far fewer concerns about excessive sound and far more concerns about excessive regulation.

To weather the resistance from vehicles operators of all types, outfitters, and state officials, it would be wise to work out any ordinance and enforcement details with a consulting business that commands their trust, specifically one that specializes in regulating OHV sound and has demonstrated being receptive to OHV recreation. A 92 dB standard for UTVs on its own will constitute getting "tough" on noise. To actually resolve this issue in the long run, there's no substitute for engaging OHV associates along with OHV enthusiasts who are willing to stick their necks out, provided that Grand County try their suggestions before resorting to any more drastic measures.

In addition to our preface about consulting those with inside knowledge of OHVs, when it comes to the regulation of ATV businesses, the MTC encourages Grand County to directly engage those businesses and associations. Nevertheless, that business activity does affect our interest in motorized trails, so we accept your invitation to weigh in on all three of the draft documents.

### Noise Ordinance (Title 11)

1. If you want to regulate the sound of all vehicle types in the section Definitions (11.02.010), it's very important to follow the methods and maximum-decibel standards that we suggest, as they are rigorous yet supported by their given industries. The only exception is a 92 dB standard for UTVs because the OHV industry has thus far determined an appropriate standard for off-highway motorcycles (aka dirt bikes), not for UTVs. The off-highway motorcycle standard of 96 dB should be reduced to 92 dB for UTVs because UTVs tend to produce more tire and drive-line sounds in addition to the increased weight and continuously-variable transmissions relying on higher engine speeds (RPMs). J1287 and the other methods and standards are the product of about a million dollars in research, all of which should be utilized by Grand County.

Granted, listing multiple methods makes the ordinance more complicated, but it will make the enforcement more straightforward as officers become proficient in each test and familiar with the most common vehicles of each type. For example, annual supplements to J1287 list the target engine speeds for each dirt bike and UTV model, but not for automobile models, and they don't address how to handle exhaust outlets that are tucked under bumpers as commonly found on cars and trucks. These are a couple of the reasons why automobiles should be subject of J1492 and a 95 dB standard, which has been effective as a balance point between car enthusiasts and communities in California.

The ordinance ought to specify the test method and, if Grand County is concerned about SAE updates of the given method, it could specify that particular version (i.e. date) of each method. Nevertheless referring to the SAE method is done by many states, and in fact Utah does so in its stationary sound standard for motorboats (R651-222-3. Maximum Sound Level SAE J2005):

<https://rules.utah.gov/publicat/code/r651/r651-222.htm#/E3>

Note that the state rules don't specify the distance of measurement as it's already defined by the method. Likewise, Grand County's ordinance should simply specify the method (and any version or date).

Perhaps the greatest benefit of referring to the SAE method is that vehicle owners can easily determine whether an aftermarket muffler would comply with Grand County's ordinance, as manufacturers often describe their mufflers in reference to the SAE methods (e.g. a motorcycle muffler that is under 96 dB by J1287, or a UTV muffler that reduces 3 dB from stock trim by J1287). That way, vehicle owners can achieve compliance even before they visit Grand County, thereby reducing the burden of enforcement. Of course the other benefit to enforcement is that stationary sound tests are measured so close to the exhaust outlet that the results are much more impervious to other sources of sound (like other vehicles, wind, etc.) compared to the pass-by tests. That's why it's worth focusing enforcement on stationary sound testing, spreading awareness among the owners of all vehicle types, and specifying the following methods and standards:

All-Terrain Type I Vehicle and All-Terrain Type II vehicle

SAE J1287

92 dB

All-Terrain Type III Vehicle, automobile, and truck up to 14,000 pounds GVWR

SAE J1492

95 dB

Off-Highway Motorcycle (any motorcycle that is designed for use on trails or natural terrain, regardless of whether or not it is also designed for on-highway use)

SAE J1287

96 dB

On-Highway Motorcycle

SAE J2825

96 dB for engine with less than 3 cylinders or more than 4 cylinders  
/ 100 dB for engine with 3 or 4 cylinders

Snowmobile

SAE J2567

82 dB

All of the above methods are designed for roadside enforcement. If no such method has been developed for larger, commercial vehicles (i.e. trucks with a Gross Vehicle Weight Rating over 14,000 pounds), perhaps the county could enforce some other form of reasonable sound standards to them. However, any such regulation should be done in cooperation with pertinent agencies and industries in order to avoid risks to public safety, not to mention productivity.

All of the above methods and standards have worked in other states with the exception of UTVs that, when it comes to the J1287 method, have thus far only been limited to levels higher than 92 dB. The beauty of 92 dB is that, while it would require a retrofit for most of the UTVs around Moab (including the ones with the most distracting quality of sound), the retrofit is available from aftermarket brands. A limit that's lower than 92 dB would prevent most owners from being able to retrofit their existing UTVs into compliance (except perhaps after the slow and expense development of new products), which would lead to far more resistance from UTV owners (in addition to more challenging legal arguments). If limiting UTVs to 92 dB is like realigning a river, limiting them to something less at this stage would be like damming the river, in other words exceedingly difficult and fortunately unnecessary as the retrofitted UTVs will sound a lot less conspicuous.

Finally, we see that the latest version of your draft ordinance exempts motorcycles that don't meet a 92 dB by J1287 standard provided that they have an EPA emission label. Such an exemption is fine, however it does not justify applying a 92 dB standard to motorcycles, as 96 dB is designed to match (to the degree it's possible) the federal pass-by standard with a margin of error for roadside testing. There are many motorcycles without EPA labels that can be ridden without disrupting others, yet they measure over 92 dB by J1287, hence the need for a 96 dB standard. On a positive note, we are glad that the draft ordinance doesn't require EPA labels, as they're designed to be inspected on the showroom floor, not roadside when grime and other factors come into play.

2. Also regarding the stationary sound standards, which are equipment-based, we are glad that the latest version of your draft ordinance does not attempt to apply different standards for nighttime use. Certainly we encourage people to be even more considerate at night, which is easier to do since there's less traffic, allowing one to accelerate more slowly. Also, with fewer other sources of sound, night is an easier time to isolate a source of sound and enforce standards in general.

3. Regarding the rest of Table 1 ("All Other Noise in Residential Zones"), the county's current standard is 85 dB at 25' in from the property line. This new draft of 75 dB at the property line (and 70 dB at night) is too stringent, but we appreciate the fact that it applies to all sounds instead of targeting motor vehicles. Unlike the equipment-based standards described in the previous section, this event-based standard would be harder to capture, and harder to prove that a measurement came from the given source. If Grand County manages to enforce them, we will expect equal scrutiny placed on different types of vehicle, and non-vehicle sources of sound.

4. We agree with prohibiting revving (aka 'throttle jockeying') in Certain Noises Prohibited (11.03.010), but revving needs to be allowed under certain situations like warming up a carbureted engine, moving quickly to avoid collision, or warning of danger. Please conclude the revving prohibition with "except to ensure its safe operation," or add a preface like the one from the City of Daytona Beach, which states "No person, while occupying any public right-of-way in the city, shall operate any noise-creating device for the purpose of drawing attention to the source of the noise."

5. Regarding Motor Vehicle Prohibitions (11.04.010), parts A and D appear to prohibit any modification of exhaust systems, which is a problem. While many aftermarket exhaust systems create excessive sound, some of them eliminate it, especially for some OHV models that are loud in stock form. Even for automobiles, which are generally not loud in stock form, it can become difficult to find stock mufflers as a vehicle ages. Exhaust modification is the only avenue for many vehicles to comply with stationary sound standards. Besides, the stationary sound standards would prevent excessive sound, making the exhaust system's origin irrelevant. Therefore we suggest replacing this section with one from Utah code which prohibits muffler cutouts and bypasses because those specific modifications necessarily increase sound:

"41-6a-1626. Mufflers -- Prevention of noise, smoke, and fumes -- Air pollution control devices.

(1)

(a) A vehicle shall be equipped, maintained, and operated to prevent excessive or unusual noise.

(b) A motor vehicle shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation.

(c) A person may not use a muffler cut-out, bypass, or similar device on a vehicle."



Also, since OHV mufflers that lack spark arrestors are often louder, this section should reiterate Utah code pertaining to spark arrestors:

"41-22-10.7... an off-highway vehicle shall be equipped with... a noise control device and except for a snowmobile, a spark arrestor device."

