

ORDINANCE

21-01

AN ORDINANCE FOR THE REGULATION OF NOISE ON PUBLIC AND PRIVATE PROPERTY

WHEREAS, 30-11-101(2) C.R.S. authorizes the Board of County Commissioners to adopt this ordinance regarding health, safety and welfare issues as otherwise prescribed by law and further authorizes the Board of County Commissioners to classify violation of this ordinance as a class 2 petty offense and assess a fine in accordance with the penalty assessment procedures in 16-2-201 C.R.S.; and

WHEREAS, 30-15-401 C.R.S., et seq., enables counties to enact ordinances which regulate noise on public and private property; and

WHEREAS, the regulation of noise has become an issue in Huerfano County, with conflict between noise generating events and nearby landowners; and

WHEREAS, excess noise often has an adverse physiological and psychological effect on human beings and can contribute to an economic loss to the community; and

WHEREAS, the Board of County Commissioners finds and determines that it would be in the public interest to adopt a noise ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Huerfano County, Colorado as follows:

Section 1. Title:

This ordinance shall be known and referred to as the "Huerfano County Noise Ordinance."

Section 2. Intent and Applicability:

1. It is hereby declared to be the policy of Huerfano County that the peace, health, safety and welfare of its citizens require protection from excessive, unnecessary and unreasonable noise. It is the intention of this ordinance to control such noise.
2. The Huerfano County Board of County Commissioners has determined that adoption of this Ordinance is in the best interest, safety and welfare of the citizens and visitors to Huerfano County.
3. This ordinance shall apply in the unincorporated areas of Huerfano County.

Section 3. Definitions:

For the purposes of this ordinance, the below words and phrases shall have the meanings ascribed to them as follows:

1. "Agricultural equipment which is used on a farm or ranch in the production of agricultural products" means any type of vehicle, machine, or device used on a farm or ranch, as those terms are defined in subsections (3.5) and (13.5) of 39-1-102, C.R.S. for planting, growing, and harvesting agricultural products or for raising or breeding livestock for the primary purpose of obtaining a monetary profit.
2. "Ambient Noise Level" means the lowest sound level repeating itself during a six-minute period as measured with a sound level meter. The minimum sound level shall be

determined with the noise source at issue silent, and in the same location as the measurement of the noise level of the source at issue.

3. "dB(A)" means a sound level in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, publication S1.4-1971.
4. "Decibel" is a unit used to express the magnitude of a change in sound level. The difference in decibels between two sound pressure levels is twenty times the common logarithm of the ratio of that sound pressure level to a reference level of 2×10^{-5} N/m² (Newton's/meter squared).
5. "Motorcycle" means every vehicle designed to travel on not more than three wheels in contact with the ground, but does not include trail bikes, dirt bikes, minibikes, go-carts, golf carts, and similar vehicles which are not designed or approved for use on public roads and highways.
6. "Off-highway vehicle" means a self-propelled vehicle with wheels or tracks in contact with the ground that is designed primarily for use off the public highways. "Off-highway vehicle" shall not include the following:
 - a. Military vehicles;
 - b. Golf carts;
 - c. Snowmobiles;
 - d. Vehicles designed and used to carry persons with disabilities; and
 - e. Vehicles designed and used specifically for agricultural, logging, firefighting, or mining purposes.
7. "Property used for commercial business purposes" means an area where offices, clinics and the facilities needed to serve them are located; an area with local shopping and service establishments located within walking distance of the residents served; a tourist-oriented area where hotels, motels and gasoline stations are located; a business strip along a main street containing offices, retail businesses, and commercial enterprises; a central business district; or a commercially dominated area with limited multiple unit dwellings.
8. "Property used for manufacturing or industrial purposes" means an area where manufacturing, processing or fabrication of any commodity, storage and warehousing, wholesale sales of equipment, supplies and materials, repair, rental and servicing of commodities, research laboratories, motor vehicle repair and servicing, and similar activities are conducted.
9. "Residential zone" means an area of single-family or multifamily dwellings where businesses may or may not be conducted in such dwellings. The zone includes areas where multiple-unit dwellings, high-rise apartment districts, and redevelopment districts are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. "Residential zone" includes hospitals, nursing homes, and similar institutional facilities. "Residential zone" includes all properties within the Agricultural, Rural Residential, or Urbanizing Residential Districts as set forth in the County Land Use Regulations.
10. "SAE J1287" means the J1287 stationary sound test or any successor test published by SAE international or any successor organization.
11. "SAE J2567" means the J2567 stationary sound test or any successor test published by SAE international or any successor organization.
12. "Snowmobile" means a self-propelled vehicle primarily designed or altered for travel on snow or ice when supported in part by skis, belts, or cleats and designed primarily for use off the public highways. "Snowmobile" shall not include machinery used strictly for the grooming of snowmobile trails or ski slopes.

