

## Ordinance No. 336

An Ordinance to repeal 10-8-1, Unnecessary Noises, of the Code of the Town of Creede as adopted by Ordinance 182 and Ordinance 308 Prohibiting Excessive Noises.

**WHEREAS**, The Board of Trustees of the City of Creede has determined it necessary to create a noise ordinance to protect, preserve and promote the health, safety, welfare, and peace and quiet for the citizens of the Town of Creede through the reduction, control and prevention of noise, and

**WHEREAS**, This ordinance establishes standards that will eliminate and reduce unnecessary noises, which are physically harmful or otherwise detrimental to the enjoyment of life, property and maintenance of business.

### **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE CITY OF CREEDE, A COLORADO TOWN:**

- Section 1. That a public hearing shall be held at the Town Hall on October 6, 2005 to accept input from the public concerning the need for a noise ordinance.
- Section 2. That the notice of the hearing will be published in the Mineral County Miner and notices will be posted on the property as well as in the normal public posting places.
- Section 3. This ordinance shall take effect upon the final approval by the Board of Trustees and supersedes any previous noise ordinance.

#### **Definitions**

Emergency: Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

Emergency Work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Noise disturbance means any sound which:

(1) either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities within the City of Creede. Elements to be considered in determining whether noise is excessive in a given situation include, but are not limited to, the following: intensity of the noise, whether the noise is usual or unusual, whether the origin of the noise is natural or unnatural, the intensity of the ambient noise, the proximity of the noise to sleeping facilities, the zoning district within which the noise emanates, the time of the day or night the noise occurs, the duration of the noise, whether the noise is continuous or intermittent, and whether alternate methods are available to achieve the objectives of the sound producing activity.

(2) Exceeds the sound level limits set forth in this chapter.

Person means any person, person's firm, association, co-partnership, joint venture, corporation, or any entity public or private in nature.

### **Prohibitions**

The following acts, which list shall not be deemed to be exclusive, are declared to be loud, objectionable and unnecessary noises and shall be deemed detrimental to the health and safety of the residents of the City of Creede and are prohibited by this ordinance.

General Prohibitions: No person or persons shall make, cause to be made, assist in making or continue any excessive, unnecessary, unreasonably loud noise or disturbance, or any noise or disturbance which disturbs, destroys, or endangers the comfort, health, peace, or safety of others within the immediate vicinity of the noise or disturbance as described above in the definitions for unreasonable noise. Without limitations, the commission of one or more of the following acts, shall be deemed a violation of this Ordinance and shall be considered as a noise disturbance.

Construction related activities: Noises emanating from the road construction or from the excavation, demolition, alteration or repair of buildings, structures, property between the hours of 10:00 PM and 7:00 AM.

Loud speakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public.

Horns, signaling devices, etc. The sounding of any horn or signal on any automobile, motorcycle or other vehicle except as a danger warning; the creation, by means of any other signaling device, of any unreasonable loud or harsh sound; and. the sounding of any such device for unnecessary and/or unreasonable periods of time.

Exhaust. The discharge into the open air of the exhaust of any steam engine, internal combustion engine, motorboat, or motor vehicle, except through a muffler or other device that will effectively prevent loud or explosive noises.

#### Maximum sound levels for time and land use:

Residential	8:00 AM – 9:00 PM	<u>65</u>	9:00 PM – 8:00 AM	<u>60</u>
Commercial	7:00 AM – 10:00 PM	<u>70</u>	10:00 PM – 7:00 AM	<u>65</u>
Industrial	7:00 AM – 10:00 PM	<u>75</u>	10:00 PM – 7:00 AM	<u>70</u>

## **Exemptions**

Sounds from the following sources shall be exempt from the prohibitions specified herein:

Any vehicle owned by and operated by governmental or a utility in the performance of its duties.

Noise associated with routine snow removal activities where customary practices and equipment are used and where the snow removal equipment is operated within the manufacturer's specifications and in proper operating condition.

All safety signals and warning devices or any other device used to alert persons to any emergency or used during the conduct of emergency work including but not limited to police, fire and medical/rescue vehicle sirens.

Noise associated with a bona fide response to an emergency situation that poses a threat to the public health, safety or welfare.

Musical, recreational and athletic events conducted by and on the site of a school or educational institution and municipal institutions.

Equipment for maintenance of lawns and grounds during the hours of 8:00 A.M. to 9:00 P.M. (including but not limited to lawn mowers, hedge trimmers, weed trimmers, chain saws and leaf-blowers).

Noises emanating from the road construction or from the excavation, demolition, alteration or repair of buildings, structures, or property between the hours of 7:00 AM and 10:00 PM.

The Days of '92 and sanctioned Fourth of July events and activities.

Any Public display of Fireworks authorized by the Mineral County Fire Marshal.

## **Enforcement**

Enforcement - Any certified Colorado Law Enforcement officer shall be the designated enforcement officer. They shall issue complaints and may be the appearing officer at any hearing.

An Enforcement officer may issue a Municipal Code Violation Complaint to the individual responsible for any such device emitting sound in violation of this ordinance including the driver of a motor vehicle, or the first registered owner of the vehicle, the owner of record or a resident of a single family home, or apartment, the proprietor of a business or the person who is in physical control of the device or animal responsible for the unreasonable or excessive noise.

### **Measurement or assessment of sound.**

(a) *Measurement with sound level meter.*

(1) The measurement of sound shall be made with a sound level meter meeting the standards prescribed by ANSI S1.4-1971 (R1976). The instruments shall be maintained in calibration and

good working order. A calibration check shall be made of the system at the time of any sound level measurement. Measurements shall be taken so as to provide a proper representation of the source of the sound. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used at all times. However, a violation of this chapter may occur without the occasion of the measurements being made as otherwise provided.

- (2) The slow meter response of the sound level meter shall be used in order to best determine the average amplitude.
- (3) The measurement shall be made at any point from at least 25 feet from the property where the noise source is located and shall be made at least three feet away from any ground, wall, floor, ceiling, roof and other plane surface.
- (4) In case of multiple occupancy of a property, the measurement may be made at any point inside the premises to which any complainant has right of legal private occupancy; provided that the measurement shall not be made within three feet of any ground, wall, floor, ceiling, roof or other plane surface.

### **Penalties**


1. First offense - A first offense of any provision of this ordinance by a person shall result in a warning.
2. Second offense - A second offense of any provision of this ordinance by a person shall be punishable by a fine of one hundred dollars (\$100.00).
3. Third and subsequent offenses - A third and subsequent offense during a twelve-month period from the date of the first offense, shall be punishable by a fine of two hundred fifty dollars (\$250.00). Each subsequent offense within the twelve month period shall be punishable by a fine of five hundred dollars (\$500.00).

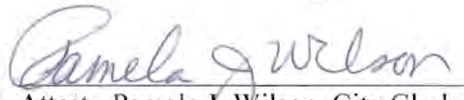
Payment Deadline - All fees must be paid within twenty (20) days of receipt of notice. If fees are paid after the twenty days an additional fee of \$10.00 will be charged.

### **Severability:**

If any section, sentence, or phrase of this Ordinance shall for any reason be held invalid or unconstitutional by a decree or decision of any court of competent jurisdiction, such decree or decision shall not affect or impair the validity of any other section or remaining portion of this Ordinance.

INTRODUCED, APPROVED, ADOPTED, and ordered published upon motion made at a Special Board Meeting of the City of Creede, a Colorado Town held on the 6th day of October, 2005.

  
Eldon M. Seime, Mayor

  
Attest: Pamela J. Wilson, City Clerk