

ORDINANCE NO. 20-03
AN ORDINANCE REGULATING NOISE IN PARK COUNTY

WHEREAS, the Board of County Commissioners has authority pursuant to C.R.S. Sections 30-15-401(1)(m), 25-12-101, *et seq.* and 29-20-104 to enact ordinances which regulate noise on public and private property and to promote the health, welfare, and safety of the inhabitants of the County; and

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

WHEREAS, noise in excess of the limits provided in this Ordinance constitutes a public nuisance; and

WHEREAS, the Board of County Commissioners respects the rights of private property owners to use and enjoy their property, but desires to ensure that noise is limited in a manner that protects the health, safety, and quality of life of the residents of Park County; and

WHEREAS, the Park County Sheriff's Office is the appropriate agency for enforcement of this Ordinance; and

WHEREAS, the Board of County Commissioners hereby finds, determines and declares that adoption of this Ordinance is necessary for the preservation and protection of the public health, safety and welfare of the inhabitants of Park County, Colorado.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PARK COUNTY, COLORADO AS FOLLOWS:

I. Title and Purpose. The title of this Ordinance is the Park County Noise Ordinance. The purpose of this Ordinance is to establish standards for noise level limits for various time periods and areas in Park County and to provide for enforcement procedures and penalties for violations of this Ordinance, because noise in excess of the limits provided in this Ordinance constitutes a public nuisance.

II. Authority. This Ordinance is authorized pursuant to Colorado Revised Statutes Sections 30-15-401(1)(m), 25-12-101, *et seq.*, and 29-20-104.

III. Scope. This Ordinance shall apply to all to public and private property in unincorporated Park County, except property used for the following purposes, provided they are otherwise conducted in accordance with all laws:

- A. Manufacturing,
- B. Industrial,
- C. Commercial business,
- D. Public utilities regulated pursuant to Title 40, C.R.S.
- E. Farming or ranching activities,
- F. Operation of aircraft or other activities which are subject to federal law with respect to noise control,
- G. Manufacturing, maintaining, or grooming machine-made snow,
- H. Use by this state, any political subdivision of this state, or any other entity not organized for profit, including, but not limited to, nonprofit corporations, or any of their lessees,

licensees, or permittees, for the purpose of promoting, producing, or holding cultural, entertainment, athletic, or patriotic events, including, but not limited to, concerts, music festivals, and fireworks displays,

- I. Conducting speed or endurance events involving motor or other vehicles, but such exception is effective only during the specific period of time within which such use of the property is authorized by the political subdivision or governmental agency having lawful jurisdiction to authorize such use.
- J. A shooting range which constitutes a qualifying sport shooting range or qualifying range as defined by C.R.S. Section 25-12-209.

IV. Definitions. As used in this Ordinance, unless the context otherwise requires:

A. "db(A)" means sound levels in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by the American national standards institute, publication S1. 4 - 1971.

B. "Decibel" is a unit used to express the magnitude of a change in sound level. The difference in decibels between two sound pressure levels is twenty times the common logarithm of their ratio. In sound pressure measurements sound levels are defined as twenty times the common logarithm of the ratio of that sound pressure level to a reference level of 2×10^{-5} N/m² (Newton's/meter squared). As an example of the effect of the formula, a three-decibel change is a one hundred percent increase or decrease in the sound level, and a ten-decibel change is a one thousand percent increase or decrease in the sound level.

C. "Motorcycle" means a self-propelled vehicle with not more than three wheels in contact with the ground that is designed primarily for use on the public highways.

D. "Motor vehicle" means a self-propelled vehicle with at least four wheels in contact with the ground that is designed primarily for use on the public highways.

E. "Off-highway vehicle" means a self-propelled vehicle with wheels or tracks in contact with the ground that is designed primarily for use off the public highways. "Off-highway vehicle" shall not include the following:

- 1. Military vehicles;
- 2. Golf carts;
- 3. Snowmobiles;
- 4. Vehicles designed and used to carry persons with disabilities; and
- 5. Vehicles designed and used specifically for agricultural, logging, firefighting, or mining purposes.

F. "SAE J1287" means the J1287 stationary sound test or any successor test published by SAE international or any successor organization.

G. "SAE J2567" means the J2567 stationary sound test or any successor test published by SAE international or any successor organization.

H. "Snowmobile" means a self-propelled vehicle primarily designed or altered for travel on snow or ice when supported in part by skis, belts, or cleats and designed primarily for use off the public highways. "Snowmobile" shall not include machinery used strictly for the grooming of snowmobile trails or ski slopes.

V. Maximum Permissible Noise Levels.

A. Every activity to which this section is applicable shall be conducted in a manner so that any noise produced is not objectionable due to intermittence, beat frequency, or shrillness. Sound levels of noise radiating from a property line at a distance of twenty-five feet or more therefrom

in excess of the db(A) established for the following time periods and zones shall constitute prima facie evidence that such noise is a public nuisance.

<u>Zone District</u>	<u>7:00 a.m. to next 7:00 p.m.</u>	<u>7:00 p.m. to next 7:00 a.m.</u>
Residential	55 db(A)	50 db(A)
Mixed Use	60 db(A)	55 db(A)
Commercial	70 db(A)	65 db(A)
Industrial	80 db(A)	75 db(A)

B. In the hours between 7:00 a.m. and the next 7:00 p.m., the noise levels permitted in subsection (A.) of this section may be increased by ten db(A) for a period not to exceed fifteen minutes in any one-hour period.

C. Periodic, impulsive, or shrill noises shall be considered a public nuisance when such noises are at a sound level of five db(A) less than those listed in subsection (A) of this section.

