

**ORDINANCE**

**AN ORDINANCE REPEALING AND REENACTING SECTION 6.08.020 OF THE MANITOU SPRINGS MUNICIPAL CODE REGARDING NOISE REGULATIONS AND AMENDING SECTION 6.08.010 REFERENCING NOISE REGULATIONS**

**WHEREAS**, the City desires to update its regulations regarding noise and setting forth the permitted parameters for noise within the City; and

**WHEREAS**, the City Council finds that it is the best interest of the citizens of the City to establish such noise regulations.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANITOU SPRINGS, COLORADO THAT:**

**Section 1:** Section 6.08.020, “Unnecessary Sound Prohibited” in of the City of Manitou Springs Municipal Code, is hereby repealed in its entirety and reenacted as follows:

**6.08.020 – Prohibited Noise**

- A. It is unlawful to make, create, or permit an excessive or unusually loud noise, or a noise which endangers public safety, or a noise which is harmful to any person, which can be heard without the use of an electronic measurement device or heard and measured in the manner prescribed in this Section, except when made under and in compliance with a permit issued pursuant to this Section.
- B. It is unlawful for any person to operate or allow to be operated any vehicle, machine, motor, or device or carry on any other activity in a manner as would be a violation of this Section.
- C. It is unlawful for any person to operate, drive, or be in possession of a motor vehicle which is stopped, standing, parked or moving, and to make, create or permit an excessive or unusually loud noise, or a noise which endangers public safety, or is harmful to any person, which is caused by a sound amplification system, and which can be heard without the use of an electronic measurement device or heard and measured in the manner prescribed in this Section. Words or phrases need not be discernible. For the purposes of this section, "sound amplification system" means any radio, stereo, tape player, compact disc player, or other electronic device used for the amplification of sound.
- D. It is unlawful for any person to be in control of and allow operation of an electronic theft or burglar alarm which sounds an audible signal, without an automatic shutoff device, and the audible signal sounds continually for

more than sixteen (16) minutes. This section shall not apply to fire, smoke, sprinkler, medical or personal distress signaling devices.

It shall be unlawful to pickup any trash with a truck which has a compactor or the capacity to raise and dump dumpsters in any area zoned for residential or business uses between the hours of 11:00 p.m. and 7:00 a.m., and no employer shall fail to prevent its employee from violating this subsection while the employee is driving a trash truck owned by or under the control of the employer. For the purposes of this subsection, 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 or was under the control of the employer so identified.

E. It is an exception to subsection D if:

1. The vehicle was an emergency, medical, or public safety vehicle operating in its official capacity; or
2. The vehicle's sound amplification system was used in compliance with a permit issued pursuant to this Section.

F. Classification, measurement of noise:

1. For purposes of determining and classifying any noise as prohibited by this Section, the following test measurements and requirements may be applied. A violation of this Section may, however, occur without the following measurements being made.
  - a. Distance Of Measurement: Noise occurring within the jurisdiction of the City shall be measured at a distance of at least twenty-five feet (25') from a noise source located within the public right of way, and if the noise source is located on private property or property other than the public right of way, at least twenty-five feet (25') from the property line of the property on which the noise source is located.
  - b. Measurement:
    - i. The noise shall be measured on the A weighing scale on sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.

- ii. Measurements with sound level meters shall be made when the wind velocity at the time and place of the measurement is not more than five (5) miles per hour, or twenty five (25) miles per hour with a windscreen.
  - iii. In 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 the sound level measurement.
2. Evidence of noise heard and measured as prescribed in this Section may be offered to prove a violation of this section as heard without an electronic measurement device. Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that a person has violated this section are:
- a. The volume of noise;
  - b. The intensity of the noise;
  - c. The proximity of the noise to residential sleeping facilities;
  - d. The time of the day or night the noise occurs;
  - e. The duration of the noise; and
  - f. The type of noise and whether the noise is recurrent, intermittent or constant.
  - g. Whether the noise can be heard from at least one hundred feet (100') from its source.

G. Permissible noise levels.

1. A noise measured or registered as provided in this Section from any source other than as provided in this Section at a level which is equal to or in excess of the db(A) established for the time period and zones listed in this section, is declared to be excessive and unusually loud and is unlawful.

<u>Zone</u>	<u>7:00 A.M. To Next 10:00 P.M.</u>	<u>10:00 P.M. To Next 7:00 A.M.</u>
Residential	55 dB(A)	50 dB(A)

Commercial	60 dB(A )	55 dB(A)
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2. Adjacent Zones: When a noise source can be measured from more than one zone, the permissible sound level of the more restrictive zone shall govern.
3. Between the hours of seven o'clock (7:00) A.M. and seven o'clock (10:00) P.M., the noise levels permitted in this Section may be increased by ten (10) dB(A) for a period of not to exceed fifteen (15) minutes in any one hour period.

H. Periodic, impulsive noises.

Periodic, impulsive, or shrill noises are declared unlawful when the noises are at a sound level of five (5) dB(A) less than those listed in this Section.

I. Construction noise.

The maximum permissible noise level for construction projects shall be 75 db(A) between the hours of 7:00 a.m. and 7:00 p.m.

J. Noise Variance permits.

1. Applications for a variance permit, for other than vehicular traffic, for relief from the noise levels designated in this Section may be made to the City Administrator or his or her designee. The City Council may establish a fee reasonably covering administrative costs incurred for the issuance of said permit. Any permit granted by the City shall contain all conditions upon which the permit has been granted and shall specify a reasonable time for which the permit shall be effective. The City may grant the relief if one of the following is found:
  - a. That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this Section;
  - b. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with this Section; or
  - c. That no other reasonable alternative is available to the applicant.

2. The City may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

**Section 2.** Section 6.08.010(13) of the Manitou Springs Municipal Code is hereby amended to read as follows:

13. Any violation of Section 6.08.020 concerning prohibited noise;

**Section 3.** If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 4.** This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Passed on first reading and ordered published this 25<sup>th</sup> day of July, 2017.

/s/ Donna Kast  
City Clerk, Donna Kast

A Public Hearing on this ordinance will be held at the August 15, 2017, City Council meeting. The Council Meeting will be held at 6:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: July 27, 2017 (in full)  
*City's Official Website and City Hall*

Passed on second reading and adopted by Council this 15<sup>th</sup> day of August, 2017.

/s/ Nicole Nicoletta  
Mayor, Nicole Nicoletta

Attest: /s/ Donna Kast  
City Clerk, Donna J. Kast

Published: August 17, 2017 (in full)  
*City's Official Website and City Hall*