

Upland Municipal Code

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[Title 9 PUBLIC PEACE AND WELFARE](#)

Chapter 9.40 UNNECESSARY NOISE

Note

* **Editor's note**—Previous ordinances contained herein include Ordinance No. 947.

9.40.010 Purpose.

The purpose of this chapter is to establish criteria and standards for the regulation of noise levels within the city. (Prior code § 5400.100)

9.40.020 Definitions.

As used in this chapter, specific words and phrases are defined as follows:

“Ambient noise level” means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding any intrusive noise.

“Average noise level” means the logarithmic average of noise samples taken over a specified length of time.

“Commercial purpose” means the use, operation or maintenance of any sound-amplifying equipment for the purpose of advertising any business, goods, or services and/or for the purpose of advertising or attracting the attention of the public to or soliciting patronage from any performance, entertainment, exhibition or event, or for the purpose of demonstrating any such sound equipment.

“Construction material manufacturer” means any use located on the same property as the mining industry, manufacturing products including concrete, asphalt, concrete blocks, concrete pipe, roofing tile or other similar materials.

“Cumulative time period” means an additive period of time composed of individual time segments which may be continuous or interrupted.

“Decibel (dB)” means a measurement unit of sound pressure level which denotes the ratio between two quantities which are proportional to power; the number of decibels corresponding to the ratio of two amounts of power is 10 times the logarithm to the base 10 of this ratio.

“Impact noise” means the sound produced by the impact or collision of one moving object or mass with a second object or mass that is stationary or moving.

“Intrusive noise” means a sound which intrudes over and above the existing ambient noise level at a given location.

“Mining industry” means any industry which extracts sand and gravel resources from the ground.

“Motor driven vehicle” means and includes, but is not limited to, any automobile, truck, van, bus, motorcycle, minibike, go-cart or other self-propelled vehicle, on or off road.

“Noise” means any sound that is loud or disturbing or that interferes with one’s ability to hear some other sound.

“Noise level” means the “A” weighted sound pressure level in decibels audible to humans obtained by using a sound level meter. The unit of noise level measurement shall be designated as dB(A).

“Person” means a person, firm, association, co-partnership, joint venture, corporation, or any entity, public or private in nature.

“Simple tone noise” means a noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished.

“Sound pressure level of a sound,” in decibels, means 20 times the logarithm to the base 10 of the ratio of the pressure of this sound to the reference pressure, which reference pressure shall be explicitly stated. (Prior code § 5400.300)

9.40.030 Noise level measurement criteria.

- A. Any noise level measurement, made pursuant to the provisions of this chapter, shall be determined by using a sound level meter that meets the minimum requirements of the American National Standard Institute for sound level meters, or by using an instrument with associated recording and analyzing equipment that will provide equivalent data.
- B. The factors which shall be considered in determining whether a violation of the provisions of this section exists shall include, but not be limited to, the following:
1. The sound level of the objectionable noise;
 2. The sound level of the ambient noise;
 3. The proximity of the noise to residential sleeping facilities;
 4. The nature and zoning of the area within which the noise emanates;
 5. The number of persons affected by the noise source;
 6. The time of day or night the noise occurs;
 7. The duration of the noise and its tonal, informational, or musical content;
 8. Whether the noise is continuous, recurrent, or intermittent;
 9. Whether the noise is produced by a commercial or noncommercial activity.
- C. The above considerations shall be considered in addition to the noise levels set forth in this section in determining a violation. However, noises do not necessarily need to exceed those noise level limits to be considered unnecessary or unusual so as to cause discomfort or annoyance to persons in the area. (Prior code § 5400.400)

9.40.040 Base ambient noise level.

All ambient noise measurements shall commence at the base ambient noise levels in decibels within the respective times and zones as follows:

Decibels	Time	Zone Use
45 dB(A)	10:00 p.m.—7:00 a.m.	Residential
55 dB(A)	7:00 a.m.—10:00 p.m.	Residential
65 dB(A)	Anytime	Uses not specified
75 dB(A)	Anytime	Industrial and commercial

Actual decibel measurements exceeding the above levels at the times and within the zones corresponding thereto shall be employed as the base ambient noise level referred to in this chapter. Otherwise, no ambient noise shall be deemed to be less than the above specified levels. (Prior code § 5400.500)

9.40.050 Exterior noise level measurement.

Exterior noise levels shall be measured at any point relative to the closest point of the source of the noise at the property line on the affected property. Measurements will not be made during extraordinary times, such as during the movement of a nearby train or airplane. (Prior code § 5400.600)

9.40.060 Excessive noise unlawful.

- A. It is unlawful for any person at any location to create any noise, or to allow the creation of any noise, when such noise causes the noise level to exceed any noise level for the cumulative time periods specified below in Section [9.40.070](#) and Section [9.40.080](#).

