

CITY of ALBUQUERQUE

TWENTY-SECOND COUNCIL

COUNCIL BILL NO. C/S O-16-24 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton

1 ORDINANCE

2 AMENDING ARTICLE 9, CHAPTER 9, "THE NOISE CONTROL ORDINANCE".

3 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
4 ALBUQUERQUE:

5 SECTION 1. Sections 9-9-1 et seq., R.O.A. 1994, is amended to read:

6 § 9-9-1 SHORT TITLE AND DECLARATION OF INTENT

7 (A) This article may be cited as the "Noise Control Ordinance."

8 (B) A substantial body of scientific research has shown that exposure to
9 excessive sound ~~[and vibration]~~ is a serious hazard to the public health,
10 welfare, safety and quality of life. ~~[It is therefore declared to be the intent of~~
11 ~~the City Council (through this ordinance and through other City regulations) to~~
12 ~~minimize the exposure to the physiological and psychological dangers of~~
13 ~~excessive noise, and protect, promote and preserve the public health, safety~~
14 ~~and welfare.]~~ It is the express intent of the City Council to control the level of
15 [excessive sound as] noise in a manner that promotes the use, value and
16 enjoyment of property, conduct of business, sleep and repose and an
17 environment free from unnecessary and excessive sound.

18 ~~[('74 Code, § 6-22-1) (Ord. 21-1975; Am. Ord. 9-2001)]~~

19 § 9-9-2 DEFINITIONS

20 For the purpose of this article, the following definitions shall apply unless the
21 context clearly indicates or requires a different meaning.

22 ~~[AMBIENT NOISE LEVEL. The sound pressure level of the all encompassing~~
23 ~~noise associated with a given environment, being usually a composite of~~
24 ~~sounds from many sources and excluding the specific noise under~~
25 ~~investigation; the A-weighted sound pressure level equaled or exceeded 90~~
26 ~~percent of the time (L90) and based on a maximum one-hour sample period.~~

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[Bracketed/Strikethrough Material] - Deletion

1 ~~ANSI. American National Standards Institute.~~
2 ~~APARTMENT. This term shall be as used in the Zoning Code (Chapter 14,~~
3 ~~Article 16, Albuquerque Code of Ordinances).]~~
4 APPROVED SOUND-LEVEL METER. An instrument sensitive to pressure
5 fluctuations and meeting the [American National S][s]tandards [Institute] [of
6 the] (ANSI) S1.4-1983 Type 1 or Type 2 or those of IEC Publication 651 or those
7 of the latest respective revisions thereof.
8 A-WEIGHTED SOUND PRESSURE LEVEL. The sound pressure level as
9 measured on an approved sound-level meter using the A-weighting network.
10 [The unit of measurement is dB(A). Sounds measured with the "A" weighting
11 network approximate the response of human hearing when measuring sounds
12 of low to moderate intensity.]
13 ~~[Instrument response shall be "fast" for motor vehicle measurements and~~
14 ~~"slow" for all other measurements.]~~
15 [C-WEIGHTED SOUND PRESSURE LEVEL. The sound pressure level as
16 measured on an approved sound-level meter using the C-weighting network.
17 The unit of measurement is dB(C). The "C" weighting network is more
18 sensitive to low frequencies than is the "A" weighting network.]
19 DAYTIME. From 7:00 a.m. (0700 hours) to 10:00 p.m. (2200 hours).
20 [DOWNTOWN ARTS AND CULTURAL DISTRICT. The area depicted in the map
21 attached hereto.
22 EXCESSIVE SOUND. Any sound that exceeds the applicable sound level
23 limits set forth in § 9-9-4 of this Ordinance.]
24 ~~[DEPARTMENT. Albuquerque Environmental Health Department or its~~
25 ~~subsequent designation.~~
26 EMERGENCY WORK. Work made necessary to restore property to a safe
27 condition following a public calamity, work to restore public utilities or work
28 required to protect persons or property from an imminent exposure to danger.
29 EPA. U.S. Environmental Protection Agency.
30 ~~GVW. Gross Vehicle Weight.~~
31 ~~HELIPAD. Facility intended for the takeoff and/or landing of helicopters at a~~
32 ~~location other than an airport or other general aviation facility.~~

HOLIDAYS. Those days established by the federal government as official holidays.

~~IEC. International Electrotechnical Commission.]~~

MAYOR. The Mayor or his designated representative.

[MECHANICAL VENTILATION. A forced-air system with supply fan and ductwork; the air which is supplied may or may not be heated or cooled. This may include, but is not limited to: air conditioning, furnace, or swamp cooler.]

