Chapter 9.40

NOISE

Sections:

9.40.010	Definitions.
9.40.020	Decibel measurement criteria.
9.40.030	Designated noise zones.
9.40.040	Exterior noise standards.
9.40.050	Interior noise standards.
9.40.060	Additional noise standards.
9.40.070	Noise sensitive zones.
9.40.080	Noise level measurement.
9.40.090	Vibration.
9.40.100	Proposed developments.
9.40.110	Motor vehicle maximum sound levels.
9.40.120	Exemptions.
9.40.130	Enforcement.
9.40.140	Violation—Penalty.

9.40.010 Definitions.

The following words shall have the following meanings:

1. "Ambient noise level" means all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding the alleged offensive noise at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

2. "A-weighted sound level" means the total sound level in decibels of all sound as measured with a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

3. "Commercial property" means a parcel of real property which is used as provided in Chapters 20.36, 20.38, 20.40, 20.42 and 20.44 of this code, including property located within the extraterritorial jurisdiction of the city.

4. "Construction" means any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private right-of-way, structures, utilities or similar property.

5. "Cumulative period" means an additive period of time composed of individual time segments which may be continuous or interrupted.

6. "Decibel (dB)" means a unit for measuring the volume of sound, equal to twenty times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (twenty micronewtons per square meter).

7. "Dwelling unit" means a single-family or multiple-family unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

8. "Emergency machinery, vehicle, work or alarm" means any machinery, vehicle, work or alarm used, employed, performed or operated in an effort to protect, provide or restore safety conditions in the community or for the citizenry, or work by private or public utilities when restoring utility service.

9. "Equivalent A-weighted sound level" means the constant sound level that, in a given situation and time period, conveys the same sound.

10. "Exterior noise" means sounds which originate from any source that is not within a building or structure.

11. "Grading" means any excavating or filling of earth material or any combination thereof conducted at a site to prepare the site for construction or other improvements thereon.

12. "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum load weight of the combination vehicle, shall be used.

13. "Health authority" includes the director

of the city-county health unit and his designated representatives.

14. "Health care institution" means any hospital, convalescent home, or other similar facility which provides health care, medical treatment, room, board or other services for the ill, retarded or convalescent.

15. "Impulse noise" means a noise of short duration, usually less than one second, and of high intensity, with an abrupt onset and rapid decay.

16. "Industrial and manufacturing property" means a parcel of real property which is used as provided for in Chapters 20.46, 20.48, 20.50, 20.58 and 20.60 of this code, including property located within the extraterritorial jurisdiction of the city.

17. "Interior noise" means any sound originating inside of any building or structure.

18. "Intruding noise level" means the total sound level, in decibels, created, caused, maintained or originating from an offensive source at a specified location while the offensive source is in operation.

19. "Motor carrier vehicle engaged in interstate commerce" means any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor vehicles engaged in interstate commerce.

20. "Motor vehicle" means any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, campers, go-carts, dune buggies or racing vehicles, but not including motorcycles.

21. "Motorcycles" means an unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motorscooters and minibikes.

22. "Muffler or sound dissipative device" means a device for abating the sound of escaping gases of an internal combustion engine.

23. "Noise" means any sound which:

a. Exceeds the standards set forth in this chapter; or

b. Annoys or disturbs a reasonable person of normal sensibilities; or

c. Causes or tends to cause any adverse psychological or physiological effect on humans.

24. "Noise sensitive zone" means any area designated pursuant to Section 9.40.070 for the purpose of ensuring exceptional quiet.

25. "Person" means an individual, firm, association, partnership, joint venture, corporation or any entity, public or private in nature.

26. "Public right-of-way" means any street, alley, sidewalk or other place to which the public has legal access.

27. "Residential property" means a parcel of real property which is developed and used in part or in whole for residential purposes other than transient uses such as hotels and motels.

28. "Simple tone noise" means a noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished. If measured, simple tone noise shall exist if the one-third octave band sound pressure levels in the band tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands as follows: Five dB for frequencies of five hundred Hertz (Hz) and above; or by eight dB for frequencies between one hundred sixty and four hundred Hertz (Hz); or by fifteen dB for frequencies less than or equal to one hundred twenty-five Hertz (Hz).

29. "Sound level meter" means an instrument meeting American National Standard Institute Standards S1.4-1971 or most recent revision thereof for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

30. "Sound pressure level" means twenty times the logarithm to the base ten of the ratio of the pressure of a sound to a reference pressure, which reference pressure shall be explicitly stated.

