



6

Ordinance as adopted by action of the Board of County Commissioners on July 29, 2003.

2003-8A
ORDINANCE NO. 8A

**AN ORDINANCE CONCERNING NOISE LEVELS
IN UNINCORPORATED ARCHULETA COUNTY, COLORADO**

Be it ordained by the Board of County Commissioners of Archuleta County, Colorado:

Section 1. Purpose.

The Board of County Commissioners of Archuleta County, Colorado, finds and declares that noise in excess of the limits provided in this Ordinance is a major source of environmental pollution which represents a threat to the serenity and quality of life in Archuleta County, and excess noise often has an adverse physiological and psychological effect on human beings, thus contributing to an economic loss to the community.

Section 2. Scope of Ordinance.

This Ordinance shall apply within the unincorporated territory of Archuleta County, Colorado.

Section 3. Definitions.


The following definitions shall apply to this Ordinance:

- a. "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, and filling.
- b. "Device" means any equipment or mechanism which is intended to produce or which actually produces sound when installed, used or operated.
- c. "Noise Disturbance" means any sound which is or may be:
 - 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 enjoyment of life, quiet, comfort or outdoor recreation of an individual of ordinary sensitivity and habits; or
- d. "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.

RTN:

JUNE MADRID - CLERK & RECORDER

ORDINANCE BOOK

- 
- e. "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 intrabuilding real property divisions.
 - f. "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.
 - g. "Public Space" means any real property or structures thereon which are owned or controlled by a governmental entity.
 - h. "Residential Property" means any parcel of ground occupied as a single or multi-family residence and is located in a platted subdivision; a subdivision for which a survey map has been recorded with the Archuleta County Clerk and Recorder; or within five hundred feet of a permanent residential dwelling.
 - I. "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.
 - j. "Sound Level" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighing network, as specified in the American National Standards Institute specifications.
 - k. "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.
 - l. "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, or synthesizers.
 - m. "Vehicle" means any self-propelled vehicle designed or used for off-highway use.

Section 4. Noise Disturbance Prohibited.

No person shall permit, make, cause to be made or continue any noise disturbance, nor shall any person or individual make any unreasonable noise in excess of the levels set forth herein and measured as provided in Section 6 below.

Section 5. Maximum Permissible Noise Levels.

- a. A noise measured or registered in the manner provided in Section 6 below from any



source at a level which is in excess of the db(A) established for the time period and land uses listed in this section is hereby declared to be excessive and unusually loud and is unlawful.

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

Maximum Noise [db(A)] 7:00 a.m. to Next 7:00 p.m.	Maximum Noise [db(A)] 7:00 p.m. to Next 7:00 a.m.
--	--

Land Uses

Residential Property	55 db(A)	50 db(A)
----------------------	----------	----------

- c. The Maximum Noise Levels set forth in Section 5.b. above shall be shortened on Saturdays and Sundays to 8:00 a.m. to 7:00 p.m.
- d. It shall not be considered a Noise Disturbance if a Person uses lawn mowers or other commonly accepted yard equipment, chain saws, and like equipment, which exceed the Maximum Noise levels set forth above, however such use shall be limited to the hours of 8:00 a.m. to 7:00 p.m.

Section 6. Classification and Measurement of Noise.

For the purposes of determining and classifying any noise as excessive or unusually loud and, as such, in violation of Section 5 above, the following test measurements and requirements shall be applied:

- a. Noise occurring within Archuleta County shall be measured at or within the property boundary of the residential property where the measurement is taken and at a distance of 25 feet from the noise source.
- b. 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 by the American National Standards Institute.
- c. 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 and 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.
- d. For the purposes of this Ordinance, a noise not measured according to the parameters



set forth in Section 6, constitutes a Noise Disturbance in violation of Section 4 when, in the reasonable discretion of Archuleta County Sheriff's officers, the noise constitutes an unreasonable interference with enjoyment of life, quiet or outdoor recreation of an individual or individual(s) of ordinary sensitivity or habits .

Section 7. Exceptions.

The provisions of this Ordinance shall not apply to:

- a. Any noise resulting from an authorized emergency vehicle responding to an emergency call or acting in time of emergency.
- b. The operation of aircraft or other activities which are subject to federal law with respect to noise control.
- c. Operation of agricultural equipment.
- d. General traffic and railroad noise.
- e. Notwithstanding any other provision of this ordinance, construction or demolition projects and the use of chainsaws and similar type of equipment for purposes of property maintenance or fire prevention, during the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority, or if no time limit is imposed, for a reasonable period of time for completion of the project, shall be subject to the following permissible noise levels, Monday through Friday:

Maximum Noise [db(A)] 7:00 a.m. to <u>Next 7:00 p.m.</u>	Maximum Noise [db(A)] 7:00 p.m. to <u>Next 7:00 a.m.</u>
80 db(A)	75 db(A)

The Maximum Noise Levels set forth above shall be shortened on Saturdays and Sundays to 8:00 a.m. to 7:00 p.m. Construction or demolition activities shall not be conducted between the hours of 7:00 p.m. and 7:00 a.m. unless in compliance with this Ordinance.

- f. Use of property by the State of Colorado, any political subdivision of the state, or any other entity not organized for profit, including, but not limited to, nonprofit corporations, or any of their lessees, licensees, 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.

Section 8. Motor Vehicle Maximum Sound Levels For Off-Highway Vehicles.



- a. No person shall operate or cause to be operated on a Residential Property a Vehicle, as such term is defined in Section 3.m. above, in such a manner that the sound level emitted by such Vehicle exceeds the levels set forth below:

**Speed of
35 mph or less**

**Speed of more
than 35 mph**

82 db(A)

86 db(A)

- b. Noise shall be measured at a distance of fifty feet or more from the Vehicle and within the speeds specified.
- c. The noise levels set forth in this Section shall be permitted only during the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 7:00 p.m. on Saturdays and Sundays. During all other hours, no person shall operate or cause to be operated on a Residential Property a Vehicle as such term is defined in Section 3.m. above, in such a manner that the sound level emitted by such Vehicle exceeds 50 db(A) as set forth in Section 5 above.

Section 9. Vehicle Muffler Required.

- a. No Person shall operate anywhere in the unincorporated areas of Archuleta County, Colorado any Vehicle that is not equipped with a muffler in constant operation and is not properly maintained to prevent any noise in excess of the noise emitted when the muffler was originally installed by the manufacturer of the Vehicle.
- b. No Person shall operate a Vehicle which has a muffler that has been equipped or modified with a cutoff and bypass or any similar device or modification.

Section 10. Authorized Enforcement Personnel.

- a. Any Level I peace officer, as such term is defined in C.R.S. §18-1-901(1), is authorized to enforce the provisions of this Ordinance.
- b. Any person designated as a code enforcement officer by the Board of County Commissioners of Archuleta County is authorized to enforce the provisions of this Ordinance.

Section 11. Violations and Penalties.

Violation of any provision of this Ordinance shall be a Class 2 petty offense and shall be punishable as follows:

- a. For the first violation, the Person shall be assessed a fine of not less than \$50.00 and not more than \$150.00, except that if a penalty assessment is

issued as provided by Section 10.e, the fine shall be the minimum.

- b. For a second offense by the same Person, the Person shall be assessed a fine of not less than \$150.00 and not more than \$500.00 except that if a penalty assessment is issued as provided by Section 10.e, the fine shall be the minimum.
- c. For a third or any subsequent offense thereafter by the same Person, the Person shall be punished by a fine of not less than \$500.00 but not more than \$1,000.00 for each separate offense.
- d. Violations of this Ordinance may also be enforced through the penalty assessment procedure pursuant to Section 16-2-201, C.R.S., as the same may from time to time be amended, requiring the defendant to appear at the place, time and date specified or, in lieu thereof, to pay the specified fine in person or by mail at the place and within the time specified in the notice. Payment of the specified fine shall constitute acknowledgment of guilt of the offense charged.
- e. In addition to any other penalty, persons convicted of a violation of this Ordinance shall be subject to a surcharge of \$10.00 paid to the Clerk of the Court for credit to the victims and witnesses assistance and law enforcement fund for the Sixth Judicial District.

Section 12. Prosecution.

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

Section 13. Severability.

If any part of this Resolution shall be held void or unconstitutional by a Court of competent jurisdiction, such part shall be deemed severable, and the invalidity thereof shall not affect the remaining provisions of the Resolution.

Section 14. Disposition of Fines, Fees and Forfeitures.

All fines, fees and forfeitures for violations of the provisions of this Resolution shall be paid into the treasury of Archuleta County upon payment of said fines, fees and forfeitures.

Section 15. Effective Date.

This Ordinance shall be in full force and effect thirty days after it has been published, or on or before August 31, 2003.

ADOPTED this 29th day of July, 2003.

**Board of County Commissioners
Archuleta County, Colorado**

Alden Ecker
Alden Ecker, Chairman

Mamie R. Lynch
Mamie R. Lynch

Wm. M. Downey
Wm. M. Downey

ATTESTATION:

I, June Madrid, Clerk and Recorder of Archuleta County and Clerk to the Board of County Commissioners, do hereby attest and certify that this Ordinance was introduced, read and ordered published at a regular meeting of the Board of County Commissioners on the 6th day of May, 2003. The Ordinance was published in full in the Pagosa Sun on May 15, 2003. At a public hearing on June 3, 2003, the Ordinance was taken under advisement and on July 29, 2003, was adopted, approved and ordered published in full in the Pagosa Sun. Such publication was made on July 31st, 2003.

June Madrid
Clerk and County Recorder

INTRODUCED AND FIRST READING on May 6, 2003, and ordered published in the PAGOSA SUN. Published on May 15, 2003.

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF ARCHULETA, COLORADO**

BY: June Madrid
Cherie Henderson
Deputy County Clerk + Recorder

ATTEST:

ADOPTED ON SECOND AND FINAL READING on July 29, 2003 and ordered published as adopted.

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF ARCHULETA, COLORADO**