~~[MOTORCYCLE. Every motor vehicle having a seat or saddle for use by the rider and designed to travel with not more than three wheels in contact with the ground, including every motorscooter, motor-driven cycle and moped, but excluding a tractor.]~~

~~MOTOR VEHICLE. Every vehicle which is self-propelled, but excluding off-highway construction equipment, or unlicensed construction equipment or equipment operated upon rails.~~

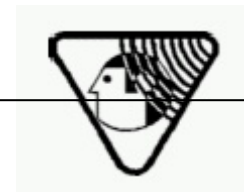
~~MRGCOGLRMSP. Middle Rio Grande Council of Governments Long Range Major Street Plan, as amended.]~~

NIGHTTIME. From 10:00 p.m. (2200 hours) to 7:00 a.m. (0700 hours).

[NOISE. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans, including excessive sound as defined and regulated by this ordinance.]

NOISE-SENSITIVE PROPERTY. Property containing an occupied: dwelling unit or units, school, hospital, religious institution, child-care facility, or adult-care facility [or other facility similar in nature].

~~[NOISE SYMBOL.~~



~~]~~
PERSISTENTLY OR CONTINUOUSLY. [A 10 minute period during which any sound is discerned and that sound exceeds the applicable sound limits in each of the ten one-minute intervals of such period. In the case of animal noise, it means a] [A] 10-minute period during which animal noise is discerned in each of the ten one-minute intervals therein.

PERSON. A person, firm, association, copartnership, joint venture, corporation, or any other entity, public or private in nature.

[PUBLIC PREMISES. All real property, including appurtenances thereon, owned or controlled by any governmental entity and includes, without limitation, rights-of-way, streets, highways, sidewalks, alleys, parks, and waterways.]

~~[PLAINLY AUDIBLE SOUND. Any sound for which the information content of that sound is distinguished by the listener, such as, but not limited to, understandable spoken speech which need not be wholly discernible, or comprehension of whether a voice is raised or normal, or bass reverberations, or comprehensible musical rhythms.]~~

[RECEPTOR PREMISES. The premises (residential, commercial, downtown arts and cultural district, industrial/maunfacturing, or public) as listed in Table 1 receiving noise emitted from the source premises after crossing one (1) or more property lines.]

REFERENCE PRESSURE. The reference pressure for all sound level measurements shall be 20 micropascals (20 μ Pa). This shall be further defined as 0 dB(A).

RESIDENTIAL, OFFICE/COMMERCIAL, INDUSTRIAL~~[/MANUFACTURING]~~. These terms shall be as used in the Zoning Code (Chapter 14, Article 16, ~~[Albuquerque Code of Ordinances]~~ [Part 2: Zoning Districts]) ~~[, and when used to describe a Receptor or Source Premises, the terms refer to the particular zoning classification of the Receptor or Source Premises and not the actual use of such premises.]~~

~~[SAE. Society of Automotive Engineers.]~~

[SOUND. Sound is anything perceptible by human beings through the sense of hearing. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.]

SOUND LEVEL. A logarithmic measure called the decibel. It may make use of various frequency weighting networks, such as A or C-weighted, as specified by ANSI. When sound level is used without further description, A-weighting of sound level may be assumed.]

1 SOUND AMPLIFYING EQUIPMENT. Any machine or device for the sound
2 amplification of the human voice, music, or any other sound. "Sound
3 amplifying equipment" shall not include warning devices on authorized
4 emergency vehicles or horns or other warning devices on any motor vehicles
5 used only for traffic safety purposes.

6 [SOURCE PREMISES. The premises (residential, commercial, downtown arts
7 and cultural district, industrial/manufacturing, or public) as listed in Table 1
8 that is emitting noise that is crossing one (1) or more property lines and
9 impacting the receptor premises.

10 STRUCTURE. For the purposes of the Noise Control Ordinance, structure
11 shall mean the outer shell of a building, typically consisting of exterior walls
12 covered by a roof.]

13 ~~[('74 Code, § 6-22-2) (Ord. 21-1975; Am. Ord. 30-1981; Am. Ord. 9-2001; Am.~~
14 ~~Ord. 5-2002)]~~

15 § 9-9-3 DECIBEL MEASUREMENT CRITERIA

16 Unless otherwise indicated, any decibel (dB) measurement made pursuant to
17 the provisions of this article shall be based on the reference sound pressure
18 and measured with a [n approved] sound-level meter. [Reference sound
19 pressure will be measured as LAeq for A-Weighted and LCEq for C-Weighted.

20
21 (A) [Except as provided in subsection (C) below, Residential, Commercial,
22 Downtown Arts and Cultural District, and Industrial/Manufacturing properties
23 are to be measured from inside the Structure located on the Receptor
24 Premises. Any indoor noise measurements for compliance purposes should
25 be taken in a location which could be reasonably assumed to affect one or
26 more persons. For Residential Receptor Premises, inside noise level
27 measurements are performed in sleeping or living areas with windows opened
28 to approximately twenty-five percent of their maximum in residences without
29 mechanical ventilation and with windows closed for residences with
30 mechanical ventilation.

31
32 (B) Public Premises are to be measured at a reasonable distance from walls or
33 similar large reflecting surfaces and with the Approved Sound-Level Meter

1 protected from the effects of wind and other extraneous sounds by the use of
2 screens when appropriate.]