The ordinance could specify that spark arrestors are required for All-Terrain Type I Vehicles, All-Terrain Type II Vehicles, and Off-Highway Motorcycles (any motorcycle that is designed for use on trails or natural terrain, regardless of whether or not it is also designed for on-highway use).

6. Also regarding Motor Vehicle Prohibitions (11.04.010), the latest version removes Part E that defines the sufficient basis for stopping vehicles, but it adds similar figures (at 25' and 50' from the vehicle) as standards under "All Motor Vehicles" in Table 1. We doubt the necessity of such a standard since probable cause can be established by consultation with a business that specializes in regulating OHV sound, and shouldn't need to be locked into an ordinance.

#### ATV Business Licenses (Title 5)

7. The section "Fleet Inventories" (5.02.010) appears to be reasonable provided that changes made to the fleet wouldn't need to be reported until the following January.

8. We disagree with capping the "Maximum Number of ATV Licenses" (5.02.020) because it would stifle free enterprise, and because the BLM already caps the number of commercial permits issued on the most popular trails.

9. The MTC suggests that "Maximum Sound Pressure Levels, db(A) for ATVs" (5.02.020) should simply match the 92 dB by J1287 standard that would apply to non-commercial UTVs. A 92 dB standard would require most rental units to be retrofit, significantly reducing the sound output. A standard lower than 92 dB would make it impossible for most rental units to comply and, since developing an even-quieter retrofit could take years, ATV businesses would like have to sell the majority of their units. A 92 dB standard would result in customers being able to rent a sport model that is relatively-quiet or retrofit to reduce the stock level of sound. Few sport models, even with a retrofit, could comply with a standard below 92 dB, which would result in more customers bringing sport models from outside the county. It wouldn't significantly reduce the noise, and it would significantly reduce the tax revenue to local government (by nearly \$50 per rental).

Aside from the stringency of a standard, the method should be stationary for ease of inspection. While pass-by standard could be used, it would complicate the inspection, and it would need to specify the vehicle operation (e.g. engine speed and vehicle speed), not just the maximum decibels at a certain

distance. The figure of 60 dB at 50' may come from NPS rules, but this rule is not enforced, and it's often broken. The NPS has many areas of expertise, such as interpretation, but vehicle regulation is not one of them. For example, the agency limited group size to 3 vehicles on White Rim Trail despite being alerted to the fact that motorcycling in such a remote location is safer in a group of at least 4, but hopefully new leadership will be more responsive.

10. The MTC suggests that any benefit of defining a "Maximum Caravan" (5.02.020) would be limited by the fact that it creates more groups and increases the exposure time. However, if Grand County insists on a caravan size of 6 vehicles or fewer, it should apply to "residential zones" as defined in the noise ordinance (11.02.010):

"Residential Zones" shall mean the Small Lot Residential, Large Lot Residential, Rural Residential and Multi-Family Residential Zones and associated permissible overlays established by the Grand County Land Use Code. As used herein, Residential Zone does not include the Range and Grazing Zone."

If Grand County insists on describing the area in terms of road type, then it's fine applying the caravan size to paved roads, but not to roadbase roads unless they're in incorporated areas. In other words:

1. all public roads within incorporated areas (i.e. even dirt roads within Castle Valley), AND
2. all paved roads outside of incorporated areas (i.e. even the paved part of Kane Creek Road that's beyond the Moab City limits)

Again, to achieve the county's intent, we'd prefer that the ordinance remove the maximum caravan or else apply it to "residential zones."

11. We disagree with capping the "Maximum ATV Fleet Size" (5.02.020) because it's better for UTV drivers to go through local outfitters, especially tours. Even rentals have more potential to educate UTV drivers compared to them visiting casually. Last year the MTC encouraged the county and city to improve education efforts (see letters below), possibly by requiring a course for renters (like Florida does with PWCs). Even if it's just watching the video "5 Great Tips for an Awesome Adventure in Moab" followed by a few multiple-choice questions, this education could benefit the public lands in addition to neighborhoods.

#### Zoning & Permits (Land Use Code)

12. We are glad to see ATV sales included the latest version of "Principal Uses by Zoning District" (Use Table Section 3.1), although we would prefer to see it match the zoning and permits of other vehicle sales. As with local ATV outfitters, ATV dealers are well-positioned to promote responsible use in addition to generating tax revenue, with the alternative being for people to purchase their UTVs in Grand Junction / Phoenix / elsewhere without Grand County having any influence. As such, all ATV businesses can be key allies for community interests.

## Conclusion

The MTC is pleased to see Grand County pursue regulating sound in a direct, objective, and practical manner. Rather than merely going through motions to persuade the state legislature that noise can only be mitigated through discriminating by vehicle type, we trust that the county is making a sincere effort to resolve noise concerns by reasonably regulating the equipment and behavior of individuals, and we hope the same for the City of Moab.

Given the urgency of noise concerns, it may be tempting to try regulating sound with severe measures, but they would likely have severe costs ranging from legal to political (and most of all societal). Please exercise patience just as local OHV advocates have done while promoting stationary sound standards for the past eighteen years, and specifically urging county and city officials to require a J1287 standard for all OHVs five years ago.

We feel that the serious regulations that the MTC supports deserve to be tried just as we have proposed them. Require stationary sound standards at the maximum decibels that we listed for each method that was designed for the given type of vehicle. Supplement them with restrictions on 'throttle jockeying' and the like, but let the stationary sound standard be the most stringent component, then see whether our ideas succeed on their own. If they fail, you'll be able to justify incrementing further regulation.

Until then, let's not throw out the baby with the bath water, so to speak. Thanks for your consideration.

Sincerely,



Clif Koontz

Motorized Trails Committee Chair

November 12th, 2020

Mary McGann, Chair  
Grand County Commission  
125 East Center Street  
Moab, Utah 84532

Dear Commissioner McGann:

The Motorized Trails Committee (MTC) would like to express concern about the direction that Grand County and Moab City are taking in the name of reducing vehicular noise. Grand County established the MTC one year ago in part to have a motorized-recreation voice which the Commission can lean on when facing challenges that emerge. As with the local motorized-recreation groups in previous years, the MTC has not dismissed noise concerns or claimed that voluntary education would be enough to resolve this issue, so it should be clear that we are not trying to shirk or delay action. However we greatly wish to avoid actions that are likely to entrench the issue.

Since it appears that Grand County is following Moab City's lead on this issue, we should note the city received invitations to participate in forming the MTC in the summer of 2019. Over the course of 2020, Moab City and Grand County received offers for the MTC's input on reducing vehicular noise. Instead of taking us up on it, the city and county on October 20th enacted ATV speed limits as well as open-ended moratoriums on new ATV business licenses and ATV event permits. Also on October 20th the Mayor set out to lobby the state legislature to prohibit non-resident ATV use on city and possibly county streets, essentially stripping the street-legality of ATVs that are registered as street-legal. For the purpose of these actions, "ATV" refers to the state's classification of Type I (traditional ATV), Type II (UTV), and Type III (rock crawler). We are concerned that these actions won't reduce vehicular noise, and that they will undermine other measures that would directly reduce noise in a widespread manner.

The MTC agrees with the February 4th letter submitted by Ride with Respect that recommended:

1. Improve education efforts, possibly by requiring a course for adults (like Oregon does) and/or for renters (like Florida does with PWCs),
2. Require the 96 dB standard based on J1287 for all OHVs (in Grand County or statewide), possibly for other types of vehicles as well (using the corresponding stationary sound tests for snowmobiles, on-highway motorcycles, automobiles, and even heavy trucks),
3. Persuade UTV manufacturers to make all models 92 dB or less based on J1287, just as most models already do.

Because the MTC represents enthusiasts of off-highway motorcycle, ATV, UTV, 4WD, and snowmobile recreation, we support requiring sound standards for those vehicle types (based on SAE J1287, J1492, and J2567 respectively). We encourage Grand County to approach enthusiasts of on-highway motorcycle, car, and heavy-truck use before requiring sound standards for those vehicle types (based on SAE J1287, J1492, and J1096 respectively). If the state of Utah is unreceptive to codifying these vehicle-based standards, they could be placed into a county ordinance in addition to the event-based county ordinance that is already in place. The vehicle-based standards easily ensure that vehicles are properly

muffled. If Grand County is also concerned with excessive revving of engines, it could establish yet another event-based ordinance, such as this one from the City of Daytona Beach, Florida:

"Sec. 42-277. - Creation of certain noises upon public right-of-way prohibited.

