

ARTICLE II. - NOISE CONTROL

DIVISION 1. - GENERALLY

Sec. 38-31. - Existence of problem.

Excessive, unnecessary, or unusually loud noises within the limits of the city is a condition which has existed for some time, and the extent and magnitude of such noises are increasing; and the making, creation or maintenance of such excessive, unnecessary or unusually loud noises which are prolonged, unusual or unreasonable in their time, place and use affects and is a detriment to public health, comfort, convenience, safety and welfare of the residents of the city, or may cause damage to property or business.

(Code 1981, § 19-1; Ord. No. 2208, § 1, 9-16-1985)

Sec. 38-32. - Necessity for regulation.

The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy and the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, and the peace and quiet of the inhabitants of the city.

(Code 1981, § 19-2; Ord. No. 2208, § 1, 9-16-1985)

Sec. 38-33. - Penalties.

Whenever in any section of this chapter, or rule or regulation promulgated hereunder, the doing of any act is required, prohibited, or declared to be unlawful and no definite fine or penalty is provided for a violation thereof, any person, firm, or corporation who shall be convicted of a violation of any such section shall, for each offense, be punished by a fine not to exceed the limits established in section 1-5.

(Code 1981, § 19-3; Ord. No. 2208, § 1, 9-16-1985; Ord. No. 2297, § 10, 5-5-1986)

Sec. 38-34. - Definitions and standards.

All terminology used in this chapter shall be consistent with applicable American National Standards Institute Publications, such as S1.1 1960 (R 1971) or S1.13 1971, or those from its successor publications or bodies. For the purposes of this chapter, certain words and phrases used herein are defined as follows:

A-weighted sound pressure level means the sound pressure level meter using the A-weighted network. The standard notation is dB(A).

Ambient noise level means the sound pressure level of all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources. It also means the sound pressure level exceeded 90 percent of the time based on a one-hour sample.

Commercial district means the following:

- (1) An area where offices, clinics and the facilities needed to serve them are located;
- (2) An area with local shopping and service establishments;
- (3) A tourist-oriented area where hotels, motels, and gasoline stations are located;
- (4) A business strip along a main street containing offices, retail businesses, or commercial enterprises;
- (5) Other commercial enterprises and activities which do not involve the manufacturing, processing or fabrication of any commodity. The term "commercial district" shall include, but not be limited to, any parcel of land zoned as B-1, B-2, B-3, B-4, B-5, PUD-BP, P-1, PUD-CC, PUD-NC-C/OF, or PUD-NC-MU-C as provided by the zoning ordinance of the city.

Construction activities means any and all activity incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances thereof, including land clearing, grading, excavating and filling.

Continuous noise means steady or fluctuating noise which exists essentially without interruption during the period of observation. For the purposes of this chapter, that period shall be one hour.

Cyclically varying noise means steady or fluctuating noise which varies in amplitude so that the same sound pressure level is obtained repetitively at uniform intervals of time. A beat is one class of this noise.

Decibel means a logarithmic unit of measure often used in measuring magnitudes of sound. The symbol is dB.

Device means any mechanism which is intended to produce or which actually produces audible sound when operated or handled.

Effective sound pressure means the instantaneous root mean square sound pressure (averaged over a time interval) which varies with the meter characteristic settings on a sound level meter.

Emergency vehicle means a motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

Emergency work means work made necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from imminent exposure to danger.

Fluctuating noise means the sound pressure level of a noise varies more than six dB(A) during the period of observation when measured with the slow meter characteristic of a sound level meter, and does not equal the previously existing ambient noise level more than once during the period of observation.

Heavy industrial district means an area in which enterprise and activities which involve the manufacturing, processing or fabrication of any commodity are located. Heavy industrial district shall include, but not be limited to, any parcel of land zoned as I-2, A-1, or C-1 under the zoning ordinance of the city.

Impulsive noise means noise containing excursions, usually less than one second, of sound pressure level 20 dB(A) over the ambient noise level using the fast meter characteristic.

Intermittent noise means noise whose sound pressure level equals or is less than the ambient noise level two or more times during the period of observation and is greater than the ambient during the remainder of the period.

Level, 90th percentile means the A-weighted sound pressure level that is exceeded 90 percent of the time, or the level that is exceeded for 54 minutes in one hour.

Level, tenth percentile means the A-weighted sound pressure that is exceeded ten percent of the time, or the level that is exceeded six minutes in one hour.

Light industrial district means an area in which enterprises and activities that involve the manufacturing, processing, or fabrication of any commodity of a nonoffensive nature is located. Light industrial district shall include, but not be limited to, any parcel of land zoned as I-1, PUD-I, or zoned for industrial use within the PUD-CC, PUD-NC-I/OF, PUD-NC-MU-C, or PUD-NC-SU zoning district under the zoning ordinance of the city.

