

**CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER HOPPE
COUNCIL BILL NO. 17
ORDINANCE NO. 1697
Series 2020**

**TITLE: AN ORDINANCE AMENDING SECTION 16-103 OF THE
WHEAT RIDGE CODE OF LAWS, CONCERNING
REGULATION OF NOISE**

WHEREAS, the City of Wheat Ridge is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council (the "Council"), is authorized to adopt ordinances for the protection of the public health, safety or welfare; and

WHEREAS, in the exercise of this authority the Council has previously enacted Section 16-103 of the Code of Laws, concerning regulation of noise; and

WHEREAS, following public outreach and after hearing the concerns of residents and the business community, the Council wishes to amend Section 16-103 to better address the manner in which noise is measured and unreasonable noise is prohibited and enforced.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
OF WHEAT RIDGE, COLORADO:**

Section 1. Section 16-103 is amended to read as follows:

Sec. 16-103. - Unreasonable noise; disturbing the peace:

(A) DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS INDICATED:

AMPLIFIED SOUND SHALL MEAN THE USE OR OPERATION OF ANY LOUDSPEAKER, PUBLIC ADDRESS SYSTEM, OR OTHER SOUND AMPLIFYING EQUIPMENT FOR THE PURPOSE OF GIVING INSTRUCTIONS, DIRECTIONS, TALKS, ADDRESSES OR LECTURES, OR FOR TRANSMITTING MUSIC OR SOUND TO ANY PERSONS OR ASSEMBLAGES OF PERSONS. AMPLIFIED SOUND SHALL NOT INCLUDE SOUND WHICH IS NOT AUDIBLE FIFTY (50) OR MORE FEET FROM THE PROPERTY LINE OF THE PROPERTY UPON WHICH THE SOUND SOURCE IS LOCATED.

SOUND-AMPLIFYING EQUIPMENT SHALL MEAN ANY MACHINE OR DEVICE FOR THE AMPLIFICATION OF A HUMAN VOICE, MUSIC OR ANY OTHER SOUND, OR BY WHICH THE HUMAN VOICE, MUSIC OR ANY OTHER SOUND IS AMPLIFIED.

UNREASONABLE NOISE SHALL MEAN ANY EXCESSIVE OR UNUSUALLY LOUD SOUND, OR ANY SOUND WHICH DISTURBS THE PEACE AND QUIET OF ANY NEIGHBORHOOD OR CAUSES DAMAGE TO ANY PROPERTY OR BUSINESS.

AMPLIFIED SOUND EVENT SHALL MEAN AN OUTDOOR EVENT ~~ON PRIVATE PROPERTY~~ AT WHICH AMPLIFIED SOUND IS PERMITTED PURSUANT TO THIS SECTION.

EVENT LOCATION SHALL MEAN THE REAL PROPERTY OWNED OR LEGALLY OCCUPIED BY THE PERMITTEE AT WHICH AN AMPLIFIED SOUND EVENT IS HELD, EXTENDING TO THE EXTERIOR PROPERTY LINES THEREOF. IN THE CASE OF A RESIDENTIAL NEIGHBORHOOD "BLOCK PARTY" OR SIMILAR FUNCTION, THE EVENT LOCATION SHALL BE THE PUBLIC STREET USED FOR THE EVENT.

(B) UNLAWFUL NOISE: RESIDENTIAL AND COMMERCIAL PROPERTIES:

It is unlawful for any person to make, continue or cause to be made or to permit or assist another to make, continue or cause to be made, any unreasonable noise which, under all of the circumstances presented, would annoy, injure or endanger the comfort, repose or peace of a person of ordinary sensitivities INCLUDING BUT NOT LIMITED TO THE FOLLOWING: THE SOUNDING OF ANY HORN, SIGNALING DEVICE, OR SIMILAR DEVICE ON ANY AUTOMOBILE , MOTORCYCLE OR OTHER VEHICLE; ANY AMPLIFIED SIGNAL FROM ANY BELL, CHIME, SIREN, WHISTLE OR SIMILAR DEVICE INTENDED FOR NONEMERGENCY PURPOSES; ANY SIGNALING DEVICE INCLUDING FIRE, BURGLAR, SIREN, WHISTLE UNLESS IN AN EMERGENCY; RADIOS, TELEVISIONS, BOOM BOXES, PHONOGRAPHS, STEREOS, MUSICAL INSTRUMENTS AND SIMILAR DEVICES.

The following FOREGOING noises and circumstances shall be deemed as prima facie unreasonable IF:

- (1) Any noise or sound which is audible ~~twenty-five (25)~~ FIFTY (50) or more feet from a mobile noise or sound source.
- (2) Any noise or sound which is audible within a private residence that the person responsible for the sound has no right to occupy, specifically including but not limited to apartments, common interest communities and other multiunit dwelling structures.
- (3) Any noise, sound source or any person or group of persons engaged in loud and continuing activities which are audible ~~twenty-five (25)~~ FIFTY (50) or more feet from the noise source or at the property line of the property upon which the noise source is located or upon which such activities are taking place, continuing for a minimum of fifteen (15) minutes IN A TWO (2) HOUR PERIOD.
- (4) Any person performing or permitting the performance of trash pickup with a truck which has a compactor or the capacity to raise and dump dumpsters in any area zoned for residential uses between the hours of ~~4:00 p.m.~~ 10:00 p.m. and 7:00 a.m. For purposes of this paragraph, testimony that the name of a business which holds

itself out as being in the business of trash hauling was written on the trash truck shall be prima facie evidence that the trash truck was owned by and under the control of the employer so identified.