*(a) No person, while occupying any public right-of-way in the city, shall operate any noise-creating device for the purpose of drawing attention to the source of the noise.*

*(b) The prohibitions of this section shall include, but not be limited to, the following activity or conduct:*

*(1) Discharging fireworks or any exploding device.*

*(2) Firing a starter pistol.*

*(3) Sounding a bell or whistle.*

*(4) Rapid throttle advance (revving) of an internal combustion engine resulting in increased noise from the engine.*

(Ord. No. 02-300, § 1, 6-5-2002; Ord. No. 04-173, § 2, 4-21-2004)"

The MTC agrees with the October 19th letter submitted by Ride with Respect that identifies many drawbacks of the three actions that Grand County and Moab City passed on October 20th. Reducing speed limits specific to street-legal ATVs lacks precedence, increases the exposure time, and decreases traffic flow / productivity / fuel economy. Indefinitely prohibiting permits for ATV events crudely preempts those that are charitable in nature / limited to much-quieter models / outside of residential areas / outside of tourist season, and the prohibition incentivizes event organizers to operate under the radar or adjacent to Grand County. Indefinitely prohibiting new ATV business licenses discourages renting as an alternative to vehicle ownership / tours as an alternative to unguided recreation / competition among businesses to serve customers and the community, and it does nothing to increase the quality of use let alone decrease the quantity of use. Besides, decreasing the quantity of use should only be done after optimizing the quality of use, and after carefully determining the most equitable means of rationing.

Regarding the Mayor's pursuit of legislation to prohibit non-residents from using all three types of street-legal ATVs on city and possibly county streets, we question the feasibility of changing state law for one location, and the extent to which the city or county would have to sacrifice its other interests in order to make a deal with the legislature. If the street-legal ban came to pass, parking lots would overflow and people would be tempted to park along Sand Flats Road, Westwater Road, and Kane Creek Road among others. The BLM is spending roughly \$200,000 to improve the Poison Spider Trail parking lot (not to expand it, just to improve the existing lot). Before pushing legislation, consider whether it's worth the millions of dollars to expand trailheads instead of spending those limited public funds on other infrastructure, not to mention trail maintenance.

Further, when registering a Jeep or other 4WD vehicle as Type III ATVs, the DMV has told owners that they won't be able to switch back and register them as regular cars in future. Even if a prohibition wouldn't affect residents, second homeowners and longtime visitors apparently would be unable to register their Jeeps and other 4WD vehicles as cars even if they reinstall mud flaps and other stock items. In other words, they would have to trailer their Jeeps and other 4WD vehicles (often with diesel trucks that are louder than Jeeps) from their homes to reach anywhere, even if the vehicles were returned to their stock trim. Our point is not to argue that certain equipment (like 44" tires) or certain

vehicles (like UTVs) should be on city streets. That's for the state to decide. Our point is that this lobbying effort, just like the ATV speed limits and moratoriums, has a host of negative side effects and does virtually nothing to actually make the vehicles quieter.

Perhaps the most negative side effect of these recent actions will be the erosion of relationships with potential partners. For the past year, the MTC has generated good will with motorized trail enthusiasts while performing trail work, promoting responsible visitation, and faithfully informing the public as health guidelines rapidly developed this past spring. We have positioned the Moab community to secure state OHV grant funds for trail work, education, and even noise mitigation projects. We seek to unite the Moab community when expressing noise concerns to the state legislature and the OHV industry. The reduced speed limits, event moratorium, new business moratorium, and lobbying for a street-legal ban will divide us and weaken our voice outside the county.

The MTC respectfully asks that you "push the pause button" on these actions in order to give our recommendations a chance. Some of them can be implemented right away and, while others will take longer to achieve in full, they will resolve noise concerns in a lasting manner. Our recommendations would actually make UTVs quieter, and make other vehicle-types quieter, and do so across the whole county (possibly the whole state). Constructive solutions tend to depend on consensus, which tends to depend on suspending any actions that would appear cavalier (however tempting they may be). Please try changing tack so that we can most effectively assist you in serving the common interest.

Sincerely,



Clif Koontz

Motorized Trails Committee Chair



Ride with Respect  
395 McGill Avenue  
Moab, UT 84532  
435-259-8334  
501(c)(3)

October 19th, 2020

Grand County Commission  
125 E. Center Street  
Moab, UT 84532

Moab City Council  
217 E. Center Street  
Moab, UT 84532

Dear Commissioners and Council Members:

Thank you for addressing vehicular noise concerns. Since Ride with Respect (RwR) was founded in 2002, we have strongly encouraged operators to use quiet mufflers and to reduce sound upon passing other trail users, campgrounds, etc. That message was part of the first Sovereign Trail kiosks we installed in 2003, and was soon refined to specify mufflers that meet the 96 dB standard based on the J1287 procedure (aka "twenty-inch test"), as you can see below in my op-ed about responsible riding ethics from the Moab Times-Independent in 2006. In other words, we have shared concerns about excessive sound even before ATVs became street-legal, and before UTVs became popular.

Starting in 2016 RwR provided more detailed solutions for the community, culminating in the following three recommendations submitted to the Grand County and Moab City last February:

1. Improve education efforts, possibly by requiring a course for adults (like Oregon does) and/or for renters (like Florida does with PWCs),
2. Require the 96 dB standard based on J1287 for all OHVs (in Grand County or statewide), possibly for other types of vehicles as well (using the corresponding stationary sound tests for snowmobiles, on-highway motorcycles, automobiles, and even heavy trucks),
3. Persuade UTV manufacturers to make all models 92 dB or less based on J1287, just as most models already do.

Note that, while we absolutely encourage trying to get the state of Utah on board with these measures, Grand County can act independently if the state is unreceptive. You can require a brief educational course for renters. You can require the 96 dB standard for based on J1287 for all OHVs (and any other type of vehicle) so long as it merely enforces compliance with existing federal standards. You can approach the UTV manufacturers about reducing the sound produced by a few outlying models. They would take this suggestion more seriously after you take RwR's suggestions about education and sound testing more seriously.

#### Local Efforts Thus Far

Grand County did take education seriously to the point of producing Throttle Down yard signs, placards, radio PSAs, and of course the video "5 Great Tips for an Awesome Adventure in Moab." However RwR

has said all along that, particularly for UTVs which typically have continuously-variable transmissions (CVTs), the Throttle Down campaign will not fix the problem on its own. In response to the issue of permitting Rally On The Rocks, Grand County and Moab City have started to consider remedies more closely, and I provided both entities more details about event permitting and general sound mitigation from October 5th through the 12th.

On October 12th Mayor Niehaus replied to me that she appreciates RwR's recommendations, but they do not go far enough, and she is looking for serious compromise. I don't mean to complain, but if you want to know the compromises made, let me mention a few of the relationships that RwR risks with its recommendations:

1. OHV organizations statewide, which are key partners for RwR, will worry that adult OHV-education requirements would be coopted and made overly burdensome in order to restrict OHV use,
2. OHV riders, who are members of RwR, will resist vehicle sound requirements if they have installed a loud muffler or failed to maintain their stock one, and
3. OHV manufacturers, which have faithfully supported RwR's trail maintenance projects, will naturally bemoan any expectation that they surpass the federal standards already in place.

I think that compromising RwR's funding sources and professional relationships qualifies as serious. In regard to RwR's set of recommendations not going far enough, they would almost completely resolve noise concerns with OHVs. Granted, they are not overnight solutions. However, if the city or county had started adopting RwR's solutions in 2016, we could've resolved the noise issue by now, so the important part is get started down the right path.

The October 13th Moab City Council meeting included a presentation that provided a good overview of certain options, and the city staff have been quite cordial to me, but the overview of the "noise-metering devices and citations" option was totally inadequate. It failed to distinguish between the fundamental differences of enforcing an event-based ordinance (such as the city's existing one) and a vehicle-based ordinance (which can be tested almost any time in any place). Further it didn't distinguish between pass-by procedures (which are not designed for street enforcement) and stationary procedures (which are designed for street enforcement). The overview implied that enforcing vehicle-based stationary sound-test standards would require setting up a checkpoint (involving court affidavits, tends, and several officers) despite that I had just painstakingly explained to city and county staff why checkpoints are not required.