3 ~~[using the A-weighting network. In this ordinance, the terms dB and dBA are~~
4 ~~synonymous unless otherwise stated.]~~

5 [(C) In the case where the Receptor Premises is located in a Residential
6 Zoning District and the Source Premises is located in a Commercial or
7 Industrial/Manufacturing Zoning District, measurements shall be measured
8 outside within twenty-five (25) feet from any side of the residential structure
9 which is nearest to the Source Premises.]

10 ~~[('74 Code, § 6-22-3) (Ord. 21-1975; Am. Ord. 9-2001)]~~

11 § 9-9-4 [SOUND AMPLIFYING EQUIPMENT

12 ~~(A) No person shall practice, play, or conduct live band activities using~~
13 ~~sound amplifying equipment or operate a radio, television, stereo or other~~
14 ~~sound amplifying equipment resulting in sound levels more than 5 dB above~~
15 ~~the ambient noise level when measured on any receiving noise-sensitive~~
16 ~~property or, if an apartment, within any dwelling unit or common area~~
17 ~~accessible to residents of the apartment, or to conduct such activities or~~
18 ~~operate any such device in the nighttime so as to be plainly audible within any~~
19 ~~dwelling unit which is not the source of sound. At no time shall such~~
20 ~~amplified sound be allowed to cause or contribute to an exceedance of the~~
21 ~~limits set forth for the receiving property as established in Table 1, § 9-9-12.~~
22 ~~Vehicular sound amplification equipment is further subject to the~~
23 ~~requirements of § 9-9-4(D). Outdoor sound amplification equipment used for~~
24 ~~broadcasting to employees or customers is further subject to the~~
25 ~~requirements of § 9-9-4(F). Direct, two-way point-of-service amplified sound~~
26 ~~speaker equipment is further subject to the requirements of § 9-9-4(G).~~

27 ~~(B) No person shall operate or allow the operation of any portable self-~~
28 ~~contained music or sound amplification equipment in the daytime on a public~~
29 ~~space or right-of-way in such a manner as to be plainly audible 25 or more feet~~
30 ~~from the operator. No person shall operate or allow the operation of such~~
31 ~~equipment in the nighttime in such a manner that is plainly audible by any~~
32 ~~person other than the operator.~~

1 ~~(C) Provisions in (A) and (B) above shall not apply to any person who has~~
2 ~~obtained a temporary amplified sound permit as described in this ordinance.~~

3 ~~(D) Vehicular sound amplification equipment.~~

4 ~~— (1) — No person operating or occupying a motor vehicle on a street,~~
5 ~~highway, alley, parking lot, off-street parking area or driveway shall operate or~~
6 ~~allow the operation of any sound amplification equipment from the vehicle in~~
7 ~~such a manner that, on noise-sensitive property, the sound is plainly audible~~
8 ~~anywhere on noise-sensitive property. For all other properties, no person~~
9 ~~operating or occupying a motor vehicle on a street, highway, alley, parking lot,~~
10 ~~off-street parking area or driveway shall operate or allow the operation of any~~
11 ~~sound amplification equipment from the vehicle resulting in plainly audible~~
12 ~~sound during the nighttime.~~

13 ~~— (2) — Commercial vehicles including, but not limited to, ice cream trucks~~
14 ~~with amplified sound used for commercial advertisement, shall comply with~~
15 ~~this ordinance within 1 year of the effective date of this ordinance. During the~~
16 ~~1-year compliance attainment period, no person operating or occupying a~~
17 ~~commercial motor vehicle including, but not limited to, ice cream trucks with~~
18 ~~amplified sound used for commercial advertisement shall cause or allow such~~
19 ~~amplified sound to result in sound levels more than 5 dB above the ambient~~
20 ~~noise level on any receiving noise-sensitive property. At no time shall such~~
21 ~~amplified sound be allowed to cause or contribute to an exceedance of the~~
22 ~~limits set forth for the receiving property as established in Table 1, § 9-9-12.~~

23 ~~(E) — No person shall allow, at an indoor or outdoor facility owned and/or~~
24 ~~operated by the City of Albuquerque, the exposure of any person to amplified~~
25 ~~sound over 90 dB.~~

26 ~~(F) (1) — Outdoor sound amplifiers, loudspeaker systems or similar~~
27 ~~broadcasting devices for the purpose of communicating with employees or~~
28 ~~customers shall not produce sound levels exceeding 5 dB above the ambient~~
29 ~~noise level at any property line of a facility using the device. At no time shall~~
30 ~~such amplified sound be allowed to cause or contribute to an exceedance of~~
31 ~~the limits set forth for the receiving property as established in Table 1 in this~~
32 ~~ordinance.~~

1 ~~—— (2) — Volume controls for such outdoor sound amplifiers, loudspeaker~~
2 ~~systems or similar broadcasting devices, once calibrated to meet the volume~~
3 ~~restrictions provided above, must be mechanically limited to prevent their~~
4 ~~being overridden.~~