B. Furthermore, notwithstanding any specified noise level, it is also unlawful for any person to wilfully make or continue, or cause to be made or continued, any loud, unnecessary, or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person residing in the area, and it is unlawful for any person in ownership or control of any premises to knowingly permit a violation of this section upon the premises. (Prior code § 5400.700)

9.40.070 Maximum residential noise levels.

Exterior noise shall be measured on the exterior of any residential property, and no noise level shall exceed the following for the duration periods specified:

Noise Level Exceeded	Maximum Duration Period
Base ambient noise level (BANL)	30 minutes in any hour
5 dB(A) above BANL	15 minutes in any hour
10 dB(A) above BANL	5 minutes in any hour
15 dB(A) above BANL	1 minute in any hour
20 d(B)(A) above BANL	Not permitted

(Prior code § 5400.800)

9.40.080 Maximum nonresidential noise levels.

Measured on the exterior of nonresidential properties, no noise level shall exceed the respective base ambient noise levels for nonresidential land uses as determined by development standards established by the regulating agency. (Prior code § 5400.900)

9.40.090 Mining industry allowed noise levels for residential property.

A. Exemptions. This section shall supersede all the provisions of Sections [9.40.040](#) and [9.46.070](#) relative to allowed noise for mining industry.

B. Allowed Levels. The allowed maximum exterior average sound level in any hour at any property zoned for residential use shall be as follows:

Mining Industry Use and Days Allowed	Times	Allowed Levels
Monday—Friday:		
Quarry/plant	6 a.m.—6 p.m.	55 dB(A)
Construction material manufacturer	5 a.m.—6 p.m.	55 dB(A)
Saturday:		
Quarry/plant	7 a.m.—3 p.m.	55 dB(A)
Construction material manufacturer	5 a.m.—3 p.m.	55 dB(A)
All Times:		
Quarry/plant		45 dB(A)
Construction material manufacturer		45 dB(A)

C. Exceptions. Exceptions may be granted in the event of a proven emergency situation or required by a public agency and written authorization is obtained from the city manager or designee prior to quarry, plant or construction

material manufacturer operations being conducted. The maximum exterior sound level at any property zoned for residential use shall not exceed 55 dB(A) during such exception.

D. Measurement Parameters.

1. Measurements shall be made to the one-tenth decibel, but shall be reported to the integer value. Values of 0.1 to 0.4 shall be rounded down to the lower integer. Values of 0.5 to 0.9 shall be rounded up to the higher integer.
2. If measurements are made for more than one hour, the subsequent measurements shall be made on one hour increments. For a series of one hour measurements, compliance shall be determined by the highest average hourly reading. Measurements shall be started on the hour and ended on the hour.
3. Measurements of less than one hour, extrapolated to one hour shall not be used to determine compliance or violation.
4. Measurements will be made on the "A" weighted scale and a slow response.

E. Measurement Location. Exterior measurements shall be at locations on residential property that are considered accessible for normal and usual outdoor human activity and which are intended and used for such purposes. The receptor shall be placed at five feet above the ground surface and 10 feet from any reflecting surface. When these conditions cannot be met, the actual location utilized shall be noted in writing.

F. Calibration. Prior to, and after each measurement period, the sound level meter shall be calibrated using an acoustic calibrator of the coupler type.

Each year, the sound level meter and acoustic calibrator shall be calibrated to manufacturers' specifications by a laboratory subject to the National Bureau of Standards.

G. Ambient Noise.

1. Compliance applies only to the alleged offending source. Preferably, an ambient measurement will be measured at the affected property while the source is nonoperational and immediately prior to or immediately after the measurement period while the source is operating. If this procedure is not feasible and the source operation cannot be controlled, then an ambient measurement will be made at some other location in the vicinity that in the judgment of the measurement technician is representative of the situation at the affected property.
2. If the ambient level is below the source level by 10 dB(A) or more, then the measurement with the source in operation will be equivalent to the source alone within the prescribed resolution. If the ambient level is less than 10 dB(A) lower than the source, then the ambient level will be subtracted logarithmically from the combined measurement to determine the actual source level. If the ambient level is higher than the source level, the source will be considered to comply regardless of its level.

H. Record Keeping. When applying this section for an enforcement action, the following information, as a minimum, shall be recorded and maintained:

1. The date, start time, stop time, average "A" weighted sound level, meter scale when appropriate, slow or fast response, equipment manufacturer, model number and serial number, and the ambient sound level shall be documented.
2. The location of the source, the property measurement point, and the ambient measurement point shall be documented and scaled dimensionally. Photos are not necessary but encouraged. The data sheets shall be signed and dated by the measurement technician.
3. In the event auxiliary recording devices are used for data storage, then settings shall be listed, and equipment type, manufacturer, model and serial number listed.

I. Verification. If data is to be used for enforcement purposes, the technician will certify in writing that the data recorded was from the source and that all procedures have been complied with in the measurement and reporting. (Prior code § 5400.950)

9.40.100 Noises prohibited—Unnecessary noise standard.

The following acts are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but such

enumeration shall not be deemed to be exclusive, namely:

- A. **Impact, Repetitive and Tone Noise Levels.** In the event any offending noise consists primarily of impact noise, repetitive noise, or simple tone noise, each of the maximum permitted noise levels specified in Section [9.40.070](#) of this chapter shall be reduced by five dB(A).
- B. **Radios, Televisions and Stereos.** It is unlawful for any person to play, use, operate, or permit to be played, used or operated any radio, television set, musical instrument, phonograph, stereophonic equipment, jukebox or other machine or device for producing, reproducing or amplifying sound when audible at a distance of 50 feet or more from the source of the sound and/ or when audible within any other residence or establishment.
- C. **Hawkers and Peddlers.** It is unlawful for any person to sell anything by public outcry within any area of the city. The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.
- D. **Drums and Musical Instruments.** It is unlawful for any person to use any drum or other percussion or musical instrument or device of any kind for the purpose of attracting attention by the creation of noise within the city.
- E. **Machinery, Equipment, Fans and Air Conditioning.** It is unlawful for any person to operate, cause to operate or permit the operation of any machinery, equipment, device, pump, fan, compressor, air conditioning apparatus, or similar mechanical device in any manner so as to create any noise which would cause the noise level at the property line of any property to exceed the ambient noise base level by five dB(A).
- F. **Motor Driven Vehicles.** It is unlawful for any person to operate any motor driven vehicle within the city that, due to the nature of the operation of the vehicle, or due to the operating condition of the vehicle, or due to any modification made to the vehicle, generates noise so that a reasonable person is caused discomfort or annoyance.
- G. **Horns, Signaling Devices.** It is unlawful for any person to cause the sounding of any horn or signaling device on any automobile, motorcycle, street car or other motor driven vehicle on any street or public place of the city, except as a danger warning; to create by means of any such signaling device any unreasonably loud or harsh sound; and to create the sounding of any such device for an unnecessary and unreasonable period of time. It is unlawful for any person to use any signaling device except one operated by hand or electricity; to use any horn, whistle or other device operated by engine exhaust; or to use any such signaling device when traffic is for any reason held up.
- H. **Loudspeakers, Amplifiers for Advertising.** It is unlawful for any person to use, operate or permit to be played, used, or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- I. **Yelling, Shouting.** It is unlawful for any person to yell, shout, hoot, whistle, or sing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any persons in the vicinity.
- J. **Animals and Fowl.** It is unlawful for any person to keep or maintain, or to permit such activity, upon any premises owned, or occupied, or controlled by such person any animal or fowl otherwise permitted to be kept which, by any sound, cry, or behavioral noise, causes annoyance or discomfort to a reasonable person in any residential neighborhood.
- K. **Exhaust.** It is unlawful for any person to discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor driven vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- L. **Loading, Unloading, Opening Boxes.** It is unlawful for any person to create any loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.
- M. **Construction or Repairing of Buildings.** It is unlawful for any person to engage in or permit the erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues, and which permit may be renewed for periods of three days or less while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways

within the hours of 6:00 p.m. and 7:00 a.m., and if he or she shall further determine that loss or inconvenience would result to any party in interest, he or she may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

N. Metal Rails, Pillars and Columns—Transportation Thereof. It is unlawful for any person to transport rails, pillars or columns of iron, steel or other material over and along streets and other public places upon carts, trays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

O. Hammers, Etc. It is unlawful for any person to operate between the hours of 10:00 p.m. and 7:00 a.m. any steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

P. Blowers. It is unlawful for any person to operate any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

Q. Exceptions. This section shall not apply to persons who are participants in events for which they have obtained a valid permit from the city and have been authorized to engage in such conduct. (Prior code § 5400.1000)

9.40.110 Violation a misdemeanor.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount not exceeding \$1,000.00, or be imprisoned in the city or county jail for a period not exceeding six months, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Prior code § 5400.1100)

9.40.120 Manner of enforcement.

Violations of this chapter shall be prosecuted in the same manner as other misdemeanor violations of the city's code. (Prior code § 5400.1200)

9.40.130 Additional remedy—Injunction.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and 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 summarily by a restraining order or injunction issued by a court of competent jurisdiction. (Prior code § 5400.1300)

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