

Article 8

OFFENSES AFFECTING THE ENVIRONMENT

PART 1 NOISE POLLUTION - GENERAL

9.8.101: NOISE PROHIBITED:

- A. It is unlawful to make, create, or permit an excessive or unusually loud noise, or a noise which endangers public safety, or a noise which is harmful to any person, which can be heard without the use of an electronic measurement device or heard and measured in the manner prescribed in section [9.8.103](#) of this part; except when made under and in compliance with a permit issued pursuant to section [9.8.109](#) of this part.
- B. It is unlawful for any person to operate or allow to be operated any vehicle, machine, motor, or device or carry on any other activity in a manner as would be a violation of section [9.8.104](#) of this part and section [9.8.201](#) of this article or other applicable sections.
- C. It is unlawful for any person to operate, drive, or be in possession of a motor vehicle which is stopped, standing, parked or moving, and to make, create or permit an excessive or unusually loud noise, or a noise which endangers public safety, or is harmful to any person, which can be heard without the use of an electronic measurement device or heard and measured in the manner prescribed in section [9.8.103](#) of this part.
- D. It is unlawful for any person to be in control of and allow operation of an electronic theft or burglar alarm which sounds an audible signal, without an automatic shutoff device, and the audible signal sounds continually for more than sixteen (16) minutes. No part of this section shall apply to fire, smoke, sprinkler, medical or personal distress signaling devices.
- E. The complainant may include, but not be limited to, police officers acting under color of the person's authority.
- F. It is an exception to a charge under subsection C of this section that:
1. The vehicle was an emergency, medical, or public safety vehicle operating in its official capacity; or
 2. The vehicle's sound amplification system was used in compliance with a permit issued pursuant to section [9.8.109](#) of this part, or has the approval of the Mayor.

- G. Evidence of noise heard and measured in a manner prescribed in section [9.8.103](#) of this part, which is less than that required for a conviction by use of test or measurement as set out in section [9.8.103](#) of this part may be offered to prove a violation of this section as heard without an electronic measurement device. Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that a person has violated this section are:
1. The time of day.
 2. The location of the noise.
 3. Whether the noise can be heard from at least one hundred feet (100') from its source. (Ord. 96-41; Ord. 01-42; Ord. 11-19)

9.8.102: SOUND AMPLIFICATION SYSTEMS:

- A. Prohibited: It is unlawful for any person to operate, drive, or be in possession of a motor vehicle which is stopped, standing, parked or moving, and to make, create or permit an excessive or unusually loud noise, or a noise which endangers public safety, or is harmful to any person, which is caused by a sound amplification system, and which can be heard without the use of an electronic measurement device or heard and measured in the manner prescribed in section [9.8.103](#) of this part. Words or phrases need not be discernible.
- B. Sound Amplification System Defined: For the purposes of this section, "sound amplification system" means any radio, stereo, tape player, compact disc player, or other electronic device used for the amplification of sound.
- C. Complainant: The complainant may include, but not be limited to, police officers acting under color of the person's authority.
- D. Exception To Charge: It is an exception to a charge under subsection A of this section that:
1. The vehicle was an emergency, medical, or public safety vehicle operating in its official capacity;
or
 2. The vehicle's sound amplification system was used in compliance with a permit issued pursuant to section [9.8.109](#) of this part, or has the approval of the Mayor or the Mayor's designee, authorized to grant approval.
- E. Evidence: Evidence of noise heard and measured in a manner prescribed in section [9.8.103](#) of this part, which is less than that required for a conviction by use of test or measurement as set out in section [9.8.103](#) of this part may be offered to prove a violation of this section as heard without an

electronic measurement device. Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that a person has violated this section are:

1. The time of day.
2. The location of the noise.
3. Whether the noise can be heard from at least one hundred feet (100') from its source.

F. Penalties:

1. Upon conviction for a first offense for violating subsection A of this section, the court shall impose a fine of not less than seventy five dollars (\$75.00), nor more than five hundred dollars (\$500.00). The minimum fine imposed by this subsection shall be mandatory and the court shall not suspend or waive any portion of the minimum fine.
2. Upon conviction for a second offense for violating subsection A of this section, the court shall impose a fine of not less than one hundred fifty dollars (\$150.00), nor more than five hundred dollars (\$500.00). The minimum fine imposed by this subsection shall be mandatory and the court shall not suspend or waive any portion of the minimum fine.
3. Upon conviction for a third or subsequent offense for violating subsection A of this section, the court shall impose a fine of not less than three hundred dollars (\$300.00), nor more than five hundred dollars (\$500.00). The minimum fine imposed by this subsection shall be mandatory and the court shall not suspend or waive any portion of the minimum fine. Furthermore, the sound amplification system shall be forfeited, pursuant to subsection [9.1.205C](#) of this chapter.
 - a. The sound amplification system shall be confiscated by a police officer, when, on service of a citation for a violation of this section the arresting officer has knowledge or information that the person suspected of violating this section has two (2) previous convictions for violating this section.
 - b. Upon a determination by the arresting officer that the sound amplification system will be removed at the scene, the arresting officer's designee shall conduct the removal of the sound amplification system. If the arresting officer determines, in the officer's own discretion, that it is impractical to remove the sound amplification system at the scene of the violation, then the vehicle shall be impounded by the police for the limited purpose of the expedient removal of the sound amplification system.
 - c. The sound amplification system shall remain impounded until ordered released, or forfeited by the court pursuant to subsection [9.1.205C](#) of this chapter. (Ord. 96-41; Ord. 01-42; Ord. 11-19)

9.8.103: CLASSIFICATION, MEASUREMENT OF NOISE:

For purposes of determining and classifying any noise as excessive or unusually loud as declared to be unlawful and prohibited by this article, the following test measurements and requirements may be applied. A violation of sections [9.8.101](#) and [9.8.102](#) of this part may, however, occur without the following measurements being made:

A. Distance Of Measurement: Noise occurring within the jurisdiction of the City shall be measured at a distance of at least twenty five feet (25') from a noise source located within the public right of way, and if the noise source is located on private property or property other than the public right of way, at least twenty five feet (25') from the property line of the property on which the noise source is located.

B. Measurement:

1. The noise shall be measured on the A weighing scale on sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.
2. For purposes of this article, measurements with sound level meters shall be made when the wind velocity at the time and place of the measurement is not more than five (5) miles per hour, or twenty five (25) miles per hour with a windscreen.
3. In all sound level measurements consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of the sound level measurement. (Ord. 96-41; Ord. 01-42)

9.8.104: PERMISSIBLE NOISE LEVELS:

A noise measured or registered as provided in section [9.8.103](#) of this part from any source other than as provided in section [9.8.109](#) of this part at a level which is equal to or in excess of the db(A) established for the time period and zones listed in this section, is declared to be excessive and unusually loud and is unlawful.

Zone	7:00 A.M. To Next 7:00 P.M.	7:00 P.M. To Next 7:00 A.M.
Residential	55 dB(A)	50 dB(A)
Commercial	60 dB(A)	55 dB(A)
Light industrial	70 dB(A)	65 dB(A)
Industrial	80 dB(A)	75 dB(A)

For purposes of this section only, these zones shall be defined as follows:

A. Residential: An area of single or multi-family dwellings where businesses may or may not be conducted in the dwellings. The zone includes areas where multiple-unit dwellings, high rise apartment districts, and redevelopment districts are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with

limited office development, but it may not include retail shopping facilities. Residential zone includes educational facilities, hospitals, nursing homes and similar institutions.

B. Commercial:

1. An area where offices, clinics and the facilities needed to serve them are located;
2. An area with local shopping and service establishments located within walking distances of the residents served;
3. A tourist oriented area where hotels, motels and gasoline stations are located;
4. A large integrated regional shopping center;
5. A business strip along a main street containing offices, retail businesses and commercial enterprises;
6. A central business district; or
7. A commercially dominated area with multiple-unit dwellings.

C. Light Industrial:

1. An area containing clean and quiet research laboratories;
2. An area containing light industrial activities which are clean and quiet;
3. An area containing warehousing; or
4. An area in which other activities are conducted where the general environment is free from concentrated industrial activity.