5 ~~—— (3) — Operation of such outdoor sound amplifiers, loudspeaker~~
6 ~~systems or similar broadcasting devices is limited to daytime hours as defined~~
7 ~~in this ordinance.~~

8 ~~—— (4) — If, notwithstanding observance of the above volume~~
9 ~~restrictions, any outdoor sound amplifier, loudspeaker system or similar~~
10 ~~broadcasting device is plainly audible at any residence or other noise~~
11 ~~sensitive property, then use of the outdoor sound amplifier, loudspeaker~~
12 ~~system or similar broadcasting device at that facility shall thereafter be~~
13 ~~prohibited as provided herein. If the user of a facility is determined to have~~
14 ~~violated any requirement in this division (F) on two or more occasions in any~~
15 ~~24-month period, then the user of the outdoor sound amplifier, loudspeaker~~
16 ~~system or similar broadcasting device shall thereafter immediately remove~~
17 ~~such device from use at that facility. A subsequent user of a facility at which~~
18 ~~use of an outdoor sound amplifier, loudspeaker system or similar~~
19 ~~broadcasting device has previously been prohibited pursuant to this division~~
20 ~~(F) may not use such a device at that facility unless and until:~~

21 ~~—— (i) — the subsequent user establishes to the reasonable satisfaction~~
22 ~~of the Department that the device can be used in compliance with this Section;~~
23 ~~and~~

24 ~~—— (ii) — the subsequent user is not affiliated by common ownership or~~
25 ~~control with the user of the facility at the time use of the previous device was~~
26 ~~prohibited.~~

27 ~~(5) — Any trade association of Albuquerque businesses whose members~~
28 ~~engage in the same type of business, and at least 50% of whose members~~
29 ~~generally use such outdoor sound amplifiers, loudspeaker systems or similar~~
30 ~~broadcasting devices, shall implement and maintain a procedure for receiving~~
31 ~~and attempting to resolve complaints from the public about the outdoor sound~~
32 ~~amplifier, loudspeaker system or similar broadcasting device used by any~~
33 ~~member of that association. The Department may, at its option, refer~~

~~applicable public complaints against members of such an association to the association pursuant to such procedure.~~

~~(6) Outdoor sound amplification equipment used for broadcasting to public utility employees is exempt from the requirements of this section if required to comply with OSHA or national utility industry safety standards.~~

~~(7) This subsection shall not apply to organized community sporting events.~~

~~(G)(1) No person shall, at any time, operate two-way point-of-service amplified sound equipment installed after the effective date of this ordinance in such a manner that, on noise-sensitive property, the sound is plainly audible anywhere on noise-sensitive property; and~~

~~(2) No person shall, at any time, operate two-way point-of-service, amplified sound equipment in place at the effective date of this ordinance, in such a manner that the sound is plainly audible within a dwelling.~~

~~(‘74 Code, § 6-22-6) (Ord. 21-1975; Am. Ord. 30-1981; Am. Ord. 9-2001; Am. Ord. 5-2002; Am. Ord. 40-2002; Am. Ord. 30-2003; Am. Ord. 46-2003)~~

~~§ 9-9-5 DRUMS, BELLS AND OTHER MUSICAL INSTRUMENTS~~

~~No person shall use any drum, bell or other musical instrument resulting in sound levels more than 5dB above the ambient noise level when measured on any receiving noise-sensitive property or, if an apartment, within any other dwelling unit or common area accessible to residents of the apartment, or to conduct such activities in the nighttime so as to be plainly audible within any dwelling unit which is not the source of sound. At no time shall such sound be allowed to cause or contribute to an exceedance of the limits set forth for the receiving property as established in Table 1, § 9-9-12. This section shall not apply to any person who is participating in a school band or duly licensed parade nor does this section apply in the daytime to bells or chimes used by schools or religious institutions.~~

~~(‘74 Code, § 6-22-7) (Ord. 21-1975; Am. Ord. 30-1981; Am. Ord. 9-2001; Am. Ord. 5-2002; Am. Ord. 40-2002; Am. Ord. 30-2003)~~

~~§ 9-9-6 SCHOOLS, HOSPITALS, RELIGIOUS INSTITUTIONS AND LIBRARIES~~

~~No person shall create any unnecessary noise on any street, sidewalk, or public place adjacent to any school, library, or other institution of learning, or~~

1 ~~religious institution, while the same is in use; or adjacent to any hospital,~~
2 ~~which noise unreasonably interferes with the workings of such institution or~~
3 ~~which disturbs or unduly annoys patients in the hospital, provided~~
4 ~~conspicuous signs are displayed in such street, sidewalk or public place~~
5 ~~indicating the presence of a school, hospital, religious institution or library.~~