Motor vehicle means any vehicle such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, motorcycles, minibikes, go-carts, snowmobiles, motorboats, racing vehicles, which are propelled by mechanical power.

Noise means any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.

Noise disturbance means any sound which annoys, disturbs, or perturbs reasonable persons with normal sensitivities; or which injures or endangers the comfort, repose, health, hearing, peace or safety of other persons.

Person means any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner, or operator and shall include any municipal corporation or its officers or employees.

Plainly audible means the unambiguous transfer of sound to a listener, such as, but not limited to, understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

Property boundary means an imaginary line at the ground surface which separates the real property owned by one person from that owned by another person, and its vertical extension.

Public right-of-way means any street, avenue, boulevard, highway, alley, premise or public conveyance which is owned or controlled by a public governmental entity.

Pure tone means any noise which can be distinctively heard as a single pitch or set of single pitches.

Repetitive impulsive noise means any noise which is composed of impulsive noises that are repeated at sufficiently slow rates such that a sound level meter set at "fast" meter characteristic will show changes in sound pressure level greater than ten dB(A).

Residential district means an area of single or multifamily dwellings and shall include areas where multiple-unit dwellings, high-rise apartments and high-density residential districts are located. Residential district shall also include, but is not limited to, hospitals, nursing homes, homes for the aged, schools, courts and similar institutional facilities. Residential district shall include, but not be limited to, land zoned as A-1, R-E, R-L, R-SL, R-I, R-MD, R-M, or PUD-R of the zoning ordinance of the city.

Sound means temporal and spatial oscillation in pressure, stress, or other physical quantity in a medium with internal forces that cause a compression of that medium, and which compression propagates to distant points.

Sound level meter means an instrument, including a microphone, amplifier, output meter and weighing networks, for the measurement of sound pressure. The output meter reads sound pressure level when properly calibrated and the instrument is of Type 2 or better as specified in American National Standards Institution Publication S1.4-1971.

Sound pressure means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space.

Sound pressure level means 20 times the logarithm to the base 10 of the ratio of the root mean square pressure of a sound to the reference pressure, which is 20×10^{-6} newtons per meter squared. It is expressed in decibels (dB).

Stationary noise source means any equipment or facility, fixed or movable, capable of emitting sound beyond the property boundary of the property on which it is used.

Steady noise means the sound pressure level of a steady noise remains essentially constant during the period of observation; i.e., it does not vary more than six dB(A) when measured with the "slow" meter characteristic of a sound level meter.

(Code 1981, § 19-4; Ord. No. 2208, § 1, 9-16-1985; Ord. No. 3017, §§ 1, 2, 11-15-1993; Ord. No. 3138, § 1, 11-28-1994; Ord. No. 3171, § 2, 3-20-1995)

Sec. 38-35. - Permits.

- (a) Applications for a permit for relief from the provisions of this chapter may be made to the city manager or his authorized representative for noise which, if prohibited, would cause undue hardship to the person responsible for the noise.
- (b) In granting relief, consideration shall be made of the time of day, duration, loudness relative to the required limits, the extensiveness, and the continuous or intermittent nature of the noise, and the technical and economic feasibility of bringing the noise into conformance with this chapter.
- (c) Any permit granted hereunder may establish, without limitation, the effective dates, times of day, location, sound pressure level or equipment limitations relating to the particular circumstances giving rise to the permit.

(Code 1981, § 19-5; Ord. No. 2208, § 1, 9-16-1985)

Secs. 38-36—38-60. - Reserved.

DIVISION 2. - NOISES REGULATED

Sec. 38-61. - Prohibitions—General.

It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive or unusually loud noise, or to create a noise disturbance within the limits of the city.

(Code 1981, § 19-11; Ord. No. 2208, § 1, 9-16-1985)

Sec. 38-62. - Same—Specific.

The following acts, among others, are declared to be in violation of this chapter and unlawful, but this enumeration shall not be deemed to be exclusive:

- (1) *Alarms and bells.* Sounding, operating, or permitting the sounding or operation for more than five minutes, or between the hours of 9:00 p.m. and 7:00 a.m., of any electronically amplified signal from any bell or chime from any clock, school, church, or governmental building.
- (2) *Construction activities.* Between the hours of 9:00 p.m. and 7:00 a.m., no person shall operate, or cause to be used or operated, any equipment used in construction activities within any residential or business district. Construction projects shall be subject to the maximum permissible noise level specified for light industrial districts for the period within which construction is to be completed pursuant to any applicable building permit.
- (3) *Fireworks or explosives.* The using of explosives, fireworks, or other devices which create impulsive noise between the hours of 9:00 p.m. and 7:00 a.m. or in such manner as to cause a noise disturbance.