Also at the October 13th meeting, a council member questioned the feasibility of measuring vehicle sounds at these checkpoints because the J1287 procedure requires "traveling along the road at a certain throttle." Actually the entire point of stationary sound-testing procedures is that they can be conducted while the vehicle is stationary. Further he said that measurements can be taken from any distance and simply compensated. Actually the twenty-inch distance is what prevents ambient sounds from interfering with the test results, and it's important to follow the procedure so that any citation could be defended in court. Finally he said that J1287 is complicated by calling for different "throttle speeds" ranging from redline, half of redline, or still another specified RPM. Actually J1287 always specifies half of redline (i.e. half of the rated engine speed), and the OHV industry updates its list of target RPMs to include new models each year. I had sent a copy of this industry update showing all of the target RPMs to the council member along with other city and county staff, and I would be happy to demonstrate the procedure anytime, as it only takes a minute to perform.



## Speed Limits

In addition to looking more closely at RwR's recommendations, I ask you to look more closely at your draft actions. Making an OHV speed limit of 15 mph on all city roads, and one that's 10 mph slower than what's posted on any county Class B roads, is concerning in terms of legality, effectiveness, and side effects. Municipalities in Utah have posted OHV speed limits only on streets that are designated for OHV use, which are streets open to OHVs not registered as street-legal ATVs. The rationale is that the OHVs lack certain equipment such as brake lights and blinkers, so they need to go slower than other vehicles. Since street-legal ATVs have the additional equipment, they may drive the same speed as other vehicles, and municipalities with OHV speed limits have not applied them to street-legal ATVs. For the same reason, municipalities have not posted OHV speed limits on streets that are closed to OHVs, though they are open to street-legal ATVs. While there is precedence for posting OHV speed limits, there is not precedence for applying them to street-legal ATVs, nor to posting them on streets that are closed to OHVs.

Moab has already lowered the speed limit (to all vehicles) on streets in 2017, yet residents on those streets continue to express noise concerns, which is exactly what RwR forewarned in its 2017-02-12 letter to Moab City. Most UTVs produce roughly the same volume at 20 mph as they do at 25 mph or 30 mph. If you strictly enforce a 15 mph speed for UTVs, the volume will be somewhat lower, but the exposure time for any given residence will be significantly longer. At that low a speed, motorists behind the UTVs may be inclined to rev their engines or honk, which is more distracting than UTV sounds.

One side effect is decreased safety as the flow of traffic is disrupted. The concept of a separate OHV speed limit on streets designated for OHV use works because it doesn't generally occur in a congested downtown and because the OHV operators make it easy to pass. In contrast, operators of street-legal OHVs are accustomed to driving like anyone else because their vehicle is equipped to do so. Moab streets generally don't have room to safely pass, but of course some people will still try. Passing will cause conflict between motorists, and those who don't pass will become aggravated by the delay.

A third side effect is decreased productivity as getting stuck behind a street-legal ATV could mean taking twice as long to get up or down the valley. Drivers on the Wasatch Front may laugh at lamenting a ten-minute delay, but they don't expect to drive four hours to see a medical specialist. As a Moab resident, I expect it to take four hours to drive to a specialist, but I also expect it to take four minutes to get across town. When these delays are multiplied by thousands of people each day, the decrease in productivity is significant. Even in a tourist town, efficiency matters, particular when residents are trying to get to work... and most of all when trying to escape after work is done!

A fourth side effect is the roughly 25% increase in fuel consumption that results from driving 15 mph instead of 25 mph according to EPA statistics. Of course this increase will vary depending on the type of vehicle and the rate of acceleration among other factors, but fuel consumption will absolutely increase as speed decreases (since friction from wind and tires is negligible at these lower speeds). The same 2017 city council meeting that introduced lowering the speed limit also resulted in "Establishing Renewable Energy and Greenhouse Gas Emissions Reduction Goals." One way to reach those goals would be to avoid lowering the speed limit on more streets. (Of course there may be other compelling reasons to lower the speed limit for all vehicles on a given street, such as safety in front of the post office.)

Considering that OHV speed limits posted on all city streets and paved county roads would affect street-legal ATVs and all the vehicles behind them, the two draft ordinances would increase fuel consumption in Spanish Valley on the order of a hundred-thousand gallons each year. Meanwhile noise concerns wouldn't alleviate much more than they did in 2017.

### Event Permits

The joint resolution to categorically deny county or city permits for events that involve traditional ATVs, UTVs, or rock crawlers (i.e. 4WD vehicles that are registered as all terrain type III vehicles) is simply too broad of a brush. Grand County officials were clearly irritated by permitting negotiations with Rally On The Rocks, and perhaps those feelings were justified. However there are many kinds of events, for example an ATV ride for disabled veterans, or a UTV ride that's specific to much-quieter models. Events may simply pass through Moab such as going from Kokopelli's Trail to Rimrocker Trail. They may occur in the off-season between November and March. These events would need to avoid the following triggers for a county permit:

1. fees are charged,
2. retail sales are conducted,
3. vendors offer goods or services,
4. races, concerts, dances, exhibitions, lectures or a public assembly, such as a parade, rally or celebration, whether open to the public or not
5. where daily total attendance may exceed one hundred persons, or
6. that have quantifiable impacts to county services or the health, welfare, or safety of citizens.

Why incentivize organizers to avoid county and city permits? Why create a market for shadier organizers to operate under the radar, not to mention staging out of San Juan County but still impacting Grand County? Jeep Safari has proven that hundreds of large vehicles can roll into town without being a net loss for the community. The right event organizers can be important partners for the county and city.

### Business Licenses

The joint resolution to categorically deny new business licenses for touring or renting of traditional ATVs, UTVs, or rock crawlers (i.e. 4WD vehicles that are registered as all-terrain type III vehicles) would do little to resolve noise concerns. Obviously it would do nothing to improve private use. If renting becomes less available, people may be more inclined to purchase their own vehicle, store it, and trailer it (all of which is more consumptive than renting on location). Tours offer a way to ensure responsible visitation, and to foster safety for less-experienced trail users. New businesses could open up in San Juan County and send their customers to Grand County. With less competition in Grand County, existing businesses may feel less compelled to satisfy customers or even municipalities. Instead of capping the number of businesses, why not start to ask more of businesses in terms of educating customers and doing their part to reduce excessive sound, then see which businesses rise to the occasion? If the point is to limit the use, RwR recognizes that there is a finite capacity to accommodate all forms of recreation, but we question whether categorically denying new business licenses is the best means. Also, before limiting the amount of use, we suggest improving the quality of use by making it quieter.

### Conclusion

The best set of solutions would have a wide reach in terms of location (i.e. everywhere in the county, not just on paved roads) and the type of activity (i.e. all activity, not just special events or commercial use). Yet the best solutions would also be focused on addressing sound directly (i.e. adopting a vehicle-based sound ordinance and working with manufacturers to mellow out the loudest models, not just trying to use speed limits and commercial permits as proxies for sound).

In fact, the drafted joint action and ordinances would do so little to reduce sound that cynics might assume you're just creating congestion to pressure the legislature to let Grand County opt out of street-legal ATVs. However the legislature recently stopped letting Salt Lake County opt out (with the exception of certain types of highway), so I wouldn't bank on that option, especially because the legislature could tell you to try ready-made solutions like passing a new sound ordinance and enforcing the 96 dB standard based on J1287. Most of all, eliminating street-legal ATVs would do nothing to fix noise issues on public lands, not to mention the noise from other kinds of vehicle on the street.

Please understand that I don't mean to criticize any county or city staff, as this has been a very difficult year, particularly for emergency services. I just think that local government as a whole could do more about excessive sound, especially considering the funds generated by OHV tourism. By my calculations, Moab City and Grand County in combination receive about a million dollars each year just from their portions of the 18.25% tax on OHV rentals and 8.75% tax on OHV tours. Of course the tax revenue from other spending by OHV riders is even greater. I have advocated reinvesting some of those funds for trail work, even the promotional side of TRT funds, as a key component of promoting Moab is enhancing the product itself (which is primarily the trail experience). Likewise some of the OHV revenue should go toward resolving noise concerns.

