

# 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.

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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.

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