- (4) *Horns and signaling devices.*
- a. Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place of the city except as a danger warning signal or as provided in "The Model Traffic Code."
 - b. The provisions of this chapter shall not apply to the sounding of horns in the customary practice of celebrating weddings or in celebrating the victory of an Arvada sports event, such as a football game, so long as such sounding of horns is within two hours of the completion of any such event.
- (5) *Loading operations.* Loading, unloading, opening, or otherwise handling boxes, crates, containers, garbage containers, or other objects in such a manner as to create a noise disturbance between the hours of 9:00 p.m. and 7:00 a.m.
- (6) *Loudspeakers, exterior.*
- a. Using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any motor vehicle upon any street, alley, sidewalk, park, place, public or private property without first obtaining a permit.
 - b. The provisions of this subsection shall not apply to emergency vehicles when such emergency vehicles are responding to an emergency call or when in pursuit of an actual suspected violator of the law, or when responding to but not returning from a fire alarm.
 - c. The provisions of this subsection shall not apply to any bell or chime or any device for the production of the sound of bells or chimes from any church, clock, or school so long as such sounds comply with sections 38-62(1) and 38-91.
- (7) *Peddlers and hawkers.* Selling anything by outcry within any area of the city zoned primarily for residential uses. The provisions of this subsection shall not be construed as prohibiting the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events.
- (8) *Radios, television sets, and similar devices.*
- a. It shall be unlawful for any person to use, operate, or permit to be played, any radio receiving set, musical instrument, television, phonograph, drum, or other machine or device that produces or reproduces sound in such a manner as to be plainly audible at either the property boundary of the source of sound or through a party wall, ceiling, or floor within a building or plainly audible at 25 feet from such device when operated within a moving or parked vehicle.
 - b. Organized practices and performances of senior high school groups shall be exempt from this section 38-62(8).
 - c. Special events for which a special event permit is obtained from the city in accordance with the provisions of section 5.17 of article 5 of the Arvada Zoning Ordinance shall be exempt from this section 38-62(8).
- (9)

Recreational activities, nonvehicular. The flying of model aircraft powered by internal combustion engines, whether tethered or not; or the firing or operation of model rockets or other similar noise producing devices between the hours of 9:00 p.m. and 7:00 a.m., or in such a manner as to cause a noise disturbance.

- (10) *Vehicles, repairs or testing.* Repairing, rebuilding, modifying or testing any truck, automobile, motorcycle, or other motor vehicle in such a manner as to cause a noise disturbance or violate the provisions of section 38-62(11).
- (11) *Vehicles, standing.* Operating, or permitting the operation of any motor vehicle in excess of 10,000 pounds, manufacturers gross vehicle weight, or any attached auxiliary equipment, for a consecutive period longer than ten minutes while such a vehicle is standing on a public right-of-way in a residential district or is on private property in a residential zone and is not within a completely enclosed structure.
- (12) *Motorcycles.* No person shall, nor shall the owner allow any person to operate a motorcycle manufactured after December 31, 1982, that is not equipped with an exhaust muffler bearing the federal Environmental Protection Agency required labeling applicable to the motorcycle's model year, as set out in the Code of Federal Regulations, Title 40, Volume 24, Part 205, Subpart D and Subpart E, as may be from time to time amended. Said label shall be affixed to the exhaust muffler in such a manner as to be readily visible.
- a. For purposes of enforcement of subsection (12), police officers may establish or determine reasonable suspicion to stop a motorcycle based on any relevant facts and circumstances concerning the unusually loud or excessive nature of the noise created or emitted by the motorcycle. This determination may be based upon, but need not be limited to, a consideration of the following factors:
 - (i) The time of day;
 - (ii) The proximity of the motorcycle creating or emitting the noise to any residential area, assisted living facility, nursing or care home, hospital, or public or private school;
 - (iii) Any unusual quality associated with the noise such as, but not limited to, a loud grating, grinding, rattling, or whining sound; or
 - (iv) Any other factors tending to show the magnitude or disruptive effect of the noise.
 - b. Notwithstanding the language of subsection (12)a., a peace officer may enforce subsection (12) when an accident involving a motorcycle occurs, following any lawful traffic stop or contact, or during any traffic investigation.
 - c. Testimony of the failure by any owner or operator of a motorcycle to immediately demonstrate the presence of an EPA noise label as required in subsection (12), when requested to do so by a peace officer, shall constitute prima facie evidence, at a trial concerning a violation charged under subsection (12), that the owner or operator of the motorcycle violated subsection (12).

(Code 1981, § 19-12; Ord. No. 2208, § 1, 9-16-1985; Ord. No. 3171, § 1, 3-20-1995; Ord. No. 3282, § 1, 11-25-1996; Ord. No. 3729, § 1, 12-3-2001; Ord. No. 4164, 4-20-2009)

Sec. 38-63. - Emergencies.

