

ORDINANCE NO. 2-04

**AN ORDINANCE AMENDING CHAPTER 8.04.080 DISTURBANCE  
– SOUND, NOISE, ODOR OR LIGHT  
OF THE MUNICIPAL CODE OF THE  
TOWN OF ESTES PARK, COLORADO**

**WHEREAS**, the Board of Trustees of the Town of Estes Park, Colorado has determined that it is in the best interest of the Town to amend and repeal certain sections of the Municipal Code of the Town of Estes Park, Colorado.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO:**

Section 1: The Municipal Code shall be amended by the addition of the following:

**Chapter 8.04.080 Definitions.** The following words and terms, and phrases, when used in this Article, shall have the following meanings ascribed to them in this Section:

*Ambient sound level* shall mean the total sound pressure level in the area of interest including the noise source of interest.

*A-weighting* shall mean the electronic filtering in sound level meters that models human hearing frequency sensitivity.

*Background sound level* shall mean the total sound pressure level in the area of interest excluding the noise source of interest.

*Code Enforcement Officer* shall mean an employee of the town authorized to issue variances pursuant to §8.04.086.

*Construction* shall mean any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

*dB(A)* shall mean the A-weighted unit of sound pressure level.

*Decibel [dB]* shall mean the unit of measurement for sound pressure level at a specified location.

*Emergency work* shall mean any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electric, telephone, sewer facilities, or

public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.

*Impulsive sound* shall mean a sound having duration of less than one (1) second with an abrupt onset and rapid decay.

*Motor vehicle* shall have the same meaning as set forth in Colorado Revised Statutes 42-1-102 (58).

*Muffler* shall mean a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine.

*Multi-use property* shall mean any distinct parcel of land that is used for more than one (1) category of activity. Examples include, but are not limited to:

(1) A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or

(2) A commercial building that has a residential use located above, behind, below or adjacent to the commercial use.

*Noise disturbance* shall mean any sound originating from or received within the town limits that (a) endangers the safety or health of any person, (b) disturbs a reasonable person of normal sensitivities, or (c) endangers personal or real property.

*Person* shall mean any individual, corporation, company, association, society, firm, partnership, joint stock company, the town or any political subdivision, agency or instrumentality of the town.

*Public right-of-way* shall mean any street, avenue, boulevard, road, highway, sidewalk, alley, trail or similar place which is leased, owned or controlled by a governmental entity.

*Public space* shall mean any real property or structures thereon that is owned, leased or controlled by a governmental entity.

*Pure tone* shall mean any sound that can be judged as a single pitch or set of single pitches.

*Real property line* shall mean either (a) the line, including its vertical extension, that separates one (1) parcel of real property from another, or (b) the vertical and horizontal boundaries of a dwelling unit that is contained within a multi-use building.

*Sound level* shall mean the instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on slow or fast integration speed.

*Sound level meter* shall mean an instrument used to measure sound pressure levels conforming to standards as specified in ANSI Standard S1.4-1983 or the latest version thereof.

*Sound pressure level* shall mean twenty (20) multiplied by the logarithm, to the base ten (10), of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

*Unreasonable noise* shall mean any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the town or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.

**Chapter 8.04.081 Unreasonable noise prohibited.** No person shall make, continue or cause to be made or continued any unreasonable noise; and no person shall knowingly permit such noise upon any premises or in or upon any motor vehicle owned or possessed or driven by such person or under such person's control or operation. For purposes of this Section, members of the Police Department are empowered to make a prima facie determination as to whether a noise is unreasonable.

**Chapter 8.04.082 Maximum permissible noise levels.**

(a) A noise measured or registered in the manner provided in § 8.04.083 from any source at a level which is in excess of the dB(A) established for the time period and zoning districts listed in this Section is hereby declared to be a noise disturbance and is unlawful. When a noise source can be identified and its noise measured in more than one (1) zoning district, the limits of the most restrictive zoning district shall apply.

*Zoning District, Maximum Noise, [dB (A)]*

Areas zoned:

- Rural Estate: (RE-1)
- Rural Estate: (RE)
- Estate: 1 Acre (E-1)
- Estate: .5 Acre (E)
- Residential: (R)
- Residential: (R-1)
- Two-Family (R-2)
- Multi-Family (RM)
- Accommodations (A)
- Accommodations (A-1)

7:00 a.m. to 8:00 p.m. 55  
8:00 p.m. to 7:00 a.m. 50

Areas zoned:

Commercial Outlying (CO)  
Commercial Downtown (CD)  
Commercial Heavy (CH)  
Office (O)

7:00 a.m. to 8:00 p.m. 60  
8:00 p.m. to 7:00 a.m. 55

Areas zoned:

Restricted Industrial (I-1)

7:00 a.m. to 8:00 p.m. 80  
8:00 p.m. to 7:00 a.m. 75

(b) If the noise source in question is a pure tone, the limits set forth above shall be reduced by five (5) dB(A).

(c) In multi-use buildings, when noise originates in one (1) unit and is received in another unit within the same building, the maximum dB(A) for such noise shall be the same as the maximum dB(A) for the zoning district in which the building is located.

**Chapter 8.04.083 Classification and measurement of noise.** For the purposes of classifying any noise disturbance and determining whether it is in violation of § 8.04.082, the following test measurements and requirements shall be applied; provided, however, that a violation of § 8.04.081 may occur without the following measurements being made:

(1) Noise shall be measured at a distance of at least twenty-five (25) feet from a noise source located within the public right-of-way, and if the noise source is located on private property or public property other than the public right-of-way, the noise shall be measured at or within the property boundary of the receiving land use.

(2) The noise shall be measured on a sound level meter.

(3) No outdoor measurement shall be taken without a wind screen recommended by the sound level meter manufacturer, or during periods when wind speeds, including gusts, exceed fifteen (15) miles per hour.