31. "Vibration" means any movement of the earth, ground or other similar surface created by a temporal and spacial oscillation of displacement, velocity or acceleration in any mechanical device or equipment located upon, attached, affixed or in conjunction with that surface. (Prior code § 12-106)

9.40.020 Decibel measurement criteria.

Any decibel measurement made pursuant to the provisions of this chapter shall be based on a reference sound pressure of twenty micropascals as measured with a sound level meter using the A-weighted network (scale) at slow response. (Prior code § 12-107)

9.40.030 Designated noise zones.

A. Noise Zone I: All single, double and multiple-family residential structures or property.

B. Noise Zone II: All commercial properties.

C. Noise zone III: All manufacturing or industrial properties. (Prior code § 12-109)

9.40.040 Exterior noise standards.

A. The following noise standards, unless otherwise specifically indicated, shall apply to all property with a designated noise zone:

Noise Zone	Time Interval	Allowable Exterior Noise Level
I	10:00 p.m. to 7:00 a.m.	50 dB(A)
	7:00 a.m. to 10:00 p.m.	55 dB(A)
II	10:00 p.m. to 7:00 a.m.	60 dB(A)
	7:00 a.m. to 10:00 p.m.	65 dB(A)
III	10:00 p.m. to 7:00 a.m.	65 dB(A)
	7:00 a.m. to 10:00 p.m.	70 dB(A)

Each of the noise limits specified shall be increased by five dB(A) for impulse or simple tone noises consisting of speech or music; provided, however, that if the ambient noise level exceeds the resulting standard, the ambient shall be the standard.

B. It is unlawful for any person at any location within the city or its extraterritorial jurisdiction to create any noise or to suffer, allow or permit the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level on any property to exceed:

1. The noise standard for a cumulative period of more than thirty minutes in any hour; or

2. The noise standard plus five dB(A) for a cumulative period of more than fifteen minutes in any hour; or

3. The noise standard plus ten dB(A) for a cumulative period of more than five minutes in any hour; or

4. The noise standard plus fifteen dB(A) for a cumulative period of more than one minute in any hour; or

5. The noise standard plus twenty dB(A) for any period of time.

C. If the measurement location is on a boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply.

D. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level can be determined, the measured noise level obtained while the source is in operation shall be compared directly to the allowable noise level standards as specified respective to the measurement location's designated land use and for the time of day the noise level is measured.

E. No person shall make, continue or cause to be made or continued any noise such as, but not limited to, the following:

1. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instruments, sound amplifier, or similar device which produces or amplifies sound;

2. Using or operating for any commercial or noncommercial purpose any loudspeaker, public address system, or similar device such that the sound therefrom creates a noise disturbance

across a real property boundary or within a noise sensitive zone;

3. Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks, or makes other sounds which create a disturbance across a residential real property boundary or within a noise sensitive zone. This provision shall not apply to the El Paso Zoo;

4. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone. (Prior code § 12-110)

9.40.050 Interior noise standards.

A. The following noise standard, unless otherwise specifically indicated, shall apply to all residential property within all noise zones:

Noise Zone	Land Use	Time Interval	Allowable Level
All	Residential	10:00 p.m. to 7 a.m.	50 dB(A)
		7:00 a.m. to 10:00 p.m.	55 dB(A)

Each of the noise limits specified shall be increased five dB(A) for impulse or simple tone noises consisting of speech or music; provided, however, that if the ambient noise level exceeds the resulting standard the ambient shall be the standard.

B. It is unlawful for any person at any location within the city or its extraterritorial jurisdiction to create any noise or to suffer, allow or permit the creation of any noise on property owned, leased, occupied or otherwise controlled by such a person which causes the noise level when measured within any other residential dwelling unit in any noise zone to exceed:

1. The noise standard for a cumulative period of more than five minutes in any hour; or

2. The noise standard plus five dB(A) for a cumulative period of more than one minute in any hour; or

3. The noise standard plus ten dB(A) for any period of time.

C. In the event the ambient noise level exceeds the standards set out in subsection B1 and 2 of this section, the cumulative period applicable to the standard shall be increased to reflect the maximum ambient noise level.

D. If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient noise level can be determined, the same procedures specified in Section 9.40.040(D) shall be deemed proper to enforce the provisions of this section. (Prior code § 12-111)

9.40.060 Additional noise standards.

In addition to Sections 9.40.040 and 9.40.050, no person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in any place of public entertainment at a level greater than eighty-five decibels as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entance, stating: "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT." (Prior code § 12-112)

9.40.070 Noise sensitive zones.

It is unlawful for any person to create any noise which causes the noise level at any school, hospital or similar health care institution, church or library while the same is in use, to exceed the noise standards specified in Section 9.40.040 prescribed for the assigned noise zone in which the school, hospital or similar health care institution, church or library is located, or which noise level unreasonably interferes with the usage of such institutions or which unreasonably disturbs

or annoys patients in a hospital, convalescent home or similar health care institution, provided conspicuous signs are displayed in three separate locations within one-tenth mile of the institution or facility indicating a quiet zone. (Prior code § 12-114)

