

## 6.04.160 Excessive noise caused by animals or birds.

A. Definitions. In this section, unless the context otherwise requires:

1. "Property line" means the line which represents the legal limits of property (including an apartment, condominium, room or other dwelling unit) owned, leased or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on a public street or other public right-of-way, the "property line" shall be the nearest boundary of the public right-of-way.

B. Prohibited activity.

1. The following activities are prohibited if they produce clearly audible sound beyond the property line of the property on which they are conducted and they disturb the public peace, quiet or comfort of the neighboring inhabitants or the sound persists without interruption beyond the property line for ten or more minutes.

a. Owning, possessing, harboring or controlling any animals s or birds s which frequently or for continuous duration howls, barks, meows, squawks or makes other sounds.

C. Enforcement. The provisions of this section shall be enforced and administered by Pima Animal Care and appropriate local law enforcement.

D. Penalty. 1. A violation of any provision of this section is punishable by a fine of not less than two hundred dollars and no more than two thousand five hundred dollars for each violation. The fine may be suspended upon the owners successful completion of an animal obedience training which abates the noise. The court shall also enter an order of abatement against a party found responsible for a violation of this article. This shall not be construed to affect, in any way, the imposition of any mandatory minimum penalties provided herein.

2. If the owner of the animals s or birds s which have engaged in an activity prohibited by this section cannot be determined, the owner, lessee or occupant of the property on which the activity is located shall be deemed responsible for the violation.

3. Each day's continuance of a violation under this section shall be deemed a separate offense.

(Ord. 2004-17 § 1 (part), 2004; Ord. 1989-40 § 1, 1989)

**Comment [x1]:** Why is this being made plural?

**Deleted:** animal

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**Comment [x2]:** Cannot exceed \$500 per A.R.S. 11-1005(A)(6)(b).

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**Comment [x3]:** Is this so that if they violate again that they will be held in contempt or be charged with interference with judicial proceedings A.R.S. 13-2810(A)(2)?

**Comment [x4]:** I don't understand this sentence. What are you trying to say here?

**Deleted:** A violation of any provision of this section is a civil infraction and will be adjudicated by a hearing officer, as set forth in Section 6.04.160(F), and the written rules of procedure for hearings adopted by the board of supervisors.

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**Deleted:** 4. A fine of no less than fifty dollars and no more than five hundred dollars shall be imposed for each violation.

**Deleted:** E. Exemptions. Persons wishing to continue activities which constitute a violation of this section but were commenced prior to the enactment of the ordinance codified in this section may seek an exemption from the hearing officer. Such an exemption may be granted if the hearing officer finds that strict application of this section would cause undue hardship and that there is no reasonable or productive alternative method of engaging in the activity.

F. Hearing officer.

1. Scope. The hearing officer hears and decides appeals of violations under this section.

2. Powers and duties. The hearing officer performs the following duties:

a. Hearing and deciding complaints alleging civil violations of this section;

b. Administration of oaths;

c. The issuance of subpoenas and summonses ordering appearance before the hearing officer;

d. The making of any other order necessary for the determination and resolution of violations under this section.

3. Establishment. a. Appointment.

The hearing officer shall be appointed by the board of supervisors;

b. Qualifications. 1) The hearing officer shall have training, experience or familiarity with administrative ... [1]

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3. Establishment. a. Appointment. The hearing officer shall be appointed by the board of supervisors;

b. Qualifications. 1) The hearing officer shall have training, experience or familiarity with administrative hearings and this section;

2) The hearing officer may be an employee of the county, except that the hearing officer shall not be a Pima animal care officer;

3) Annual review. The board of supervisors shall conduct an annual review of the hearing officer;

4) Removal. The board of supervisors has the authority to remove the hearing officer, by majority vote, for neglect of duty, inefficiency or misconduct in office.

4. Transaction of Business. The hearing officer shall follow the written rules of procedures for hearings on civil violations of the Animal Control Ordinance, Chapter 6.04 of the Pima County Code, as adopted by the board of supervisors.

G. Judicial review. The final decision of the hearing officer may be reviewed by the superior court in accordance with Title 12, Chapter 7, Article 6 of the Arizona Revised Statutes.

H. Additional remedies. In addition to other remedies provided by law, the board of supervisors, the county attorney, Pima animal care or a private individual or other entity that is specially damaged by a violation of an animal statute or ordinance may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent or abate the violation