(C) UNLAWFUL NOISE: INDUSTRIAL PROPERTIES.

IT SHALL BE UNLAWFUL FOR ANY PERSON TO EMIT OR CAUSE TO BE EMITTED ANY NOISE WHICH LEAVES THE PREMISES ON WHICH IT ORIGINATES, CROSSES A PROPERTY LINE, AND ENTERS ONTO ANY OTHER PREMISES IN EXCESS OF THE SOUND PRESSURE LEVELS DURING THE TIME PERIODS AS SPECIFIED IN TABLE A.

(1) THE NOISE SOURCE SHALL BE MEASURED AT ANY POINT ALONG THE PROPERTY LINE OR WITHIN THE PROPERTY LINE OF THE RECEIVING PREMISES TO DETERMINE COMPLIANCE WITH THIS SECTION.

(2) THE DECIBEL LEVEL OF ANY NOISE REGULATED ON A DECIBEL BASIS BY THIS ARTICLE SHALL BE MEASURED BY A SOUND LEVEL METER. THE TEST RESULTS SHALL BE PRIMA FACIE EVIDENCE IF ADMINISTERED IN CONFORMANCE WITH THE AMERICAN NATIONAL STANDARDS INSTITUTE. IN ORDER TO IMPLEMENT AND ENFORCE THIS ARTICLE EFFECTIVELY, THE CHIEF OF POLICE SHALL PROMULGATE STANDARDS AND PROCEDURES FOR USING AND TESTING SOUND LEVEL METERS USED IN THE ENFORCEMENT OF THIS ARTICLE.

TABLE A: ALLOWABLE NOISE LEVELS (IN DBA) WITH TIME OF DAY ALLOWANCE

	RECEPTOR PREMISES 7AM-10PM/10PM-7AM		
SOURCE PREMISES			
	RESIDENTIAL	COMMERCIAL	INDUSTRIAL
INDUSTRIAL	55/50	65/60	80/75

(3) NOTWITHSTANDING THE FORGOING, A BUSINESS OWNER IN AN INDUSTRIAL ZONE DISTRICT, UPON WHICH THERE EXISTS A NOISE SOURCE IN OPERATION AT THE TIME THIS SECTION 16-103(C) BECOMES EFFECTIVE, MAY APPLY TO THE CITY MANAGER FOR A PERMIT FOR A DIFFERENT DECIBEL LEVEL, REQUIREMENT, AND/OR TIME LIMITATION SPECIFIC TO SUCH REAL PROPERTY. SUCH BUSINESS OWNER WILL SUBMIT THE FOLLOWING TO THE CITY MANAGER AS AN APPLICATION FOR SUCH PERMIT:

- a. A WRITTEN REQUEST FOR THE DECIBEL LEVEL, TIME AND DAY OF WEEK LIMITATIONS AND OTHER ELEMENTS OF THE PERMIT DESIRED.
- b. A NOISE STUDY PREPARED BY A LICENSED PROFESSIONAL ENGINEER SUPPORTING THE ABILITY OF THE APPLICANT TO COMPLY WITH THE PERMIT LEVELS AND CONDITIONS REQUESTED OR TO BE IMPOSED.

- c. ANY OTHER DOCUMENTS REQUIRED BY THE CITY MANAGER TO RENDER THE APPLICATION COMPLETE.

THE CITY MANAGER WILL REVIEW THE APPLICATION MATERIALS AND MEET WITH THE APPLICANT WITHIN 30 DAYS OF SUCH SUBMITTAL, AND SHALL RECOMMEND TO CITY COUNCIL APPROVAL, APPROVAL WITH CONDITIONS, OR DENIAL OF THE APPLICATION BY CITY COUNCIL. THE DECISION OF CITY COUNCIL SHALL BE THE FINAL DECISION OF THE CITY, SUBJECT TO JUDICIAL APPEAL. PERMIT CONDITIONS MAY INCLUDE, BUT ARE NOT LIMITED TO: PERMITTED DECIBEL LEVEL(S), TIME AND DAY OF WEEK LIMITATIONS, TERM OF PERMIT AND WHETHER RENEWAL PERIODS ARE PERMITTED, NEIGHBORHOOD OUTREACH AND EDUCATION, CONTACT FOR COMPLAINTS, AND AUTHORITY FOR THE CITY MANAGER TO REVOKE THE PERMIT FOR FAILURE TO COMPLY WITH LIMITATIONS AND CONDITIONS. IF THE CITY COUNCIL APPROVES THE PERMIT THE CITY MANAGER WILL ISSUE THE PERMIT.