Also note that RwR has loaned copies of the stationary sound-test procedures (for OHVs, on-highway motorcycles, automobiles, heavy trucks, and snowmobiles) to the Moab City Police and Grand County Sheriff offices. For any of these vehicle types, if you pass an ordinance enabling you to enforce the federal sound standards, then you should purchase copies from the SAE (which cost a total of \$390 when RwR purchased them).

Finally I should mention that, upon hearing of the October 20th commission meeting, the Motorized Trails Committee (MTC) discussed noise concerns and agreed to develop input for approval at its November 12th meeting. The MTC has members with decades of experience, and who have credibility among many motorized recreationists, so I hope you'll consider input from the MTC before taking action on this matter. Together we have an opportunity to resolve noise concerns for the benefit of Moab, Grand County, and beyond.

Sincerely,



Clif Koontz  
Executive Director



Ride with Respect  
395 McGill Avenue  
Moab, UT 84532  
435-259-8334  
501(c)(3)

February 4th, 2020

Mary McGann  
Grand County Council  
125 E. Center Street  
Moab, UT 84532

Dear Mary:

Thank you for requesting a summary of the suggestions I made at our January 24th meeting with other county staff, city staff, local outfitters, and state/national organizations representing off-highway vehicle use (OHV use, which includes off-highway motorcycles, ATVs, side-by-sides, and some 4WD vehicles).

Noise concerns, particularly from side-by-side vehicles (which some people call UTVs and which the state classifies as Type II ATVs), have persisted for over five years. I generally stand by the [opinion piece I wrote in 2016](#). Efforts like the City of Moab's lobbying to remove street-legal side-by-sides from city streets seems like a waste of taxpayer money when the resulting bill (a) is quite unlikely to pass the Utah legislature, (b) alienates side-by-side enthusiasts from being part of the solution, and (c) would do nothing to resolve noise concerns everywhere else in the county.

By the same token, to deny that noise concerns have any merit would be equally fruitless because (a) the concerns clearly extend beyond the traditional adversaries of OHV use, (b) OHV advocates who simply deny noise concerns won't be in position to ensure that the remedies are OHV-friendly, and (c) unresolved noise concerns breed animosity that needlessly threaten trail access and other OHV interests.

Since resolving this issue will take a combination of measures, we should be open to considering new ideas, but we should also recognize when subsequent investigation yields limited potential. Reducing the speed limit hasn't done very much to reduce sound from side-by-sides. Encouraging side-by-side drivers to use alternate routes would be great if non-residential streets existed around Moab, but they generally don't. Granted, marking the primary routes to various trailheads could help to increase efficiency, which is essentially navigational marking rather than the marking of alternate or preferred routes. But again this impact will be limited since most noise concerns do not result merely from lost drivers.

Therefore we suggest focusing on three remedies in the following order. First and foremost, invest in more education by improving the Throttle Down campaign and then going beyond it. Something like the Moab Area Travel Council's "5 Great Tips..." video could be more widely distributed, especially at OHV rental businesses. This could be done on a voluntary basis, or it could follow [Florida's model for renting personal watercraft](#) (aka Wave Runners), in which rental customers must watch a brief video followed by a simple exam that takes a total of less than twenty minutes. In fact, such an operator license could be required of all adults who operate OHVs, whether they rent or own. [Oregon requires all adults to complete a two-hour course](#) before operating OHVs, while most other states including [Utah require only](#)

[youth to complete a course](#), which takes several hours to complete. This multi-hour time commitment may be unrealistic for rental customers, but any educational course should be long enough to cover more topics than noise (such as RWR's motto of "caution ~ consideration ~ conservation" that represents respecting oneself, others, and the land, itself). Mandating adult OHV education would need to involve (a) OHV groups, (b) the OHV Program of Utah State Parks, and ultimately (c) the state legislature. In the meantime, Grand County could do even more than it already has done to reach people voluntarily.

Second, since vehicle sound is not only a function of the operator's behavior but also of the vehicle's equipment, Grand County should utilize the stationary sound-testing procedure that the OHV industry developed so that mufflers could be measured in the field (not just in the laboratory). With this procedure, known as SAE J1287 or the "twenty inch" test, a cap of 96 dB prevents the failing of any stock (unmodified) vehicles as well as those outfitted with aftermarket mufflers that are advertised as being 96 dB or less when measured by J1287. Simply educating OHV operators of the 96 dB standard and offering educational sound testing (which RWR can perform) would help raise awareness of the importance of effective mufflers. The 96 dB standard could become a requirement locally or statewide, as it is in a dozen states including New Mexico, [Colorado](#), Wyoming, Idaho, and Montana. Similar standards could be required for street motorcycles (based on [SAE J2825](#)), automobiles (based on SAE J1492), and even snowmobiles (based on SAE J2567). Grand County should work with the affected user groups before pursuing these requirements but, for the OHV user group specifically, we can assure you that the J1287 test has worked well for nearly forty years. Even merely requesting compliance with the standards of these industry-funded sound tests could help to reduce the outliers, which are the unusually-loud vehicles that are responsible for a lot of the noise concerns.

Third, since throttling down and meeting the 96 dB standard wouldn't be quite enough to completely resolve the noise concerns with side-by-sides, Grand County could request that manufacturers produce their line of side-by-side models to consistently exceed the federal standard for sound. (The federal standard for OHVs is 82 dB from a distance of fifty feet as the vehicle passes by, which requires a laboratory setting for accuracy, hence the stationary sound-testing procedures developed to provide an equivalent standard of 96 dB at twenty inches that can be measured accurately almost anywhere.) The vast majority of side-by-side models already exceed the federal standard (by measuring between 87 and 92 dB via the stationary sound test). Unfortunately a few of the most popular side-by-side models measure between 93 and 96 dB. On top of that, these models have continuously-variable transmissions (CVTs) that require operating at a higher engine speed (i.e. RPM) in order to propel the vehicle forward. Further, some of these models produce a sound quality that is more distracting to the majority of people. In contrast, motorcycles that likewise measure between 93 and 96 dB generally cause fewer noise concerns because their sound quality is less distracting, their transmissions allow riders to shift into a higher gear in order to keep the engine speed down, and their lower weight tends to allow for lower engine speed. (The typical weight of off-highway motorcycles is 200-300 lbs compared to 1,000-2,000 lbs for side-by-sides.)

For these reasons, manufacturers should agree to make all their side-by-side models exceed the federal sound standard by four decibels (or more). [This four-decibel reduction actually refers to a target of 92dB via the stationary sound test, which may translate to less than a four-decibel reduction via the pass-by sound test.] This is entirely possible without significantly compromising the power, weight, or cost. It simply depends on getting all manufacturers—probably through their trade association—to recognize that reducing side-by-side sound by a little bit would help their long-term outlook a lot. In response to

Grand County's request, side-by-side manufacturers are likely to point out that (a) they oppose side-by-side use on streets and other paved surfaces, (b) they paid millions of dollars for SAE to develop stationary sound testing that could ensure the use of effective mufflers, and (c) noise concerns are largely a function of the operator's behavior which warrants education more so than vehicle redesign. Therefore it would be important for Grand County to clarify that (a) noise concerns extend beyond residential neighborhoods to campgrounds / trails / livestock range / wildlife habitat, (b) Grand County will utilize the stationary sound-testing procedure in some fashion, and (c) Grand County will continue investing in the development and distribution of educational materials to promote responsible riding practices (although CVT models leave the operator with less ability to reduce sound). In order to persuade a billion-dollar industry to self-impose a more stringent standard, Grand County would need to demonstrate that it's utilizing the available resources, and that those resources aren't quite enough to resolve the noise issue.

Grand County should also demonstrate that it is working with OHV groups including RWR. Finally we encourage you to engage the new Motorized Trails Committee. If asked, the MTC could develop recommendations, and it could assist with implementation.

Thanks to you and the other Council members for trying to resolve noise concerns while maintaining OHV opportunities as a critical component to the lifestyle and livelihood of our community.

Sincerely,



Clif Koontz  
Executive Director



# The Times-Independent

Moab, Utah

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## **My View:** ***Sound standards for small vehicles...***

by Clif Koontz

4 months ago | 746 views | 0  | 22  |  |  [Subscribe](#)

After this year's Rally On The Rocks, Motos In Moab, and Memorial Day weekend, the issue of excessive sound is probably still ringing in the minds of many Moabites. Some would like to ban street-legal off-highway vehicles (OHV's), but they don't seem to appreciate the importance of diversity in our economy and community. Plus, trailering OHV's to trailheads would create more congestion than letting them ride directly from town. In contrast, some would oppose further regulation of any kind, but they don't seem to appreciate that another's eardrums might still be intact, creating a real imposition on his or her recreational and residential pursuits. In the near future, it seems likely that street-legal OHVs will be neither banned nor impervious to additional rules. There's no silver bullet, as quick fixes tend to solve little, while perfect solutions tend to be out of reach.