6 ~~(‘74 Code, § 6-22-8) (Ord. 21-1975; Am. Ord. 30-1981; Am. Ord. 9-2001)~~

7 ~~§ 9-9-7 MACHINERY, EQUIPMENT FANS, AND AIR CONDITIONERS~~

8 ~~(A) Except for emergency work as defined in this article, no person shall~~
9 ~~operate or allow the operation of any stationary machinery, equipment, fan,~~
10 ~~air-conditioning apparatus, or similar permanently installed mechanical device~~
11 ~~in any manner so as to create noise which results in exceedance of the Table 1~~
12 ~~limits specified in § 9-9-12].~~

13 ~~(B) Except for emergency work as defined in this article, no person shall~~
14 ~~operate or allow to be operated outdoors, any power equipment, including, but~~
15 ~~not limited to, sweepers, power mowers, leaf blowers, rototillers, power saws~~
16 ~~or other power equipment used to sweep parking areas or other surfaces or~~
17 ~~perform gardening, property repair or other functions, within 500 feet of any~~
18 ~~noise-sensitive property:~~

19 ~~—— (1) during the nighttime; or~~

20 ~~—— (2) between the hours of 7:00 a.m. and 9:00 a.m. on a Sunday or~~
21 ~~holiday. Power mowers at golf courses are exempt from the requirements of~~
22 ~~this subsection.~~

23 ~~(C) No person shall install or allow the installation of any mechanical~~
24 ~~equipment, such as, but not limited to, air conditioning or freezer~~
25 ~~compressors, evaporative coolers, exhaust fans or other noise-producing~~
26 ~~machines, on commercial property with such equipment on a side adjacent to~~
27 ~~noise-sensitive property or a side separated from noise-sensitive property~~
28 ~~only by an alley. Roof locations may be used when the mechanical equipment~~
29 ~~is installed and maintained so as to not result in an exceedance of the sound-~~
30 ~~level limits in Table 1, § 9-9-12. Mechanical equipment legally installed or for~~
31 ~~which official final approval for installation was received before the effective~~
32 ~~date of this ordinance is specifically exempt from this location requirement.~~

1 ~~(D) No person shall place or allow the placement of any garage door used for~~
2 ~~entry or exit of vehicles from an automotive repair facility on a side of any~~
3 ~~building adjacent to noise-sensitive property or a side separated from noise-~~
4 ~~sensitive property only by an alley. Garage doors legally installed or for which~~
5 ~~an official final approval for installation was received before the effective date~~
6 ~~of this ordinance are specifically exempt from this location requirement.~~

7 ~~(E) Public Utilities. Public utility generation, transmission or distribution~~
8 ~~sites, facilities or substations shall be deemed compliant with this section if~~
9 ~~operated so as not to exceed the noise limits of any applicable City of~~
10 ~~Albuquerque/Bernalillo County Facility Plan: Electric Service Transmission~~
11 ~~and Subtransmission Facilities. In the absence of applicable Facility Plan~~
12 ~~noise limits, the Table 1, § 9-9-12, noise limits corresponding to the land use~~
13 ~~designation of the receiving property at the time of the equipment installation~~
14 ~~shall govern. If a subsequent land use designation is less restrictive, the~~
15 ~~limits for that land use shall apply.~~

16 ~~(‘74 Code, § 6-22-9) (Ord. 21-1975; Am. Ord. 30-1981; Am. Ord. 9-2001)~~

17 ~~§ 9-9-8 CONSTRUCTION OR DEMOLITION OF BUILDINGS AND PROJECTS,~~
18 ~~EXCAVATION AND GRADING.~~

19 ~~Except for emergency work as defined in this article, no person shall, on or~~
20 ~~within 500 feet of any noise-sensitive property, operate or cause to be~~
21 ~~operated any equipment used in construction, repair, alteration, excavation,~~
22 ~~grading or demolition work on buildings, structures, streets, alleys or~~
23 ~~appurtenances thereto:~~

24 ~~(A) with sound-control devices less effective than those provided on the~~
25 ~~original equipment; and~~

26 ~~(B) without using noise mitigation measures as approved by the Department~~
27 ~~and the Public Works Department for projects exceeding:~~

28 ~~—— (1) 80 dB during any calendar day for more than 3 consecutive or non-~~
29 ~~consecutive calendar days. Noise determination tests shall be for at least 10~~
30 ~~minutes, with any 4 tests in consecutive or non-consecutive clock hours~~
31 ~~above the 80 dB level constituting an exceedance for that day; or~~

1 ~~— (2) — 90 dB during any clock hour for more than 4 consecutive or non-~~
2 ~~consecutive clock hours. Tests shall be for at least 10 minutes, with any~~
3 ~~single test above the 90 dB level constituting an exceedance for that hour.~~

4 ~~— (3) — The location for sound level measurements shall be on any receiving~~
5 ~~noise-sensitive property other than the project property, provided that each~~
6 ~~test is taken from the same property, and the provisions in this section shall~~
7 ~~apply to that specific test location.~~

8 ~~— (4) — The mitigation measures specified in this § 9-9-8(B) shall be used at~~
9 ~~all times on Sundays and holidays and between 10:00 p.m. and 6:00 a.m.~~