13. "Vehicle", as defined in section 42-1-102 (112), C.R.S, means any device which is capable of moving itself, or being moved, from place to place upon wheels or endless tracks; but such term does not include any farm tractor or any implement of husbandry designed primarily or exclusively for use and used in agricultural operations or any device moved by muscular power, or moved exclusively over stationary rails or tracks or designed to move primarily through the air.

Section 4. Excessive Sound Levels Prohibited:

No person shall operate any type of vehicle, machine, or device, or carry on any activity, or promote or facilitate the carrying on of any activity which makes sound in excess of the levels specified in this ordinance.

Section 5. Maximum Permissible Noise Levels:

1. Sound from a vehicle being operated on a public road or highway with the following speed limits shall not exceed the following as measured on the "A" weighting scale dB(a):

Type of Vehicle	Speed Limit of 35 mph or less	Speed Limit of more than 35 mph
Motorcycle manufactured before 1/1/1973	82 dB(A)	86 dB(A)
Motorcycle manufactured on or after 1/1/1973	80 dB(A)	84 dB(A)
Off-highway vehicle manufactured before 1/1/1998	96 dB(A)	96 dB(A)
Off-highway vehicle manufactured on or after 1/1/98	96 dB(A)	96 dB(A)
Snowmobile manufactured on or after 7/1/1972 and before 7/2/1975	90 dB(A)	90 dB(A)
Snowmobile manufactured on or after 7/2/1975	88 dB(A)	88 dB(A)
Vehicle with a manufacturer's gross vehicle rating of 10,000 lbs. or more, and any combination of vehicles towed by such vehicle	86 dB(A)	90 dB(A)
All other vehicles	80 dB(A)	84 dB(A)

2. Sound from a vehicle being operated on private property or public property which is not a road or highway shall be subject to the limits set forth above for a public road or highway with a speed limit of 35 mph or less.
3. Sound from a non-vehicular source located in a residential zone, shall not exceed the following limits:
- 7:00 a.m. until 7:00 p.m. of the same day: 55 dB(A)
 - 7:00 p.m. until 7:00 a.m. of the following day: 50 dB(A)
4. Construction projects in residential areas shall not exceed the following noise levels for the period within which construction is to be completed pursuant to any applicable construction permit issued by Huerfano County, or if no time limitation is imposed, then for a reasonable period of time for completion of project:
- 7:00 a.m. until 7:00 p.m. of the same day: 80 dB(A)
 - 7:00 p.m. until 7:00 a.m. of the following day: 75 dB(A)

5. 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 of not to exceed fifteen minutes in any one-hour period.
6. Periodic, impulsive, or shrill noises shall be considered a public nuisance when such noises are at a sound level of five db(A) less than those listed in this section.
7. Temporary Assembly Permits issued pursuant to County Land Use Regulations, shall be subject to the noise limits set forth therein and are hereby adopted by reference. Exceeding those noise limits shall be a violation of this Ordinance and subject to the penalties described herein.

Section 6. Measurement of Sound Level:

1. Sound from a vehicle operating on a public road or highway, including the sound of amplified music coming from such vehicle, shall be measured at a distance of fifty feet from the center of the lane of travel.
2. Sound from a vehicle operating on private property or public property which is not a road or highway, including the sound of amplified music coming from such vehicle, shall be measured at a distance of fifty feet or more from such vehicle.
3. Sound from a non-vehicular source shall be measured at a distance of ten feet from the property line of the property where such sound is radiating, except that where the noise source is located on public property owned by a governmental entity, the sound shall be measured at a distance of ten feet from the property line or fifty feet from the noise source, whichever is less. The sound of amplified music from a non-moving vehicle on private property or public property which is not a road or highway shall be considered "sound from a non-vehicular source."
4. Sound shall be measured on the "A" weighting scale on a sound level meter of standard design and quality and characteristics established by the American National Standards Institute.
5. For purposes of this ordinance, measurements with sound level meters shall be made when the wind velocity at the time and place of such measurement is not more than five (5) miles per hour or twenty-five (25) miles per hour with a wind screen.
6. Pursuant to section 25-12-110, C.R.S., sound from off-highway vehicles shall be measured using SAE J1287 and sound from snowmobiles shall be measured using SAE J2567.
7. For all sound level measurements, 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.