That said, a relatively effective and attainable remedy exists, but allow me to zoom into it. User conflict can be exacerbated by crowding, which has more to do with the amount of use than the type. In the case of Motos In Moab, a co-organizer said there were 100 participants in 2015 and there would be up to 1,000 participants in 2016, 5,000 participants in 2017, and 10,000 participants in 2018. Personally, the co-organizer's ethic of inclusion is appealing, but there's such a thing as too much inclusion, such as 10,000 motorcycles in a town of 5,000 residents.

To resolve user conflict on the streets, let's borrow the "Four E's" of trail management from the National Off-Highway Vehicle Conservation Council. In my opinion, the most important "E" is Education. It's off to a good start with the "Throttle Down in Town" campaign, thanks to our local government, businesses, and citizens. After simply placing lawn signs around town, street-legal OHV riders and drivers seem to be backing off the throttle, by and large. Unfortunately, there's a limitation with most side-by-side (aka UTV) machines, since their transmissions demand a higher RPM, not to mention the sound generated by such wide knobby tires. Fortunately, adding a few pounds of extra muffler weight doesn't affect side-by-sides as much as it would affect motorcycles, so they could be designed quieter without sacrificing handling or engine



performance. Anyway, education can also be done through events such as Motos In Moab, which has a website that currently doesn't mention sound, let alone any vehicle requirements.

The second "E" is Engineering which, on the trail, could mean designing turns that are frequent and flowing to keep the engine speeds down. I'm certainly not a city engineer, but have noticed that there are currently just three streets to get through the lower valley (500 West, Main Street, and 400 East). Main Street concentrates almost every use, which probably frustrates the truck drivers as much as it does the pedestrians.

The third "E" is Evaluation, which means monitoring the changes in trail conditions, but could also mean monitoring sound levels around town, or even our perceptions thereof.

The final "E" is Enforcement, which is expensive, although it usually doesn't take a lot of enforcement to get the word out. It's a tough job to enforce the rules assertively without the perception of harassing tourists or discriminating against one kind over another. Thankfully a standard exists for our law-enforcement officers to objectively and conveniently measure vehicle sound. In the 1970s, a stationary procedure called SAE J1287 was developed for off-highway motorcycles (aka dirt bikes) by the Motorcycle Industry Council. Since then, this sound test was expanded to include ATVs (aka quads) and side-by-sides. In 2009, a similar test called SAE J2825 was developed for on-highway motorcycles (aka street bikes).

The vast majority of stock mufflers and even some aftermarket units meet these standards, which are often stamped "SAE J1287," "SAE J2825," or the equivalent EPA test. The beauty of the SAE tests is that, in case mufflers are tampered, officers can verify compliance roadside. Legally-defensible sound meters might cost a couple-thousand dollars, but educational sound meters costing only a couple-hundred dollars can be used at events. Since the SAE tests are measured at only 20-inches from the exhaust outlet, 96dB is the standard adopted by most governments, industry groups, and riding organizations. The SAE tests have been codified by several states, and the OHV-specific test (J1287) is already law in neighboring Colorado and Idaho. For counties and cities, model legislation is available from the American Motorcyclist Association ([www.americanmotorcyclist.com/rights/soundadvice](http://www.americanmotorcyclist.com/rights/soundadvice)).

Limiting street bikes and street-legal OHV's to 96dB based on the "20-inch test" wouldn't make all machines quiet, but it would eliminate the worst culprits. While noise ordinances require residents to document events at their property lines, the SAE tests enable law enforcement officers and educators to measure any small vehicle, virtually anytime and anywhere. Further, since manufacturers rate their products based on the SAE tests, it's easy for consumers to comply. From giddy motor-heads to get-off-my-lawn grouches, no one would find these sound standards to be perfect, but they might offer the perfect balance between our respective rights.

*Clif Koontz is the executive director of Ride with Respect, a nonprofit organization that conserves shared-use trails and their surroundings.*



## PEOPLE

### ations from Iraq ...

would remember me or any-

o let you know that news travels  
ewhat slow!

over here in Iraq I got word  
ed with my alma mater - GO

send out my congrats on a stel-  
at Grand. Hard to believe that  
headed kid that ran around the  
g and messed around in the HS  
same mountain of a young man  
ell in all the sports and activities

gratulations to you Zane! And  
family at *The Times-Independent*  
s and the best of wishes to you

n the desert!

Gibb, Site Operations Manager  
wn & Root - LOGCAP III H3 -  
Q'West Base Complex -Iraq

### llar boondoggle ...

ush's 2007 budget, the adminis-  
d its proposal to sell more than  
national forests and other public  
\$800 million during the next five  
rural school and road costs in 41  
Service list of 2,930 parcels in 34  
09,121 acres. The administration  
necessary because rural school  
e been hurt by logging cutbacks

ministration has cut the Forest  
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ising the Forest Service's budget,  
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Land Management also is work-  
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and giving tax cuts to the rich,  
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o health coverage. The victims  
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eing a billion-dollar boondoggle



## Times-Independent GUEST EDITORIAL

### Walk the Walk (*and Ride the Ride*)

by Clif Koontz

Gripping about trail closures is a popular pastime for motorcyclists, ATVers, rock crawlers, and even some mountain bikers. It seems like legal places to ride always shrink, and never grow. But it would be hypocritical to whine about restrictions if you were just adding fuel to the fire. So I devised a simple checklist to ensure that your land ethic is up to par. This list also serves as a way to evaluate others you encounter. If you affirmatively answer all the following questions, then you can protest with righteousness. Otherwise, you need to shape up. Happy trails!

#### SAFETY

1. Do I use a well-maintained vehicle and proper riding gear, while bringing along a rain jacket, map, extra food and water, tool kit, and first aid supplies? (*don't forget the TP*)
2. Do I use proper riding technique and stay in control? (*saving the beer for afterwards*)
3. Do I look out for others in my group? (*instead of playing your own episode of Survivor*)

#### LEGALITY

4. Does my muffler emit less than 96 decibels from 20 inches away? (*and no sparks*)
5. Do I properly register my equipment? (*including the OHV sticker that funds trail work and education programs, not just Johnny Law*)
6. Do I follow all applicable rules from federal, state, and local agencies? (*no trespassing, either*)
7. Do I stay on designated or established trails, where travel is restricted to them? (*not just the "trail" made by the guy in front of you*)
8. To ride off-trail, do I choose areas specifically set aside for unrestricted use? (*not just any place without a closed sign*)

#### ENVIRONMENT

9. Do I stage in previously-used sites, and practice minimum-impact camping? (*the desert doesn't generate enough wood for personal fires*)
10. Do I stay precisely on trails that are wider than my vehicle, following the most established path? (*four wheels don't fit on singletrack*)
11. Do I park or turn around within the confines of the trail, on slickrock or in active wash bottoms? (*U-turns and singletrack don't mix*)
12. Do I avoid sensitive conditions, such as mountains or clay-based soil when wet? (*wheel spin and hills don't mix*)
13. Do I yield to wildlife and livestock, viewing them only from a distance? (*they don't need help getting exercise*)

#### SOCIETY

14. Am I respectful to other land users, in the staging area and on the trail? (*they're not impressed by wheelies*)
15. When passing, do I slow down, minimize dust, lower RPMs, say "hello," and give others room? (*without leaving the trail bed, smarty pants*)
16. If encountering a horseman, do I shut off my engine and ask the rider for instructions? (*instead of playing Cowboys & Indians*)

#### ACTIVISM

17. Do I educate others to "tread lightly"? (*or let them continue to ruin your image*)
18. Do I pitch in with trail maintenance? (*"I pay my taxes" is not enough*)
19. Do I support organizations that promote responsible recreation? (*"they should do something"*)
20. Do I exercise my democratic voice in the management of public lands? (*"dang bureaucrats"*)

Clif Koontz is the program director for *Ride with Respect*, non-profit. Based in Moab, *Ride with Respect* maintains recreational trails and educates visitors.