10 ~~(C) No person shall construct a building, including foundation work, on~~
11 ~~Sundays or holidays or between 10:00 p.m. and 6:00 a.m., without first~~
12 ~~obtaining a Temporary Noise Construction Permit as described in § 9-9-13 of~~
13 ~~this ordinance.~~

14 ~~(‘74 Code, § 6-22-10) (Ord. 21-1975; Am. Ord. 30-1981; Am. Ord. 9-2001)~~

15 ~~§ 9-9-9 MOTOR VEHICLES.~~

16 ~~(A) No person shall operate or allow to be operated within the city, at any~~
17 ~~speed including idle, either a motor vehicle or combination of vehicles of a~~
18 ~~type subject to registration at any time or under any condition of grade, load,~~
19 ~~acceleration or deceleration in such a manner as to exceed the following~~
20 ~~sound level limits when measured 25 feet from the center of the vehicle path:~~

Sound Level Limit

Type of Vehicle	Time Period	Maximum dB
Any motor vehicle with a manufacturer's GVW rating of 10,000 lbs. or more, and any combination of vehicles towed by such motor vehicle on roadways classified as:	daytime	88 dB
	nighttime	80 dB
	all times	88 dB
—minor arterials and collectors in residential areas by the MRGCOGLRMSP:		
—principal arterials and collectors in office/commercial and industrial areas by the MRGCOGLRMSP:		
Any motor vehicle with a GVW rating under 10,000	all times	80 dB

lbs. or more except motorcycles

1 ~~The requirements in § 9-9-9(A) apply to the total sound from a vehicle or~~
2 ~~combination of vehicles and shall not be construed as limiting or precluding~~
3 ~~the enforcement of any other provisions of this article relating to motor~~
4 ~~vehicle mufflers for noise control.~~

5 ~~(B) — Motorcycles. No person shall operate a motorcycle: which exceeds~~
6 ~~99 dB, measured in accordance with SAE stationary test method J1287 or~~
7 ~~similar Department-approved method.~~

8 ~~(C) — No person shall operate a motor vehicle having a manufacturer's gross~~
9 ~~vehicle rating of less than 6,000 lb., except a motorcycle, which exceeds 95 dB~~
10 ~~measured 20 in. (508 mm) from the exhaust outlet. The measured exhaust~~
11 ~~system sound level of a stationary vehicle shall be the highest reading~~
12 ~~obtained during the test, disregarding unrelated peaks due to extraneous~~
13 ~~ambient noise. When there is more than one exhaust outlet, the reported~~
14 ~~sound level shall be for the loudest outlet. When there is more than one~~
15 ~~exhaust outlet extending from a single muffler, separated by less than 12 in.~~
16 ~~(305 mm), measurements shall not be made on the outlet furthest from the~~
17 ~~side of the vehicle.~~

18 ~~(D) — No person shall operate a motor vehicle having a manufacturer's gross~~
19 ~~vehicle weight rating of at least 6,000 lb. which exceeds 93 dB, measured 25 ft.~~
20 ~~(7.6m) from the side of the vehicle. The sound level meter shall be observed~~
21 ~~during the full cycle of engine acceleration-deceleration, and the measured~~
22 ~~sound level reading shall be the highest value obtained during this cycle,~~
23 ~~excluding unrelated peaks due to extraneous ambient noise. When there is~~
24 ~~more than one outlet, the sound level for each side of the vehicle shall be~~
25 ~~measured, and the reported sound level shall be the average of the two~~
26 ~~highest readings within 1 dB of each other on the louder side.~~

27 ~~(E) — Except when necessary to provide a warning signal, no person shall,~~
28 ~~within any 7-day period, cause or allow the sounding of any security alarm on~~
29 ~~or in any vehicle owned, leased or otherwise held by that person:~~

30 ~~—— (1) — on more than 2 occasions; or~~

31 ~~—— (2) — during more than 5 consecutive minutes.~~

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

1 ~~(F) All motor vehicles shall have a ninety-day grace period from the date of~~
2 ~~publication of this ordinance to comply with the vehicle noise emission~~
3 ~~regulations herein.~~

4 ~~(74 Code, § 6-22-12) (Ord. 21-1975; Am. Ord. 30-1981; Am. Ord. 9-2001; Am.~~
5 ~~Ord. 26-2002)~~

6 ~~§ 9-9-10 AIRCRAFT-RELATED NOISE.~~

7 ~~(A) No person shall operate or run up, or cause to be operated or run up, for~~
8 ~~testing, repair or maintenance purposes, an aircraft engine which creates a~~
9 ~~sound level more than 5 dB above the ambient sound level, when measured~~
10 ~~on any receiving noise-sensitive property during the nighttime hours.~~