D. Industrial: An area in which noise restrictions on industry are necessary to protect the value of adjacent properties for other economic activity, but shall not include agricultural operations.

E. Adjacent Zones: When a noise source can be measured from more than one zone, the permissible sound level of the more restrictive zone shall govern. (Ord. 96-41; Ord. 01-42)

9.8.105: PERMISSIBLE INCREASES:

Between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., the noise levels permitted in section [9.8.104](#) of this part may be increased by ten (10) dB(A) for a period of not to exceed fifteen (15) minutes in any one hour period. (Ord. 96-41; Ord. 01-42)

9.8.106: PERIODIC, IMPULSIVE NOISES:

Periodic, impulsive, or shrill noises are declared unlawful when the noises are at a sound level of five (5) dB(A) less than those listed in section [9.8.104](#) of this part. (Ord. 96-41; Ord. 01-42)

9.8.107: CONSTRUCTION PROJECTS:

Construction projects shall be subject to the maximum permissible noise levels specified for industrial zones for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority, or if no time limitation is imposed, then for a reasonable period of time for completion of project. (Ord. 96-41; Ord. 01-42)

9.8.108: RAILROAD RIGHTS OF WAY:

All railroad rights of way shall be considered as industrial zones for the purposes of this part, and the operation of trains shall be subject to the maximum permissible noise levels specified for the zone. (Ord. 96-41; Ord. 01-42)

9.8.109: HARDSHIP PERMITS:

Applications for a permit, for other than vehicular traffic, for relief from the noise level designated in this part on the basis of undue hardship may be made to the Mayor. Any permit granted by the Mayor shall contain all conditions upon which the permit has been granted and shall specify a reasonable time for which the permit shall be effective. The Mayor is authorized to designate a fee which reasonably covers administrative costs incurred for the issuance of the permit. The Mayor may grant the relief as applied for if it is found:

- A. That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this part; or
- B. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with sections [9.8.104](#), 9.8.105, 9.8.106 and [9.8.107](#) of this part.
- C. That no other reasonable alternative is available to the applicant; and

- D. The Mayor may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood. (Ord. 96-41; Ord. 01-42; Ord. 11-19)

PART 2 NOISE POLLUTION - VEHICLES

9.8.201: VEHICLE NOISE LIMITS:

- A. Vehicles Weighing Less Than Ten Thousand Pounds: A noise measured or registered as provided in this article from any vehicles weighing less than ten thousand (10,000) pounds in excess of eighty (80) decibels in the A-weighting scale in intensity is excessive and unusually loud and unlawful.
- B. Vehicles In Excess Of Ten Thousand Pounds:
1. A noise measured or registered as provided in this article from any vehicle weighing more than ten thousand (10,000) pounds in excess of eighty eight (88) decibels in intensity on the A-weighting scale shall be and is hereby declared to be excessive and unusually loud and unlawful.
 2. Between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., the above decibel levels shall apply to all streets within the City.
 3. Between the hours of seven o'clock (7:00) P.M. and seven o'clock (7:00) A.M., the above decibel levels shall apply only to designated streets within the City. Traffic on other than designated streets during these hours shall be subject to the decibel level as provided in subsection A of this section.
- C. Designated Streets: Designated streets shall be named by the Mayor. In determining what streets shall be designated, the Mayor shall attempt to preserve low decibel noise levels within residential zones and give primary consideration to major arterial streets which allow travel to commercial areas requiring evening access.
- D. Air Compression Brakes: The use of air compression brakes ("jake brakes") within City limits is prohibited, unless otherwise posted by the City Traffic Engineer. (Ord. 4517; 1968 Code §§8-46, 8-47, 8-48; Ord. 01-42; Ord. 09-131; Ord. 11-19)

9.8.202: EMERGENCY VEHICLES EXCEPTED:

The requirements, prohibitions and terms of this part shall not apply to any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency. The terms of this part

shall not apply to those activities of a temporary duration, permitted by law and for which a license or permit has been granted by the City, including parades and fireworks displays. (Ord. 4517; 1968 Code §8-50; Ord. 01-42)

