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MEMORANDUM

September 10, 2010

TO: Mayor and Council

FROM: Tim Wright

SUBJECT: Ordinance 790/Resolution 2575 (Noise)

On August 5, 2010, the Town Council directed staff to prepare amendments to the Town Code provisions addressing Noise. Based on this direction, Ordinance 790/Resolution 2575 has been prepared. The proposed code language unifies the Town's noise provisions and contains a general prohibition on certain types of noise along with specific types of noise that are per se violations. The organization and language are modeled after Phoenix, Yuma, and the International Municipal Lawyers Association model ordinance. In preparation of the draft, an attempt was made to retain the specific prohibitions currently contained in the Town Code and to leave the various penalty provisions the same (i.e., some criminal and some civil).

The Council discussed two additional things at the August 5, 2010 Council Meeting that are noteworthy: (1) include dB presumptions and (2) protect industrial areas. These two items are not specifically included in the draft. Staff is fearful that based upon the historical lack of land use planning in some areas of Town, explicit dB presumptions and the protection of industrial areas are at odds. Every one of the Town's industrial areas is bordered directly by residential zoning and/or uses. Staff does believe that the factors in Section 130.20(B) overcome the need for dB presumptions while at the same time protecting industrial areas.¹

Resolution 2575, Exhibit A (Section 130.20) is the meat of the proposed amendments.² See Attached. Proposed Section 130.20 is structured as follows:

Subsection A - General prohibitions on Noise
Subsection B - Factors to be used to determine if a violation of Subsection A has occurred
Subsection C - Specific acts that are per se violations
Subsection D - Exemptions
Subsections E, F, and G - Responsibility, Enforcement, and Penalties.

¹ The Subsection B factors are unique to Payson's Ordinance and were not included in any of the ordinances used as references.

² Resolution 2575, Exhibits B through G and Ordinance 790, Section 3 are conforming amendments that are necessary for consistency.