11 ~~(B) Any aircraft engine operating within an aircraft during a landing, takeoff~~
12 ~~or while moving upon the ground surface of an airport shall be exempt from~~
13 ~~the provisions of this section. Noise from helicopter takeoff and landing~~
14 ~~operations is regulated in § 9-9-10(D).~~

15 ~~(C) The intent of this section is to regulate the noise levels produced in~~
16 ~~the testing, maintenance and repairing of aircraft engines and aircraft in the~~
17 ~~nighttime hours to the extent such levels exceed 5 dB above the ambient~~
18 ~~noise level when measured on any receiving noise-sensitive property.~~

19 ~~D) Helicopter Noise. While on the ground with engines running at~~
20 ~~approved helipads within the city limits, helicopters shall not exceed the~~
21 ~~following sound levels for the indicated time period as measured on any~~
22 ~~receiving noise-sensitive property:~~

23 ~~—— 65 dB for more than 5 minutes;~~

24 ~~—— 70 dB for more than 90 seconds;~~

25 ~~—— 80 dB for more than 15 seconds;~~

26 ~~—— 90 dB for any length of time.~~

27 ~~Helicopters shall not take off or land at approved helipads in the city limits~~
28 ~~during the nighttime. Sound level/duration limit compliance shall be~~
29 ~~determined with an approved sound level meter which measures and records~~
30 ~~at least 16 distinct readings per second. This §9-9-10 does not apply to~~
31 ~~helicopters used for:~~

32 ~~—— (1) law enforcement;~~

33 ~~—— (2) emergency medical transport;~~

1 ~~—— (3) emergency search and rescue; or~~
 2 ~~—— (4) public utility restoration.~~
 3 ~~(‘74 Code, § 6-22-13) (Ord. 21-1975; Am. Ord. 30-1981; Am. Ord. 9-2001)~~
 4 **~~§ 9-9-11 REFUSE COLLECTION.~~**
 5 ~~No person shall collect refuse with a refuse collection vehicle except during~~
 6 ~~the following hours:~~
 7 ~~(A) Noise-sensitive property or property adjacent to noise-sensitive~~
 8 ~~property or separated by an alleyway from noise-sensitive property:~~
 9 ~~—— Monday through Friday: 7:00 a.m. to 8:00 p.m.~~
 10 ~~—— Saturday, Sunday, holiday: 7:00 a.m. to 10:00 p.m.~~
 11 ~~(B) Areas not specified in (A):~~
 12 ~~—— Monday through Friday: 6:00 a.m. to 10:00 p.m.~~
 13 ~~—— Saturday, Sunday, holiday: 7:00 a.m. to 12:00 p.m.~~
 14 ~~(Ord. 9-2001)}~~
 15 **§ 9-9-[12][4] GENERAL NOISE.**
 16 **(A) Except as otherwise provided in this article, no person shall make or**
 17 **continue, cause to be made or continued, or allow to be made or**
 18 **continued, any sound [that persistently or continuously] result[s][ing] in**
 19 **an exceedance of the following [sound level] limits [using an Approved**
 20 **Sound-Level Meter measuring decibels on the A-Weighted scale.]**
 21

Table 1 General Sound Level Limits		
<i>Land Use Category</i>	Time	Maximum dB
Residential	Daytime	55
	Nighttime	50
Office/Commercial	Daytime	65
	Nighttime	60

Industrial	Daytime	75
	Nighttime	70

1]

2 ~~[Sound projecting from property of one land use category onto property of~~
3 ~~another land use category having a lower sound-level limit shall not exceed~~
4 ~~the limits for the property of the land use category onto which it is projected.]~~

5 **[Table 1(A-Weighted measurements in decibels (dB))]**

	Receptor Premises					
<i>Numbers indicate decibel (dB) levels</i>	Residential		Commercial and Downtown Arts and Cultural District		Industrial/Manufacturing and Public Premises	
Source Premises	Daytime	Nighttime	Daytime	Nighttime	Daytime	Nighttime
Residential	55	50	65	60	75	70
Commercial and Downtown Arts and Cultural District	55 (indoor) 60 (outdoor)	50 (indoor) 55(outdoor)	65	60	75	70
Industrial/Manufacturing and Public Premises	55 (indoor) 60 (outdoor)	50 (indoor) 55(outdoor)	65	60	75	70

6

7

8 **[(B) Except as otherwise provided in this article, no person shall make or**
9 **continue, cause to be made or continued, or allow to be made or continued,**
10 **any sound that persistently or continuously results in an exceedance of the**
11 **following sound level limits using an Approved Sound-Level Meter measuring**
12 **decibels on the C-Weighted scale.**

13 **Table 2 (C-Weighted measurements in decibels (dB))]**

	Receptor Premises		
<i>Numbers indicate decibel (dB) levels</i>	Residential	Commercial and Downtown Arts and Cultural District	Industrial/Manufacturing and Public Premises

