

CITY of ALBUQUERQUE

EIGHTEENTH COUNCIL

COUNCIL BILL NO. O-09-80 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton by request

1 **ORDINANCE**

2 **AMENDING SECTION 7-10-3 ROA 1994, THE VEHICLE NUISANCE ORDINANCE**
3 **TO EXPAND VIOLATIONS TO INCLUDE REVVING OF ENGINES TO MAGNIFY**
4 **ENGINE NOISE.**

5 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
6 **ALBUQUERQUE:**

7 **Section 1. Section 7-10-3 ROA 1994, is amended to read:**

8 **§ 7-10-3 VEHICLE NUISANCE – SPECIFIC VIOLATIONS.**

9 **A vehicle is hereby declared a nuisance subject to the penalty provisions**
10 **of this Article if it is operated by a person or persons engaged in any of the**
11 **following enumerated acts:**

12 **(A) Drag Racing and Other Competitive Racing. It shall be unlawful for any**
13 **person or persons to engage or participate in a drag race or race for speed**
14 **within the city limits unless otherwise accepted herein. For purposes of this**
15 **section, a drag race or competitive race for speed shall be and the terms shall**
16 **mean any situation or circumstance where two or more persons operate**
17 **vehicles in such a manner as to cause such vehicles to be side by side on the**
18 **roadway, or one slightly ahead of the other, and either from a stopped position**
19 **or while moving, to accelerate such vehicles rapidly with the intent to race or**
20 **otherwise out gain the other. The provisions of this sections shall not apply**
21 **to authorized or licensed race courses, or other areas which are specifically**
22 **set aside and supervised by the police department for police training. In any**
23 **prosecution for a violation of this section, intent may be shown from the**
24 **surrounding circumstances, from admissions from the violators, from the**
25 **observations of a law enforcement officer or in any other manner in which**
26 **intent may be proven in any civil or criminal action under New Mexico law.**

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

1 (B) Exhibition Driving. It shall be unlawful for any person to engage in
2 exhibition driving of any vehicle within the city limits. For the purposes of this
3 section, exhibition driving shall be and the term shall mean driving a vehicle in
4 such a manner that it creates or causes unnecessary or excessive engine
5 noise, tire squeal, skid or slide upon acceleration, braking or stopping or by
6 operating a vehicle in a manner that willfully creates excessive engine noise
7 by revving the engine. Exhibition driving shall also mean driving a vehicle in a
8 manner that causes the vehicle to unnecessarily turn abruptly or sway and
9 driving and executing or attempting one or a series of unnecessarily abrupt
10 turns. Exhibition driving shall also mean carrying passengers on a part of the
11 structure of the vehicle not designed for that purpose including but not limited
12 to the hood. In any prosecution for a violation of this section, intent may be
13 shown from the surrounding circumstances, from admissions from the
14 violators, from the observations of a law enforcement officer or in any other
15 manner in which intent may be proven in any civil or criminal action under
16 New Mexico law.

17 (C) Using a Vehicle as an Instrument of Threat or Intimidation – Road
18 Rage. It shall be unlawful for any person or persons to use a vehicle as an
19 instrument of threat or intimidation in the city limits. For purposes of this
20 section, use of a vehicle as an instrument of threat or intimidation, or so-called
21 road rage driving, shall be and the terms shall mean driving a vehicle
22 dangerously or conspicuously close to or behind or near another vehicle or
23 suddenly stopping or accelerating and rapidly switching lanes or positions on
24 the roadway with the intent to taunt or retaliate against another driver for any
25 reason. The use of one or more vehicles to willfully prevent another vehicle
26 from lawfully passing shall also be a violation of this section. In any
27 prosecution for a violation of this section, intent may be shown from the
28 surrounding circumstances, from admissions from the violators, from the
29 observations of a law enforcement officer or in any other manner in which
30 intent may be proven in any civil or criminal action under New Mexico law.

31 (D) Excessively Loud Electronic Sound or Music. It shall be unlawful for
32 any person or persons to play or produce excessively loud sound or music in
33 any vehicle operated on any public street in the city limits. For purposes of

1 the section, excessively loud electronic sound or music shall be and the terms
2 shall mean the use of any machine or device for reproducing sound including
3 any magnifying sound instrument used in the production or replication of
4 music, spoken words or other sounds and designed to enlarge the volume of
5 any instrument, voice or other sound including but not limited to radios,
6 stereos, or so called "boom boxes." It shall be a violation of this section if any
7 such sound is plainly audible twenty-five feet from the subject vehicle.

8 (E) Modification of Exhaust Systems. It shall be a violation of this section
9 for any person to operate any vehicle in the city limits with a modified exhaust
10 system. A modified exhaust system shall mean any change or alteration to
11 the exhaust system found on the vehicle when it was originally manufactured
12 when such change results in noise that exceeds the noise the vehicle made
13 when manufactured. Any violation of ROA 1994 §§ 8-6-13 or 9-9-9(A) through
14 (D) shall also be a violation of this paragraph.

15 Section 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
16 clause, word or phrase of this ordinance is for any reason held to be invalid or
17 unenforceable by any court of competent jurisdiction, such decision shall not
18 affect the validity of the remaining provisions of this ordinance.

19 Section 3. COMPILATION. This ordinance shall be incorporated in and
20 compiled as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

21 Section 4. EFFECTIVE DATE. This ordinance shall take effect five days
22 after publication by title and general summary.

23

24

25

26

27

28

29

30

31

32 X:\SHARE\Legislation\Eighteen\o-80final.doc

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion