

ORDINANCE NO. 02-1

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO**

**ORDINANCE CONCERNING NOISE LEVELS
IN UNINCORPORATED EL PASO COUNTY**

Commissioner _____ moved adoption of the following Ordinance:

WHEREAS, the Board of County Commissioners for El Paso County, Colorado, finds and declares that noise that exceeds the limits provided for within this ordinance is a major source of environmental pollution that represents a threat to the serenity and quality of life in El Paso County; and

WHEREAS, excess noise often has an adverse physiological and psychological effect on human beings and, thus contributes to an economic loss to the community; and,

WHEREAS, Section 30-15-401(1)(m) authorizes a Board of County Commissioners to adopt ordinances which control and regulate noise on public and private property within its jurisdiction; and

WHEREAS, the Board of County Commissioners finds that adopting a noise ordinance is in the best interests of the public health, safety, and welfare of the citizens of El Paso County; NOW, THEREFORE,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF EL PASO, COLORADO, AS FOLLOWS:**

SECTION 1. This ordinance shall be known and referred to as the "*El Paso County Noise Ordinance*."

SECTION 2. Scope of Ordinance: This Ordinance shall apply within the unincorporated territory of El Paso County. It shall not apply in those instances where state law, pursuant to C.R.S. §30-15-401 (1)(m)(II), specifically exempts certain activities. In situations contemplated by C.R.S. §25-12-109, it shall apply as limited by that Section.

SECTION 3. Definitions: The following definitions shall apply to this Ordinance:

(a) "Commercial Area" means:

- (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 business and commercial enterprises;
 - (6) A central business district; or
 - (7) A commercially dominated area with multiple-unit dwellings.
- (b) "Construction Activities" means any and all activity incidental to the erection, demolition, assembling, alteration, installation or equipping of buildings, structures, roads or appurtenances thereof, including land clearing, grading, excavating, well drilling, and filling.
- (c) "Device" means any equipment or mechanism which is intended to produce or which actually produces sound when installed, used or operated.
- (d) "Industrial Area" means an area in which manufacturing and/or other industrial activities are prevalent.
- (e) "Noise Disturbance" means any sound which is:
- (1) Harmful or injurious to the health, safety or welfare of any individual; or
 - (2) Of such a volume, frequency and/or intensity that it unreasonably interferes with the quiet enjoyment of life of an individual of ordinary sensitivity and habits; or
 - (3) Unreasonably interferes with the value of real property or any business conducted thereon.
- (f) "Person" means any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of any association, partnership or corporation, or the state or any political subdivision of the state.
- (g) "Property Boundary" means an imaginary line along the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

(h) "Public Right-of-Way" means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

(i) "Public Space" means any real property or structures thereon which are owned or controlled by a governmental entity.

(j) "Residential Property" means any property which is occupied by a residence, whether it be a single family, two-family or multi-family dwelling, or a mobile, manufactured or modular home, which is located within any zone district allowing a residence as a permitted principal use as set forth in the El Paso County Development Code, as amended.

(k) "Sound" means an oscillation in pressure, stress, particle displacement, particle velocity or other physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

(l) "Sound level" means the weighted sound pressure level obtained by the use of the sound level meter and frequency weighing network, as specified in the American National Standards Institute Specifications.

(m) "Sound Pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space as produced by sound energy.

(n) "Sound Producing Device" means any equipment or machine for the production, reproduction or amplification of speech, music or other sound, including, but not limited to, radios, televisions, phonographs, tape players, musical instruments, compact disc or tape cassette players, walkie-talkies, CD radios or synthesizers.

(o) "Vehicle" means any device which is capable of moving itself or of being moved, from place to place upon wheels or endless tracks. "Vehicle" includes any bicycle, but such term does not include any wheelchair as defined by C.R.S. 42-1-102(113) (2001); any farm tractor or any implement of husbandry designed primarily or exclusively for use and used in agricultural operations; any device moved by muscle power; any device moved exclusively over stationary rails or tracks; or any device designed to move primarily through the air.

SECTION 4. Prohibited Activities:

(a.) It shall be unlawful to engage in any of the following activities, whether by use of a sound producing device, other device, or other means (either natural or artificial):

1. To knowingly permit, make, cause to be made or continue any noise disturbance, as defined in Section 3(e) of this Ordinance.

2. To exceed the sound levels provided for in Section (5) and as measured as provided for in Section (6), below.
3. To operate a motor vehicle in a public right of way and exceed the sound level provided for in Section (5) and as measured as provided for in Section (6), below.
4. Knowingly and repeatedly sounding any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of either danger or emergency.

SECTION 5. Maximum Permissible Noise Levels:

(a) Sound levels shall be measured in db(A) as provided for in Section 6 of this Ordinance.

(b) During the time periods indicated below, and on the types of property indicated below, the sound levels permitted by this Ordinance shall be observed:

<u>Land Uses</u>	<u>Maximum Noise [db(A)] 7:00 a.m. - 7:00 p.m.</u>	<u>Maximum Noise [db(A)] 7:00 p.m. – next 7:00 a.m.</u>
Residential property or Commercial area	55 db(A)	50 db(A)
Industrial area or Construction Activities	80 db(A)	75 db(A)
Non-specified areas	55 db(A)	50(db)(A)

(c) In the hours between 7:00 a.m. and 7:00 p.m., the noise levels permitted by this section may be exceeded by ten (10) db(A) for a period not to exceed fifteen (15) minutes in any one (1) hour period.

(d) Vehicles operating in the public right of way shall observe the following sound levels:

<u>Vehicle class (GVWR)</u>	<u>Maximum noise in Speed Limit 35 m.p.h. or less zone</u>	<u>Maximum noise in Speed Limit over 35 m.p.h. zone [dbA]</u>
Manufacturer's gross vehicle weight rating (GVWR) over 10,000 pounds (4,536 kg), or any combination of vehicles towed by such motor vehicle.	86	90

Any other motor vehicle or combination of vehicles towed by any other motor vehicle, including automobiles, vans, light trucks or motorcycles.

80

84

(e) Construction Activities are subject to the sound level permitted for industrial areas only 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, for a reasonable period of time to complete the project. At any other time, construction activities are subject to the sound level for the areas indicated above (residential, commercial, industrial, or non-specified).

SECTION 6. Classification and Measurement of Noise: For the purposes of measuring any noise to determine whether a person has violated Section 4(a)(2) or 4(a)(3) of this Ordinance, the following test measurements and requirements shall be applied:

- a. Any noise originating within a public right of way or other public land shall be measured at a distance of at least 25 feet from the noise source.
- b. Any noise originating on private property shall be measured at or within the boundary of the property from which a noise complaint is made.
- c. The noise shall be measured on a weighing scale on a sound level meter of standard design and quality and in accordance with the standards promulgated with the American National Standards Institute.
- d. For the purposes of this Ordinance, measurements with sound level meters shall be made when a wind velocity at the time and place of such measurement is not more than five (5) miles per hour, or more than twenty-five (25) miles per hour with a windscreen appropriately attached to the microphone.
- e. Vehicle noise shall be measured at a distance of at least twenty-five (25) feet from the near side of the nearest lane being monitored and at a height of at least four (4) feet above the immediate surrounding surface.

SECTION 7. Exceptions: The provisions of this Ordinance shall not apply to:

- (a) Any noise resulting from any authorized emergency vehicle responding to an emergency call or acting in time of emergency;
- (b) The operation of aircraft, or other activities which are preempted by federal law, with respect to noise control;
- (c) Operation of agricultural equipment;

- (d) Noise related to the normal operation of a railroad;
- (e) Any use of property for purposes of athletic or special outdoor events or any speed or endurance events involving motorized or other vehicles, but such exception is effective only where such use is authorized by resolution, variance, permit, or nonconforming use authorized by the political subdivision or governmental agency having lawful jurisdiction to authorize such use; or
- (f) Commercial well drilling.

SECTION 8. Violations and Penalties:

- (a) Violation of this Ordinance shall constitute a Class II petty offense. Violations of this Ordinance may be enforced through the penalty assessment procedure set forth in Section 16-2-201, C.R.S.
- (b) The graduated fine schedule for the penalty assessment procedure is:
 - \$ 30.00 for the first violation.
 - \$ 60.00 for the second violation within thirty (30) days of the first violation.
 - \$300.00 for each successive violation within thirty (30) days of the prior violation.
- (c) In addition to any other penalty, persons convicted of a violation of this Ordinance shall be subject to a surcharge of \$10.00 payable to the Clerk of the Court.
- (d) Any Law Enforcement Officer of El Paso County is authorized to issue citations, summons and complaints for violation of this Ordinance.

SECTION 9. Prosecution: All prosecutions for all offenses under this Ordinance shall be by the Fourth Judicial District Attorney according to the Colorado County Court Rules of Criminal Procedure.

SECTION 10. Effective Date: This Ordinance shall become effective for all covered activities 30 days after publication of the Title which occurs after the Second Reading by the County Commissioners.

SECTION 11. Severability: If any provision of this Ordinance is determined to be unconstitutional by any court of competent jurisdiction, the remaining provisions shall be deemed unaffected by said determination.

FIRST READING:

INTRODUCED, READ AND ADOPTED ON FIRST READING on the ____ day of _____, 2002, and ordered published in the _____.

ATTEST:

**THE BOARD OF COMMISSIONERS
OF EL PASO COUNTY, COLORADO**

Deputy Clerk to the Board

BY: _____
T.D. Huffman, Chair

SECOND READING:

ADOPTED ON SECOND AND FINAL READING on this ____ day of
_____, 2002.

ATTEST:

**THE BOARD OF COMMISSIONERS
OF EL PASO COUNTY, COLORADO**

Deputy Clerk to the Board

BY: _____
T.D. Huffman, Chair

CERTIFICATE OF PUBLICATION AND ADOPTION

I hereby certify that the foregoing Ordinance No. 02-1 was introduced, read and adopted on first reading at the regular meeting of the Board of County-Commissioners of the County of El Paso on _____, and the same was published in full in the _____ a newspaper of general circulation published in El Paso County, on _____, and thereafter was adopted on second and final reading at a regular meeting of the Board of County Commissioners of the County of El Paso on _____. Said Ordinance was published by reference to title only on _____.

Deputy Clerk to the Board

State of Colorado)
) ss.
County of El Paso)

Subscribed and sworn to before me this _____day of
_____, 2002.

Notary Public

My Commission Expires: _____

CERTIFICATION AS TO AUTHENTICITY

I, _____, El Paso County Deputy Clerk to the Board, do hereby certify that the foregoing Ordinance No. 02-1, entitled "An Ordinance Concerning Noise Levels in Unincorporated El Paso County" is a true, correct and complete copy from the records in my office, that said Ordinance was duly adopted by the Board of County Commissioners of El Paso County and is in full force and effect.

Deputy Clerk and Recorder

ORDINANCE NO. 2002 - 1

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF EL PASO, COLORADO**

**"AN ORDINANCE CONCERNING NOISE LEVELS IN
UNINCORPORATED EL PASO COUNTY"**

PLEASE NOTE: First Reading of ordinance No. 2002- 1 was held on _____, 2002, Ordinance No. 2002- 1 was published in the El Paso County Advertiser and News on _____, 2002, and this Ordinance No. 2002- 1 will become effective _____ days from publication of the Title.