

CHAPTER 14 - MOTOR VEHICLES AND TRAFFIC

Sec. 14-76. Trucks; noise, truck routes; designations; restrictions on operation during designated hours; violations.

(a) The City Council finds that:

(1) There are arterial and collector roadways in the City of Peoria, as defined in the Peoria General Plan and Transportation Plan and that have been designated under this code as Truck Routes that traverse through residential areas to intense industrial and commercial zones (hereinafter, designated roadways).

(2) That traffic on these Designated Roadways late at night and early morning results in excessive noise, excessive vibration and dust that degrades the environment of the City to a degree that:

a. Is harmful and detrimental to the health, welfare and safety of the City's inhabitants;

b. Interferes with the comfortable enjoyment of life, property and recreation and with the conduct of business and industry.

c. Creates nuisances;

d. Creates incompatibility between residential uses and commercial uses;

(3) No one has the right to create excessive noise or excessive vibration.

(4) Effective control and elimination of excessive noise and excessive vibration is essential to the furtherance of the health and welfare of the of the city's inhabitants and to the conduct of the normal pursuits of life, recreation, commerce and industrial activity.

(b) It is the intent and purpose of this section to prevent excessive noise and excessive vibration and to limit, control and eliminate excessive noise and excessive vibration in general from whatever source, while minimizing any burdens on interstate or intrastate commerce in accordance with the United States Constitution and the Constitution of Arizona. Nothing in this section shall be interpreted to restrict the movement of interstate commerce under the United States Constitution and in the event any court of competent jurisdiction finds that a provision of this section constitutes a restriction upon interstate commerce under the United States Constitution, such provision shall be severed from the remainder of the section.

(c) Definitions: As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(1) City means City of Peoria, Arizona.

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(2) Designated Roadway means a public street of the City that has been designated in accordance with this section for restrictions on the operations of trucks during certain specified hours.

(3) Excessive Noise: any noise prohibited by Subsection (d) of this section.

(4) Person: any individual, natural person, syndicate, association, partnership, firm, corporation, institution, or other entity recognized by law as a subject of rights and duties.

(5) Truck: shall have the definition set forth in Sec. 14-66 of the Peoria City Code (1992).

(6) Vibration: an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point.

(7) Excessive Vibrations: the presence of a vibration or vibrations of such intensity, duration, frequency or character which annoy, disturb, or cause or tend to cause adverse psychological or physiological effects on persons, or damage or tend to damage personal or real property.

(d) Excessive Noise. It shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary, and unusual noise by operating a truck on a roadway designated in accordance with this Section for Restricted Truck Hours Operation, that disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

(e) Excessive Vibration. No person shall discharge, or allow the escape of sounds or vibrations of a nature which are prohibited by or are in excess of that permitted by this section, or which result in or cause noise or excessive vibration on a Roadway designated in accordance with this section for Restricted Truck Hours Operation.

(f) Strict Liability. It shall be unlawful for any person to cause to operate or operate any truck on a roadway designated in accordance with this section for Restricted Truck Hours Operation during the hours of 9:00 p.m. and 5:00 a.m.

(g) Other Remedies. Nothing in this ordinance shall be construed as limiting the rights of any person to redress in a court of law for any injury to person or damage to property caused by noise or excessive vibration.

(h) Powers and Duties of the Engineering Department. The Engineering Department shall have the following powers and duties:

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- (1) The Department shall be responsible for the administration and enforcement of this ordinance in cooperation with the Police Department.
- (2) After posting notices every 300 feet along the roadway at least 11 x 17 in size providing not less than fifteen (15) days notice of the intent to designate any designated truck route for restrictive truck hours regardless of its designation as a arterial or collector roadway. Truck operation shall be prohibited from 9:00 p.m. to 5:00 a.m.
- (3) No roadway designated as a state route or state highway shall be subject to the designation process.
- (4) No public street of the City having bridged crossings over both the New River and the Agua Fria River shall be subject to the designation Process.
- (5) No roadway shall be designated if the designation would preclude Truck Access in all four directions at a section line intersection.
 - (i) The standard that shall be used by the Director of Engineering in designating a roadway for restrictive truck hours that may be considered in determining whether a violation of the provisions of this section exists may include, but not be limited to, the following:
 - (1) The level of the noise in accordance with recognized engineering standards adopted by the Director of Engineering and whether such standards are exceeded;
 - (2) Whether the nature of the noise is usual or unusual;
 - (3) Whether the origin of the noise is natural or unnatural;
 - (4) The level and intensity of the background noise, if any;
 - (5) The proximity of the noise to residential sleeping facilities;
 - (6) The nature and zoning of the area within which the noise emanates and whether the area is predominantly residential in character;
 - (7) The density of the inhabitation of the area within which the noise emanates;
 - (8) The time of the day and night the noise occurs;
 - (9) The duration of the noise; and whether the noise is recurrent, intermittent, or constant.

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If the Director of Engineering determines that four or more of these factors are impacted, he shall have the jurisdiction to designate the roadway in accordance with this section.

(j) Any owner of real property fronting a roadway proposed to be designated for restrictive truck hours may file an appeal of the proposed designation within fifteen (15) from the date of the posted notice. The Appeal shall be filed with the Director of Engineering and shall be heard by the City exactions hearing officer appointed for such purposes pursuant to A.R.S. §9-500.16. The hearing officer shall decide the manner within 20 days of the appeal. The standard of review shall be whether Engineering Director had a reasonable basis to determine that four or more of the factors in subsection (h) were impacted. If the standard is deemed met, the designation shall be upheld.

(k) Violations of this section by operation of a truck on a designated roadway in violation of restrictive truck hours shall be a civil traffic violation. The Court or hearing officer shall impose a mandatory fine of Two Hundred and Fifty Dollars (\$250.00) for each cited violation of this section, or any other section of this code or any provision of Title 28, Arizona Revised Statutes, that is determined responsible, together with applicable surcharges. The Court shall not reduce the amount of the mandatory fine, but may provide for time payment.

(Ord. No. 99-08, 2/16/99, Enacted) (SUPP 1999-1)

State Law Reference, A.R.S. §28-1092. Reasonable Access; definitions.

(Ord No. 02-41, 6/4/2002, Amended) SUPP 2002-2

(Ord. No. 05-70, 11/15/05, Amended) SUPP 2005-04