D. 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, for a reasonable period of time for completion of project.

E. All railroad rights-of-way shall be considered as industrial zones for the purposes of this Ordinance, and the operation of trains shall be subject to the maximum permissible noise levels specified for such zone.

F. For the purposes of this Ordinance, measurements with sound level meters shall be made when the wind velocity at the time and place of such measurement is not more than five miles per hour.

G. 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 such sound level measurement.

H. (a) Notwithstanding subsection (A) of this section, the public utilities commission may determine, while reviewing utility applications for certificates of public convenience and necessity for electric transmission facilities, whether projected noise levels for electric transmission facilities are reasonable. Such determination shall take into account concerns raised by participants in the commission proceeding and the alternatives available to a utility to meet the need for electric transmission facilities. When applying, the utility shall provide notice of its application to all municipalities and counties where the proposed electric transmission facilities will be located. The public utilities commission shall afford the public an opportunity to participate in all proceedings in which permissible noise levels are established according to the "Public Utilities Law", articles 1 to 7 of title 40, C.R.S.

(b) For the purposes of this section:

(I) "Electric transmission facility" means a power line or other facility that transmits electrical current and operates at a voltage level greater than or equal to 44 kilovolts.

(II) "Rights-of-way for electric transmission facilities" means all property rights and interests obtained by the owner or operator of an electric transmission facility for the purpose of constructing, maintaining, or operating the electric transmission facility.

VI. Authorized Enforcement Personnel. The following County officers and officials are authorized to enforce this Ordinance:

- A. Park County Sheriff's Office personnel, and
- B. Any other person designated by the Board of County Commissioners of Park County.

VII. Off-Highway Vehicles. The following applies to Off-Highway Vehicles.

(1) An off-highway vehicle operated within the County shall not emit more than the following level of sound when measured using SAE J1287:

- (a) If manufactured before January 1, 1998.....99 db(A);
- (b) If manufactured on or after January 1, 1998.....96 db(A).

(2) A snowmobile shall not emit more than the following level of sound when measured using SAE J2567:

- (a) If manufactured on or after July 1, 1972, and before July 2, 1975.....90 db(A);
- (b) If manufactured on or after July 2, 1975.....88 db(A).

(3) This section shall not apply to the following:

- (a) A vehicle designed or modified for and used in closed-circuit, off-highway vehicle competition facilities;
- (b) An off-highway vehicle used in an emergency to search for or rescue a person; and
- (c) An off-highway vehicle while in use for agricultural purposes.

(4) Nothing in this section shall be construed to authorize the test to produce a less restrictive standard than the J1287 stationary sound test or the J2567 stationary sound test published by SAE international or any successor organization.

(5) The following shall be an affirmative defense to a violation under this section if the off-highway vehicle or snowmobile:

- (a) Was manufactured before January 1, 2005;
- (b) Complied with federal and state law when purchased;
- (c) Has not been modified from the manufacturer's original equipment specifications or to exceed the sound limits imposed by subsection (1) or (2) of this section; and

(d) Does not have a malfunctioning exhaust system.

VIII. Violations and Penalties

A. The County may maintain an action in equity in the Park County district court to abate and prevent such nuisance and to perpetually enjoin the person conducting or maintaining the same and the owner, lessee, or agent of the building or place in or upon which such nuisance exists from directly or indirectly maintaining or permitting such nuisance. Notwithstanding any other provision of this section, a county shall not maintain an action pursuant to this section if the alleged nuisance involves a mining operation or the development, extraction, or transportation of construction materials, as those terms are defined in section 34-32.5-103, C.R.S., a commercial activity, the commercial use of property, avalanche control activities, a farming or ranching activity, an activity of a utility, or a mining or oil and gas operation.

B. Any violation or disobedience of any injunction or order expressly provided for by section 25-12-104 shall be punished as a contempt of court by a fine of not less than one hundred dollars nor more than two thousand dollars.

C. The penalty assessment procedures of Section 16-2-201, Colorado Revised Statutes are applicable to any violation of this Ordinance.

D. A person who violates this Ordinance is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars for a first violation within a calendar year, a fine not to exceed three hundred dollars for a second violation within a calendar year, and a fine not to exceed five hundred dollars for each additional violation within a calendar year. Each day of a continuing violation shall be deemed a separate violation.

IX. Superseded by More Stringent Provisions. Any other provisions of the Park County Land Use Regulations or ordinances shall supersede this article to the extent that such other provisions are more stringent.

X. Severability. If any section, sentence, clause or phrase of this ordinance is, for any reason, held invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of County Commissioners hereby declares that it would have passed this ordinance, and each section, sentence, clause or phrase hereof, irrespective of the fact that any one or more of the sections, sentences, clauses and phrases be declared unconstitutional.

XI. The publication and notice of this Ordinance will be performed in accordance with C.R.S. 30-15-405 and 30-15-406 and shall become effective 30 days after the second publication of the Ordinance.

Signed this __ day of _____, 2020

PARK COUNTY BOARD OF COUNTY COMMISSIONERS

Richard Elsner, Chairman

ATTEST:

County Clerk

CERTIFICATION: The foregoing Ordinance was introduced and read on October 8, 2020, by the Board of County Commissioners of Park County, Colorado and approved for publication.

DATE OF FIRST PUBLICATION: October 16, 2020.

The foregoing Ordinance was considered on November 5, 2020, and adopted by the Board of County Commissioners of Park County and ordered published by reference to title and changes only in The Flume.

DATE OF SECOND PUBLICATION: November 13, 2020.

EFFECTIVE DATE: December 13, 2020.