Noise caused in the performance of emergency work for the immediate safety, health, or welfare of the community or individuals of the community, or to restore property to a safe condition following a public calamity shall not be subject to the provisions of this chapter. Nothing in this section shall be construed to permit law enforcement, ambulance, fire or other emergency personnel to make excessive noise in the performance of their duties when such noise is clearly unnecessary.

(Code 1981, § 19-13; Ord. No. 2208, § 1, 9-16-1985)

Sec. 38-64. - Public events.

- (a) An application for a permit to hold a public event which may violate the provisions of this chapter and which does not constitute a special event, as that term is defined by the provisions of the Arvada Zoning Ordinance, shall be made to the city manager or his duly authorized representative. Such permit shall be valid only at the specific times, dates, and conditions noted in the permit. An application for a permit to hold a public event which may violate the provisions of this chapter and which constitutes a special event shall be made in accordance with the provisions of section 5.17 of article 5 of the Arvada Zoning Ordinance.
- (b) A permit shall be deemed granted in the case of the Arvada Harvest Festival Parade and no further application will be necessary.

(Code 1981, § 19-14; Ord. No. 2208, § 1, 9-16-1985; Ord. No. 3282, § 2, 11-25-1996)

Sec. 38-65. - Exceptions.

Noise caused in the maintenance, construction, repair, or improvement of any public road or public facility by public employees, by any person acting pursuant to a public works contract, or by any person acting under the direction or control of an employee of any public agency, shall be exempt from the provisions of this chapter.

(Code 1981, § 19-15; Ord. No. 3171, § 3, 3-20-1995)

Secs. 38-66—38-90. - Reserved.

DIVISION 3. - COMMUNITY NOISE LEVELS

Sec. 38-91. - Maximum permissible continuous sound pressure levels—General.

It shall be unlawful for any person to operate or cause or permit to be operated any stationary source of noise which creates a sound pressure level that exceeds the limits set forth in Table I for more than 90 percent of any measurement period. This measurement shall not be less than ten minutes when measured at the property boundary or at any point within the property affected by the noise.

TABLE I. SOUND PRESSURE LEVEL LIMIT dB(A)

	Day	Night
Use District	7:00 a.m.—9:00 p.m.	9:00 p.m.—7:00 a.m.
Residential	55	<u>50</u>
Commercial	60	55
Light industrial	<u>70</u>	65
Heavy industrial	75	75

Noise levels for any PUD shall conform with this table, and shall be determined by the predominant land use as set forth in the PUD plan. This section shall not apply to property zoned PUD-CC.

(Code 1981, § 19-20; Ord. No. 2208, § 1, 9-16-1985; Ord. No. 3017, § 3, 11-15-1993)

Sec. 38-92. - Same—PUD-CC.

For property zoned PUD-CC, it shall be unlawful for any person to operate or cause or permit to be operated any stationary source of noise which creates a sound pressure level that exceeds the limits set forth in table II for more than 90 percent of any measurement period. This measurement shall not be less than ten minutes when measured at the property boundary or at any point within the property affected by the noise.

TABLE II. PUD-CC SOUND PRESSURE LEVEL LIMIT dB(A)

	Day	Night

PUD-CC Subdistrict	7:00 a.m.— 9:00 p.m.	9:00 p.m.— 7:00 a.m.
A	75	75
B	55	<u>50</u>
C	60	55
D	55	<u>50</u>
E	60	55

(Code 1981, § 19-20.1; Ord. No. 3017, § 3, 11-15-1993)

Sec. 38-93. - District boundaries.

When a noise source can be identified and its noise is measured in more than one use district, the sound pressure level limits of the most restrictive use district shall apply at that district boundary.

(Code 1981, § 19-21; Ord. No. 2208, § 1, 9-16-1985)

Sec. 38-94. - Duration correction.

It shall be unlawful for any person to operate or permit to be operated any stationary source of noise within any land use category which creates a fluctuating noise or is intermittent and creates a tenth percentile noise level which is more than 15 dB(A) greater than the ambient noise level, measured when the source is quiet, but in no case shall the tenth percentile level exceed 70 dB(A) in residential land use categories.

(Code 1981, § 19-22; Ord. No. 2208, § 1, 9-16-1985)

Sec. 38-95. - Correction for character of sound.

It shall be unlawful for any person to operate or cause or permit to be operated any stationary source of noise which emits a pure tone, cyclically varying noise or repetitively impulsive noise which exceeds five dB(A) less than the limits set in section 38-91.

(Code 1981, § 19-23; Ord. No. 2208, § 1, 9-16-1985)

Sec. 38-96. - Exemption for school bands.

The performance of any senior high school or junior high school band shall be exempt from the sound pressure level standards of this chapter.

(Code 1981, § 19-24; Ord. No. 2208, § 1, 9-16-1985)

Secs. 38-97—38-120. - Reserved.