9.40.080 Noise level measurement.

The location selected for measuring exterior noise levels shall be at any point on the affected property. Interior noise level shall be measured within the affected building or structure and the measurement shall be made at a point at least four feet from the wall, ceiling or floor nearest the noise source with windows in an open position depending on the normal seasonal ventilation requirements. (Prior code § 12-115)

9.40.090 Vibration.

Except for Section 9.40.120(D) it is unlawful for any person to create, maintain or cause any ground vibration which is perceptible without instruments at any point on any affected property adjoining the property in which the vibration source is located. (Prior code § 12-116)

9.40.100 Proposed developments.

Each city department whose duty it is to review and approve new projects or changes to existing projects that result or may result in the creation of noise shall consult with the health authority to any such approval. (Prior code § 12-117)

9.40.110 Motor vehicle maximum sound levels.

A. Motor Vehicles and Motorcycles on Public Right-of-way. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the following levels:

Motor Vehicle and Motorcycle Sound Limits (Measured at 50 feet or 15 meters)

	Sound Level in dB(A)		
	Speed Limit 35 mph or Less	Speed Limit Over 35 mph	Stationary Run-up
Motor carrier vehicle engaged in interstate commerce of GVWR or GCWR or 10,000 lbs. or more	86	90	88
All other motor vehicles of GVWR or GCWR of 10,000 lbs. or more	70	79	
Any motorcycle	78	82	
Any motor vehicle or any combination of vehicles towed by any motor vehicle	70	79	

B. Adequate Mufflers or Sound Dissipative Devices.

1. No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation.

2. No person shall remove or render inoperative or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.

C. Standing Motor Vehicles. No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand pounds or any auxiliary equipment attached to such a vehicle, for a period longer than two minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within one hundred fifty feet (forty-six meters) of a residential area or designated noise sensitive zone. This section shall not apply to buses operated for the transportation of passengers while standing in established bus

stops, bus terminals, bus parking lots and bus storage yard.

D. Recreational Motorized Vehicles Operating Off Public Right-of-way. No person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds eighty-two dB(A) if manufactured prior to January 1, 1975, and seventy-three dB(A) if manufactured after January 1, 1975, at a distance of fifty feet (fifteen meters) or more from the path of the vehicle when operated on a public space or across the boundary of private property when operated on private property. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or noncommercial racing vehicles, motorcycles, go-carts, campers and dune buggies. (Prior code § 12-118)

9.40.120 Exemptions.

The following activities are exempt from the provisions of this chapter:

A. Activities conducted on public parks, public playgrounds, and public or private school grounds, including, but not limited to, school athletic and school entertainment events conducted during the hours of seven a.m. and ten p.m.;

B. Occasional outdoor gatherings, public dances, shows and sporting and entertainment events conducted during the hours of seven a.m. to ten p.m., provided the events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of such events;

C. Any mechanical device, apparatus, or equipment which emits a sound, including but not limited to an alarm, siren, bell, or whistle, related to, used for, or connected with any emergency machinery, vehicle, work or alarm, provided the sounding of the mechanical device, apparatus, or equipment on or near any building or motor vehicle shall terminate its operation within ten minutes of its being activated at or near a location;

D. Noise sources associated with or vibration created by construction repair, remodeling or grading of any real property or during authorized seismic surveys, provided the activities do not take place between the hours of eight p.m. and seven a.m. on weekdays and Saturdays, or at any time on Sunday or a holiday, and provided the noise level created by such activities does not exceed the noise standard of sixty-five dB(A) plus the limits specified in Section 9.40.040 as measured on residential property and any vibration created does not endanger the public health, welfare and safety;

E. Noise sources associated with the maintenance of property provided the activities take place between the hours of seven a.m. and ten p.m. on any day;

F. Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way;

G. Any activity to the extent regulation thereof has been preempted by state or federal law;

H. The El Paso International Airport;

I. Noise associated with aircraft activities outside a regularly established airport field or landing place as permitted by the city council pursuant to Section 14.12.080 or Section 14.12.105. (Ord. 12579 § 1, 1995; Ord. 8571 § 3, 1986; prior code § 12-113)

9.40.130 Enforcement.

The health authority, or the police chief or his designated representative, shall be responsible for the enforcement of this chapter. (Prior code § 12-108)

9.40.140 Violation—Penalty.

A. Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and punished by a fine not exceeding five hundred dollars, and each occurrence shall constitute a separate offense.

B. In addition, any violation of this chapter may be deemed a nuisance and the imposition of any fine hereunder shall not abrogate the right of the city to cause the abatement of any nuisance, including the use of injunctive relief. (Ord. 9430 § 3, 1988; prior code § 12-119)