9.8.203: MODIFICATIONS PROHIBITED:

It is unlawful for any person to sell, lease, rent or install any device or sell, rent, lease or operate any vehicle, engine, motor or other mechanical device with a device which when attached to or placed on any vehicle, engine, motor or other mechanical device so as to amplify or increase the noise emitted by it above that emitted by the vehicle, engine, motor or mechanical device in its original factory design. This part shall not apply to devices sold for racing or pleasure purposes and used outside the City or in areas properly authorized by the City for pleasure or racing. It is unlawful for any person to operate a modified vehicle, engine, motor or device within the City and not in a properly authorized area. (Ord. 4517; 1968 Code §8-52; Ord. 01-42)

9.8.204: MOTORCYCLES AND OFF HIGHWAY MOTOR VEHICLES:

A. Findings And Purpose:

1. The City Council finds that the driving, riding and use of motorcycles, motor driven cycles and off highway motor vehicles on public and private property within the limits of the City is the cause of noise and dust and of the destruction of plants, landscaping and other real and personal property, and the conduct adversely affects the comfort and privacy of the residents of the City. Because the conduct may be intermittent, fleeting, moving or caused by persons who are minors, other provisions of this Code, as well as other legal remedies, are inadequate to control the conduct and its adverse effects. The provisions of this part relating to the regulation of motorcycles, motor driven cycles or off highway motor vehicles are therefore necessary for the public welfare.
2. The City Council declares that the purpose of this part is to exercise the general police power in order to protect the enjoyment and use of public and private property, to protect the rights of privacy, to preserve property and personal values, to promote peace and quiet, and to provide management for and promote proper recreational use of motorcycles, motor driven cycles or off highway motor vehicles within the City.
3. This part shall not apply to the driving, riding and use of motorcycles, motor driven cycles or off highway motor vehicles on streets and highways or in other areas which are specifically governed or preempted by this Code or the motor vehicle laws of the State of Colorado.

B. Definitions:

PROPERTY: Any public or private property which is not an improved public street or highway, or an improved private street constructed in accord with City standards and approved by the City.

VEHICLE: A motorcycle, motor driven cycle or motor vehicle, as the vehicles are defined in the motor vehicle laws of the State of Colorado, including, but not limited to, motor scooters, motorbikes and minibikes.

- C. Prohibited; Exceptions: It is unlawful for any person to drive or ride any vehicle upon any property which is within six hundred sixty feet (660') of a residence or other occupied structure or property authorized for motorcycle use as required herein, except that this subsection shall not apply in the following instances:
1. Where the vehicle is ridden, driven or used upon property by the owner, resident or tenant of the property; and provided that the operation shall not be within six hundred sixty feet (660') of the neighboring residences or occupied structures unless permission has been granted by the neighboring residents or occupants; or
 2. Where the vehicle is ridden, driven or used by a visitor when the visitor is accompanied by a copy of a written authorization from the owner or occupant of the property, the original of which has been filed with the City Clerk; and provided that the operation shall not be within six hundred sixty feet (660') of the neighboring residences or occupied structures unless permission has been granted by the neighboring residents or occupants; or
 3. Where the use is permitted pursuant to the City's Zoning Code.
- D. Muffler Required: It is unlawful for any person to drive, ride or use a vehicle upon any property unless the vehicle is at all times equipped with an adequate muffler in constant operation and properly maintained so as to meet the requirements of the motor vehicle laws of the State of Colorado, as the same now exist or may hereafter be amended¹, and no muffler exhaust system shall be equipped with a cutout, bypass or similar device.
- E. Other Regulations: The regulations do not supersede or preclude the enforcement of zoning regulations or any other regulations contained in this Code which are applicable to any conduct regulated in this part.
- F. Penalty: Every person convicted of a violation of this part shall be punished by a fine not to exceed five hundred dollars (\$500.00) for each offense, but shall not be subject to imprisonment or jail sentence. (1968 Code §8-52.1; Ord. 79-63; Ord. 82-164; Ord. 01-42)