### Simply un-American ...

This is a letter of support and appreciation for Kaaron Jorgen and the Grand County School Board, relative to their opposition to the teaching of religion in the public schools. According to the

### No choice but to respond ...

I don't usually respond to letters in *The Times-Independent* attacking our planning commission and county council but the guest editorial from Mike Suarez in last week's paper has left me no

# Grand County Approved Noise Pollution Ordinance

## Title 11

### NOISE POLLUTION

#### Chapters:

- 11.01 Purpose; General
- 11.02 Definitions
- 11.03 Noise Disturbance Prohibited
- 11.04 Specific Noise Prohibitions
- 11.05 Noise Levels
- 11.06 Motor Vehicles
- 11.06 Exemptions; Exceptions
- 11.07 Enforcement

#### CHAPTER 11.01

##### PURPOSE; GENERAL

- 11.01.010 Purpose
- 11.01.020 General Prohibition of Noise
- 11.01.030 Powers and Duties

##### 11.01.010 Purpose.

These regulations establish minimum standards to:

A. Reduce the making and creation of excessive or unusual noises in the unincorporated areas of Grand County; and

B. Prevent excessive or unusual noises that are prolonged or unreasonable in their time, place, or use, that affect and are a detriment to public health, comfort, convenience, safety, or welfare of the residents of and visitors to the unincorporated areas of Grand County; and

C. Secure and promote the public health, comfort, convenience, safety, welfare and the peace and quiet of the residents of and visitors to the unincorporated areas of Grand County.

D. Protect and preserve the County's residential areas and Community Zones from avoidable noise impacts caused by excessive or unusual noises; and

E. Balance the natural quiet of the surrounding desert landscape with its world-class recreation economy that depends on a variety of users and recreational experiences including mountain bikers, motorized Jeep/4x4 users, hikers, equestrians, hunters, boaters, climbers, dirt bikers, motorcyclists, bird watchers, road bikers, and adventure athletes such as basejumpers and slackliners.

11.01.020 General Prohibition of Noise.

It is unlawful for any person to produce, continue, or cause to be produced or continued, any Excessive or Unusual Noise during any hours or Loud Noise during Restricted Hours within the unincorporated areas of Grand County that violates this Title.

11.01.030 Powers and Duties.

The Sheriff, County Attorney, Commission Administrator, and Planning and Zoning Administrator shall be responsible for the administration of these rules and regulations and any other powers vested in them by law and shall make inspections of any premises and issue orders as necessary to effect the purposes of these regulations, and do any and all acts permitted by law that are necessary for the successful enforcement of these regulations.

## CHAPTER 11.02

### DEFINITIONS

11.02.010 Definitions.

A. "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.

B. "Commercial Zones" means Neighborhood Commercial, General Business, Highway Commercial, Resort Commercial and Resort Special and associated permissible overlays established by the Grand County Land Use Code. Commercial Zones shall not include the Heavy or Light Industrial Zones.

C. "County" means Grand County or its designee, and all such references to a County employee or elected officer shall include their designee;

D. "dBA" means the sound pressure level using the "A" frequency weighting and the fast response setting on a Sound Level Meter, unless otherwise noted or required by testing standards established by the County.

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

F. "Domestic Power Tools and Equipment" means any device powered mechanically, by electricity, by gasoline, by diesel fuel or by any other fuel, which is intended to be used, or is actually used for residential construction, repair, and maintenance.

G. "Emergency" means a situation or occurrence which may present an imminent threat to the health, safety or welfare of any person, place or property.

H. “Excessive or Unusual Noise” means any Sound or Noise that exceeds the “Maximum Sound Pressure Levels, dBA, during all hours” set forth in Chapter 11.05 when measured at the distances provided therein as measured on a Sound Level Meter.

I. “Loud Noise” means any Sound or Noise that annoys or disturbs a reasonable person(s) with normal sensitivities or that injures or endangers the comfort, repose, health, hearing, peace or safety of another person(s), including any Sound or Noise that exceeds the “Maximum Sound Pressure Levels, dBA, during Restricted Hours” set forth in Chapter 11.05 when measured at the distances provided therein as measured on a Sound Level Meter.

J. “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, including an off-road motorcycle, as defined in Utah Code § 41-1a-102(42).

K. “Motor Vehicle” means a self-propelled vehicle intended primarily for use and operation on the highways, as defined in Utah Code § 41-1a-102, including ATVs and Motorcycles. Motor Vehicle and Vehicle may be used interchangeably herein.

L. “Muffler” means an apparatus consisting of a series of chambers or baffle plates designed to transmit gases while reducing sound, or as otherwise defined by Utah law.

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

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

O. “Off-Highway Motorcycle” means any motorcycle that is not an On-Highway Motorcycle.

P. “Off-Highway Vehicle” means every all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle as defined in Utah Code § 41-22-2, including street-legal all-terrain vehicles as defined in and regulated by Utah Code § 41-6a-1509.

Q. “On-Highway Motorcycle” means any motorcycle that: (a) is capable of achieving a maximum speed of at least 25 mph over a level paved surface and is

equipped with features customarily associated with practical street or highway use, such features including but not limited to any of the following: stoplight, horn, rear view mirror, turn signals; or (b) has an engine displacement less than 50 cubic centimeters; produces no more than two brake horsepower; and cannot exceed 30 mph over a level paved surface.

R. “Plainly Audible” means any sound that can be detected by a person using his or her 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.

S. “Property Boundary” means an imaginary line at the ground surface, and its vertical extension that separates the real property owned by one person from that property owned by another person.

T. “Residential Property” shall mean any property used for living or dwelling by individuals.

U. “Residential Zones” shall mean the Small Lot Residential, Large Lot Residential, Rural Residential and Multi-Family Residential Zones and associated permissible overlays established by the Grand County Land Use Code. As used herein, Residential Zone does not include the Range and Grazing Zone.

V. “Restricted Hours” are from 9 pm to 7 am (and 9 pm to 9 am on Sunday), except during the summer months, defined as May through September, when the Restricted Hours are from 10 pm to 6 am.

W. “Sound” means a temporal and spatial oscillation in pressure, or other physical quantity with interval forces that cause compression or rarefaction of the medium, and that propagates at finite speed to distant points.

X. “Sound Level Meter” or “SLM” means a sound level meter meeting the ANSI S1.4 Type 1 or Type 2 standard for sound level meters, or the IEC 61672 Class 1 or Class 2 standard for sound level meters.

Y. “Vehicle” means all Motor Vehicles and Off-Highway Vehicles as defined by Utah Code, Title 41, including street-legal all-terrain vehicles as defined in and regulated by Utah Code § 41-6a-1509. Vehicle and Motor Vehicle may be used interchangeably herein.

## CHAPTER 11.03

### NOISE DISTURBANCE PROHIBITED

#### 11.03.010 Noise Disturbance Prohibited

No person shall make, continue, or cause to be made or continued any Noise Disturbance.

## CHAPTER 11.04

### SPECIFIC NOISE PROHIBITIONS

#### 11.04.010 Specific Noise Prohibitions During Restricted Hours

Regardless of the Maximum Sound Pressure Level, the following Noise is expressly prohibited outdoors in Residential or Commercial Zones during the Restricted Hours, unless permitted by Grand County:

A. Radios, Receivers, Televisions, Stereos, Speakers, Musical Instruments and Similar Devices for the production or reproduction of Sound if Plainly Audible one hundred feet (100') from the Emitting Property Boundary or fifty feet (50') from the source of the Sound if on public property;

B. Public Loudspeakers or sound amplifying equipment in a fixed or moveable position or mounted upon any sound vehicle on any public or private property for the purposes of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmission of music to any persons or assemblages of persons;

C. Animals that make frequent or habitual Noise, which prohibition shall apply to all private and public facilities, including any animal facilities that hold or treat animals;

D. Loading Operations within five hundred feet (500') of Residential Property, except as necessary for the collection of garbage, waste, refuse or recyclables by an operator approved by Grand County;

E. Domestic Power Tools and Equipment;

F. Fireworks, Explosives, Guns or other Explosive Devices;

G. Powered Model Mechanical Devices powered by internal combustion engines, whether tethered or remote-controlled, or a model rocket vehicle, drone or other similar noise-producing devices; and

H. Bells and Alarms including but not limited to, bells, chimes, or clocks in schools, houses of religious worship or governmental buildings for longer than five (5) minutes in any hour except in the event of emergency or natural disaster.