(D) PERMIT FOR AMPLIFIED SOUND EVENT

NO PERSON SHALL USE OR CAUSE TO BE USED ANY LOUDSPEAKER, LOUDSPEAKER SYSTEM, SOUND AMPLIFIER OR ANY OTHER MACHINE OR DEVICE WHICH PRODUCES, REPRODUCES, OR AMPLIFIES SOUND OUTSIDE OF BUILDINGS OR OTHER ENCLOSED STRUCTURES IN A MANNER WHICH EXCEEDS THE LEVELS SPECIFIED IN SECTION 16-103(B), WITHOUT FIRST OBTAINING A PERMIT TO DO SO. AN OUTDOOR AMPLIFIED SOUND EVENT ON ~~PRIVATE PROPERTY~~ IS PERMITTED UNDER THIS SECTION UNDER THE FOLLOWING CONDITIONS:

- (1) THE EVENT SPONSOR MUST APPLY FOR AND RECEIVE AN ADMINISTRATIVE PERMIT FOR THE EVENT, ON FORMS PROVIDED BY THE CITY CLERK.
- (2) THE APPLICATION SHALL BE APPROVED, APPROVED WITH CONDITIONS, OR DENIED BY THE CITY MANAGER, AFTER REVIEW BY THE POLICE DEPARTMENT AND ANY OTHER CITY DEPARTMENT AS APPROPRIATE.
- (3) NO AMPLIFIED SOUND EVENT PERMIT MAY BE ISSUED FOR AN EVENT OUTSIDE OF THE HOURS OF 9:00 AM AND 9:00 PM SUNDAY THROUGH THURSDAY AND 9:00 AM AND 10:00 PM FRIDAY AND SATURDAY. WITHIN THIS TIME RANGE, AMPLIFIED SOUND EVENTS MAY BE LIMITED IN DURATION AS DETERMINED BY THE CITY MANAGER.
- (4) A PERMIT SHALL NOT BE ISSUED FOR THE SAME LOCATION MORE THAN SIX TIMES DURING ANY ONE-YEAR PERIOD.
- (5) THE PERMIT SHALL NOT AUTHORIZE, ALLOW, OR OTHERWISE PERMIT THE PRODUCTION, REPRODUCTION, OR AMPLIFICATION OF SOUND WHICH EXCEEDS SEVENTY-FIVE (75) DB(A) WHEN MEASURED FROM THE NEAREST RECEIVING PROPERTY.

- (6) CONDITIONS MAY BE IMPOSED ON THE PERMIT TO ADDRESS THE NATURE AND LOCATION OF THE SPECIFIC EVENT. FAILURE OF THE PERMITTEE TO COMPLY WITH THE CONDITIONS MAY RESULT IN THE PERMIT BEING REVOKED.
- (7) THE EVENT SPONSOR SHALL POST, AT THE EVENT LOCATION, AND DELIVER FLYERS TO ALL RESIDENCES AND BUSINESSES WITHIN A 300 FOOT RADIUS OF THE EXTERIOR PROPERTY LINE OF THE EVENT LOCATION, ADVISING THE SURROUNDING NEIGHBORHOOD OF THE DATE AND PERMITTED TIMES OF THE EVENT, NO LATER THAN SEVEN (7) DAYS BEFORE THE EVENT.
- (8) THE POLICE DEPARTMENT SHALL HAVE AUTHORITY TO REQUIRE THE PERMITTEE TO REDUCE THE SOUND VOLUME, CURTAIL THE HOURS OF THE EVENT, OR CLOSE THE EVENT ENTIRELY, IF THE SOUND LEVEL AT THE EVENT, EVALUATED AT THE PROPERTY LINE OF THE COMPLAINING PARTY CONSTITUTES, IN THE POLICE DEPARTMENT'S SOUND JUDGMENT, UNREASONABLE NOISE.
- (9) AN AMPLIFIED SOUND EVENT FOR WHICH A PERMIT HAS BEEN ISSUED SHALL BE EXEMPT FROM THE PROVISIONS OF (B)(1), (B)(2) AND (B)(3) OF THIS SECTION.

(E) 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 SECTION.

(F) Any member of the police department who personally observes a violation of this section may serve as the complaining party in the prosecution of such violation, regardless of whether the officer's observation was initiated by the complaint of another party.

(G) Any activity or noise source conducted or caused by an activity conducted OR sponsored or approved by the city shall be exempt from the requirements of this section.

Section 2. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.


Section 3. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, with the exception of Subsection 16-103(c) concerning Unlawful Noise: Industrial Properties, which subsection shall take effect on February 28, 2021, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 10th day of August, 2020, ordered published in full in a newspaper of general

circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for August 24, 2020 at 7:00 p.m., as a virtual meeting.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 24th day of August, 2020.

SIGNED by the Mayor on this 24th day of August, 2020.



Bud Starker, Mayor

ATTEST:


Steve Kirkpatrick, City Clerk



Approved as to Form


Gerald E. Dahl, City Attorney

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Jeffco Transcript
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