**Chapter 8.04.084 Exceptions.** The provisions of this Article shall not apply to:

(1) Noise from emergency signaling devices;

(2) Noise from agricultural activities;

(3) The operation of aircraft or other activities which are subject to federal law with respect to noise control, and the generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;

(4) Noise from domestic power tools and lawn and garden equipment operated between 7:00 a.m. and 8:00 p.m., provided that such tools or equipment generate less than eighty-five (85) dB(A) at or within any real property line of a residential property;

(5) Sound from church bells and chimes when a part of a religious observance or service;

(6) Any tools or equipment used in construction, drilling, earthmoving, excavating, or demolition, provided that all motorized equipment used in such activity is equipped with functioning mufflers, and further provided that such work takes place between 7:00 a.m. and 8:00 p.m.;

(7) Noise from snow blowers, snow throwers and snow plows when operated with a muffler for the purpose of snow removal;

(8) The Town of Estes Park and its employees, when engaged in any activity for the maintenance, installation or repair or any town facility or utility or engaged in any other town activity or function;

(9) Any Town of Estes Park sanctioned Special Event;

(10) Noise generated from golf course maintenance equipment when used on a golf course;

(11) Noise generated by tools or equipment during emergency operations or activities that are reasonably necessary for the public health, safety or welfare.

(12) Any Park School District sanctioned event.

#### **Chapter 8.04.086 Variances.**

(a) Any person who owns or operates any stationary noise source may apply to the Code Enforcement Officer for a variance from one (1) or more of the provisions of this Article. Applications for a variance shall supply information including, but not limited to:

(1) The nature and location of the noise source for which such application is made;

(2) The reason for which the variance is requested, including the hardship that will result to the applicant, his/her client or the public if the permit of variance is not granted;

(3) The level of noise that will occur during the period of the variance;

(4) The section or sections of this Article for which the variance shall apply;

(5) A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring there from; and

(6) A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this Article within a reasonable time.

(b) Failure to supply the information required by the Code Enforcement Officer shall be cause for rejection of the application.

(c) The Code Enforcement Officer may charge the applicant a reasonable fee to cover expenses resulting from the processing of the variance application.

(d) The Code Enforcement Officer may, at his or her discretion, limit the duration of the variance, which shall be no longer than one (1) year. Any person granted a variance and requesting an extension of time shall apply for a new variance under the provisions of this Section.

(e) No variance shall be approved unless the applicant presents adequate proof that:

(1) Noise levels occurring during the period of the variance will not constitute a danger to public health; and

(2) Compliance with this Article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.

(f) Under no circumstances shall the noise level of an activity for which a variance is granted for a period of time in excess of eight (8) hours exceed ninety (90) decibels.

(g) In determining whether to grant a variance, the Code Enforcement Officer shall consider:

(1) The character and degree of injury to, or interference with, the public health and welfare and the reasonable use of property that is caused or threatened to be caused;

(2) The social and economic value of the activity for which the variance is sought; and

(3) The ability of the applicant to apply the best practical noise control measures.

(h) A variance may be revoked by the Code Enforcement Officer if there is:

(1) Violation of one (1) or more terms or conditions of the variance;

(2) Material misrepresentation of fact in the variance application; or

(3) Material change in any of the circumstances relied on by the Code Enforcement Officer in granting the variance.

(i) Variance decisions may be appealed to the Town Administrator by the applicant or any affected person.

**Chapter 8.04.087 Motor vehicle maximum sound levels.**

(a) No person shall operate or cause to be operated a public or private motor vehicle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle exceeds the levels set forth below:

<b>Vehicle class (GVWR)</b>	<b>Speed limit where posted 35 mph or less or speed limits regulated under the adopted Model Traffic Code [sound pressure level dB(A)]</b>	<b>Speed limit where posted greater than 35 mph [sound pressure level dB(A)]</b>
Motor vehicles with a manufacturer's gross vehicle weight rating (GVWR) of 10,000 pounds (4,536 kg) or more, or by any combination of vehicles towed by such motor vehicle	86	90
Any other motor vehicle or any combination of vehicles towed by any motor vehicle, to include but not limited to, automobiles, vans, light trucks or any motorcycle with a gross vehicle weight rating (GVWR) less than 10,000 pounds (4,536 kg)	80	84

(b) No person shall operate or cause to be operated any motor vehicle off a public right-of-way in such a manner that the sound level emitted exceeds the limits set forth in § 8.04.082. This Section shall apply to all motor vehicles, whether or not duly licensed and registered, including but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, snowmobiles, amphibious crafts, campers and dune buggies.

(c) Noise shall be measured at a distance of at least twenty-five (25) feet from the lane being monitored.

(d) The noise shall be measured on a sound level meter.

(e) No outdoor measurement shall be taken without a wind screen recommended by the sound level meter manufacturer, or during periods when wind speeds, including gusts, exceed fifteen (15) miles per hour.

**Chapter 8.04.088 Violations and penalties.**

(a) Any person who violates any provision of this Article, upon conviction, shall be subject to the penalty in § 1.20.020.

Section 2. This Ordinance shall take effect and be enforced thirty (30) days after its adoption and publication.

PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF ESTES PARK, COLORADO, THIS 9<sup>th</sup> DAY OF March, 2004.

TOWN OF ESTES PARK, COLORADO

By: John Bauder  
Mayor

ATTEST:

Tickie O'Connor  
Town Clerk

I hereby certify that the above ordinance was introduced and read at a meeting of the Board of Trustees on the 9<sup>th</sup> day of March, 2004, and published in a newspaper of general publication in the Town of Estes Park, Colorado on the 12<sup>th</sup> day of March, 2004.

Tickie O'Connor  
Town Clerk