## CHAPTER 11.05

### NOISE LEVELS

#### 11.05.010 Noise Levels.

Except as expressly provided herein, no person shall make Noise which creates Excessive or Unusual Noise during any hours or Loud Noise during the Restricted Hours, as set forth in Tables 1, 2 and 3 below.

**Table 1**  
**Motor Vehicles (Stationary/Equipment Test)**  
**Maximum Sound Pressure Levels, dBA Emitted by Source**

<b>Measured at a distance of 20" from Exhaust Outlet at an Angle of 45 degrees</b>		
<b>Motor Vehicle Type</b>	<b>Stationary Test (Equipment Test)</b>	<b>Maximum Sound Pressure Levels during All Hours</b>
ATVs	SAE J1287	92 dBA
All Other Motor Vehicles with a manufacturer's gross vehicle weight rating of less than 9,000 pounds	SAE J1492	92 dBA
Motorcycles	N/A	See Section 11.06.030

**Table 2**  
**Motor Vehicles (Moving/Operational Test)**  
**Maximum Sound Pressure Levels, dBA Emitted by Source**

<b>Measured at a Distance of 25' from Centerline of Lane of Travel on County B Roads</b>		
<b>Motor Vehicle Type</b>	<b>Maximum Sound Pressure Level, dBA</b>	<b>Maximum Sound Pressure Level, dBA, during Restricted Hours</b>

Motorcycles and motor vehicles with a manufacturer's gross vehicle weight rating of less than 9,000 pounds.	80 dBA	78 dBA
<b>Measured at a Distance of 50' from Centerline of Lane of Travel on County B Roads</b>		
<b>Motor Vehicle Type</b>	<b>Maximum Sound Pressure Level, dBA</b>	<b>Maximum Sound Pressure Level, dBA, during Restricted Hours</b>
Motorcycles and motor vehicles with a manufacturer's gross vehicle weight rating of less than 9,000 pounds.	74 dBA	72 dBA

**Table 3**  
**Land Uses**  
**Maximum Sound Pressure Levels, dBA Emitted by Source**  
**Measured at Nearest Property Boundary**

	<b>Maximum Sound Pressure Level, dBA</b>	<b>Maximum Sound Pressure Level, dBA, during Restricted Hours</b>
<b>All Noise Impacting Residential Property, unless prohibited in Section 11.04.010</b>	60 dBA	55 dBA
<b>All Noise Impacting Residential and Nonresidential Property, unless prohibited in Section 11.04.010</b>	65 dBA	60 dBA

## CHAPTER 11.06

### MOTOR VEHICLES

- 11.06.010 Motor Vehicle Regulations
- 11.06.020 Certain Noises Prohibited on Public Rights-of-Way During All Hours
- 11.06.030 Motorcycles

11.06.010 Motor Vehicle Regulations  
A person shall not:



- A. Equip, maintain, or operate a Vehicle that creates or causes Excessive or Unusual Noise;
- B. Operate any Vehicle, except an electric vehicle without a spark arrestor device and a muffler or other effective noise suppressing system in good working order and in constant operation;
- C. Use a muffler cut-out, bypass, or similar device on a vehicle; or
- D. Use a compression brake system(s) except as necessary for an emergency stop.

**11.06.020 Certain Noises Prohibited on Public Rights-of-Way During All Hours**

The following Noise is declared to be Excessive or Unusual Noise and expressly prohibited during all hours on County B Roads and related public rights-of-ways in the unincorporated County:

- A. Horns and Signaling Devices on any Vehicle, except as a danger warning signal as provided by the Utah Vehicle Code;
- B. Racing Events unless such activity occurs during a permitted Special Event in Grand County;
- C. Revving, aka rapid throttle advance, of an engine; and
- D. Any noise-creating device, including a Vehicle, operated for the purpose of drawing attention to the source of the noise.

**11.06.030 Motorcycles**

- A. No person shall operate an On-Highway 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, Volume 24, Part 205, Subpart D and Subpart E.
- B. No person shall operate an Off-Highway 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, Volume 24, Part 205, Subpart D and Subpart E.

**CHAPTER 11.07**

**EXEMPTIONS; EXCEPTIONS**

**11.07.010 Exemptions**

#### 11.07.020 Exceptions

##### 11.07.010 Exemptions

The following Noise shall be exempt from Chapter 11.05:

- A. Safety signals, warning devices and emergency pressure relief valves;
- B. That resulting from any emergency or natural disaster, including Noise created by authorized private and public emergency and private or public utilities when restoring service;
- C. Activities of a temporary nature during periods permitted by ordinance, policy, or permit by the County Council, Planning and Zoning Administrator, or Chair of the Special Events Committee or their official designees, including sporting and recreational activities;
- D. Agricultural and gardening operations where i) all reasonable efforts have been made to mitigate impact on surrounding properties; ii) any equipment is used according to the manufacturer's specifications and is in good working order; and iii) such operations do not occur during the Restricted Hours;
- E. Construction, fabrication, and property maintenance activities where i) all reasonable efforts have been made to mitigate impact on surrounding properties; ii) all equipment is used according to the manufacturer's specifications and is in good working order; iii) such activity does not occur during the Restricted Hours; and iv) such activity is not of unusual duration or occurrence;
- F. The unamplified human voice, except as limited by Utah Statute § 76-9-102 (Disorderly Conduct); and
- G. Snow removal.

#### 11.07.020 Exceptions

A. On or before July 31, 2021, the owner of any residential, commercial or industrial source of sound may apply to the County Commission Administrator (or designee) for an exception in order to provide time to comply with the maximum sound pressure levels set forth in Table 3 of Section 11.05.010 above. The County Commission Administrator shall have the authority, consistent with this Section, to grant an exception, not to exceed 365 days from the date of such application unless extended by the County Commission Administrator for good cause.

B. Any person seeking an exception in time to comply shall file an application with the County Commission Administrator. 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. The applicant shall mail notice of the application for an exception in time to all neighbors within one hundred feet (100') of the source of the sound and shall file an affidavit of mailing with the County

Commission Administrator. Any individual who claims to be adversely affected by allowance of the exception in time to comply may file a statement with the County Commission Administrator containing any information to support their claim. If the County Commission Administrator finds that a sufficient controversy exists regarding an application, a public hearing may be held.

C. In determining whether to grant or deny the application, the County Commission Administrator 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 County Commission Administrator may reasonably require. In granting or denying an application, the County Commission Administrator shall place on public file a copy of the decision and the reasons for denying or granting the exception in time to comply including a statement that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modification.

D. The County Commission Administrator may grant or deny the application. If the application is granted, the County Commission Administrator may impose conditions, including a schedule for achieving compliance. 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.

E. Appeals of an adverse decision of the County Commission Administrator shall be made to the County Commission. Review by the County Commission shall be limited to whether the decision is supported by substantial evidence.

## CHAPTER 11.08

### ENFORCEMENT

#### Sections:

- 11.08.010 Violation
- 11.08.020 Nuisance
- 11.08.030 Enforcement
- 11.08.040 Severability

#### 11.08.010 Violation

Any person who is found guilty of violating this Title 11, either by failing to do those acts required herein 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.

#### 11.08.020 Nuisance

As an additional remedy, the operation or maintenance of any device, instrument, Vehicle or machinery in violation of any provisions of this chapter, or which causes discomfort or

annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement as provided by law.

#### 11.08.030 Enforcement

A. Any peace officer is authorized to enforce the provisions of this section; provided that the County Commission may by administrative order authorize other officers or employees of the County to enforce all or part of the provisions of this Title 11.

B. The County Attorney may initiate legal action, civil or criminal, to abate any condition that exists in violation of this Title 11. In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating this Title 11 shall be liable for all expenses incurred by the County in removing or abating the Loud or Excessive Noise.

#### 11.08.040 Severability

In case any provision of this Title 11 shall be declared invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

**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

outcry 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**

<b>Receiving Land Use Category</b>	<b>Time</b>	<b>Sound Level Limit</b>	
		<b>(dBA)</b>	<b>(dBC)</b>
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)**

<b>Vehicle Class</b>	<b>25 feet or more</b>	<b>50 feet or more</b>
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