Section 7. Exceptions:

The provisions of this ordinance shall not apply to:

1. Any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency.
2. Operation of aircraft or other activities which are subject to federal law with respect to noise control.
3. The sound made by agricultural equipment which is used on a farm or ranch in the production of agricultural products.
4. Sounds made by dogs and by farm animals, including but not limited to bovines, goats, horses, fowl, and llamas.
5. The use of property for purposes of conducting speed or endurance events involving motor or other vehicles, but such exception is effective only during the specific period of

- time within which such use of property is authorized by the political subdivision or governmental agency having lawful jurisdiction to authorize such use.
6. The use of property by the state, or any political subdivision of the state, or any of their lessees, licensees, or permittees, for the purpose of promoting, producing, or holding cultural, entertainment, athletic, public speaking, public assembly, or patriotic events, including, but not limited to, concerts, music festivals, fireworks displays, political rallies, and promotions.
 7. Any noise produced by persons engaged in lawful hunting activities, the lawful discharge of firearms, or from properties used by gun clubs.
 8. Any noise related to the normal operation of a railroad.
 9. The sound made by the sounding of the horn of any vehicle as a danger warning signal or by the sounding of any burglar, fire, personal safety or other warning device.
 10. The sound made by a lawnmower, snow blower, or other hand or power tool of no more than five horsepower, between the hours of 7 a.m. and 9 p.m.
 11. Those instances where state law, pursuant to 30-15-401 (1)(m)(II) C.R.S., specifically exempts certain activities, including:
 - a. Oil and gas production subject to the provisions of Article 60 of Title 34, C.R.S.
 - b. Public utilities regulated pursuant to title 40
 - c. Property used for Manufacturing or industrial purposes
 - d. Property used for commercial business purposes
 12. Any situation contemplated by 25-12-109 C.R.S.

Section 8. Enforcement, Violations, and Penalties:

1. Violation of this Ordinance shall constitute a Class 2 Petty Offense. Violations of this Ordinance may be enforced through the penalty assessment procedure set forth in Section 16-2-201, C.R.S.
2. Any Law Enforcement Officer or Code Enforcement Official of Huerfano County is authorized to issue citations, summons, and complaints for violation of this Ordinance. It is the duty of the Huerfano County Sherriff, Undersheriff, and deputies to enforce this ordinance as provided for in 30-15-410, C.R.S.
3. The graduated fine schedule for the penalty assessment procedure is as follows:
 - a. \$30.00 for the first violation.
 - b. \$60.00 for the second violation within twelve (12) months of the first violation.
 - c. \$300.00 for each successive violation within twelve (12) months of the prior violation.
4. In addition to any other penalty, persons convicted of a violation of this Ordinance shall pay the customary courts costs when applicable.
5. All fines and penalties shall be deposited into the General Fund of Huerfano County,
6. It is the responsibility of the County Attorney to enforce the provisions of this Article, according to the County Court Rules of Criminal Procedure.
7. The Board of County Commissioners may seek civil relief, including but not limited to injunctive relief and mandamus, to enforce the provisions of this Ordinance.

Section 9. Liability:

1. The adoption of the Ordinance codified in this document shall not create any duty to any person, firm, corporation, or any other entity with regard to enforcement or non-enforcement of this Ordinance. No person, firm, corporation, or other entity shall have any civil liability remedy against the Huerfano County Board of County Commissioners or Huerfano County Sheriff, their officers or agents for any damage(s) arising out of, or

in any way connected with the adoption, enforcement or non-enforcement of this Ordinance.

- 2. Nothing in this Ordinance shall be construed to create any liability or to waive any of the immunities, defenses, limitations or liability, or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S. or to waive any immunities, or defenses or limitations on any liability otherwise available to each entity, agency, governmental body, it's officers, employees and agents.

Section 10. Severability:

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Huerfano County Board of County Commissioners hereby declares that it would have passed this Ordinance irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 11. Recording:

INTRODUCED, READ and ORDERED PUBLISHED in full on first reading the 15th day of June, 2021.

READ, ADOPTED, and ORDERED PUBLISHED by title only on this 29th day of June, 2021. This Ordinance will become effective 30 days after publication.

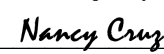
BOARD OF COUNTY COMMISSIONERS
OF HUERFANO COUNTY, COLORADO

BY 
Gerald A. Cisneros, Chairman


John Galusha, Commissioner


Arica Andreatta, Commissioner

ATTEST:


Nancy Cruz
County Clerk and Recorder and
Ex-Officio Clerk to said Board