Source Premises	Daytime	Nighttime	Daytime	Nighttime	Daytime	Nighttime
Residential	60	55	70	65	80	75
Commercial and Downtown Arts and Cultural District	60 (indoor) 65 (outdoor)	55 (indoor) 60 (outdoor)	70	65	80	75
Industrial/Manufacturing and Public Premises	60 (indoor) 65 (outdoor)	55 (indoor) 60 (outdoor)	70	65	80	75

1

2 ~~[(B)(C)]~~ No person shall allow an animal in his possession or control to
3 persistently or continuously bark, howl or make noise common to its species,
4 or otherwise to disturb the peace and quiet of the inhabitants of the city, or
5 otherwise endanger the health and welfare of the inhabitants of the city. This
6 provision shall not apply to public zoos and approved and properly zoned
7 animal shelters as defined in the Humane and Ethical Animal Rules and
8 Treatment Ordinance.~~Animal Control Ordinance.~~

9 [(D) Except for work authorized by a governmental body or agency, no
10 person shall, on or within 500 feet of any Noise-Sensitive Property, operate or
11 cause to be operated any equipment used in construction, repair, alteration,
12 excavation, grading or demolition work on buildings, structures, streets, alleys
13 or appurtenances thereto:

14 (1) with sound-control devices less effective than those provided on the
15 original equipment; and without using noise mitigation measures

16 (2) on Sundays or holidays or between 10:00 p.m. and 6:00 a.m., without
17 first obtaining a Temporary Construction Noise Permit as described in § 9-9-5
18 of this ordinance.]

19

20 ~~([74 Code, § 6-22-14) (Ord. 21-1975; Am. Ord. 30-1981; Am. Ord. 9-2001)]~~

21 § 9-9-~~5~~~~13~~ TEMPORARY PERMITS ~~[FOR]~~ ~~{~~AMPLIFIED SOUND ~~[OR]~~
22 ~~[/CONSTRUCTION NOISE{)].~~

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(A) The Mayor may grant a temporary permit which allows non-compliance with the limitations prescribed in this article for the purpose of amplified sound or construction noise activities of short duration.

(B) Permits shall be granted upon application, at no cost to applicant, provided an initial evaluation indicates that the permit will not result in a condition injurious to health or safety.

(C) The following factors shall be considered in the initial evaluation to determine whether granting the permit will result in a condition injurious to health or safety:

(1) Temporary ~~[Amplified Sound]~~ Permits [for use of sound amplifying equipment]:

- (a) Distance of proposed activities from noise-sensitive property;
- (b) Number of amplification devices to be used in the proposed activities;
- (c) Anticipated direction of amplification devices;
- (d) Anticipated length of proposed activities; and
- (e) Whether the activity will be held within or without a structure.
- [(f) Other circumstances or conditions that may be impacted or aggravated by the proposed activities.]

(2) Temporary Construction Noise Permits:

- (a) Distance from noise-sensitive property;
- (b) Type of activity and equipment;
- (c) Estimated noise level and duration;
- (d) Noise mitigation measures to be used; and
- (e) Health and safety benefits to be realized as a result of the completed project.
- [(f) Other circumstances or conditions that may be impacted or aggravated by the proposed activities.]

(D) Upon a determination that the granting of a permit will not result in a condition injurious to health or safety, the permit shall be issued specifying place, duration, and any requirements appropriate to the proposed activity site~~[, which may include maximum sound level limits]~~.

1 [(E) Unless other dates and times are explicitly addressed in the permit,
2 permitted noise shall not continue past 10:00pm on Sunday, Monday,
3 Tuesday, Wednesday, and Thursday. On Friday and Saturday, permitted noise
4 shall not continue past 12:00am.]

5 ~~[(F)[E]]~~ Issued permits ~~[become void and shall be]~~~~[will be]~~ surrendered to
6 any city police officer or any ~~[representative of the Mayor]~~ ~~[Department~~
7 ~~representative]~~ authorized to enforce this article upon request when it is
8 determined that any requirement contained in the permit has been violated.
9 [Upon revocation of the permit, permitted activities must either immediately
10 cease or must be in compliance with the limitations prescribed in this article.]

11 ~~[(G)[F]]~~ A subsequent permit application [by the same applicant or another
12 applicant] may be denied upon substantiated complaint(s) by [a] resident(s) in
13 the locality of the ~~[previously]~~ permitted activity or if an applicant has in the
14 past been required to surrender a permit as described in division ~~[(E)[F]]~~.

15 ~~[(H)[G]]~~ This section shall not apply to any person who has been granted a
16 variance as prescribed by § ~~[9-9-14]~~~~[9-9-6]~~.

17 ~~[(I)[H]]~~ Any person aggrieved by the disposition of an application for a
18 temporary permit may appeal such disposition by filing a written petition with
19 the Mayor within 30 days of the disposition.

20 ~~[('74 Code, § 6-22-5) (Ord. 30-1981; Am. Ord. 9-2001)]~~

21 § 9-9-~~[14]~~~~[6]~~ VARIANCES.

22 (A) The Mayor may grant an individual variance from the limitations
23 prescribed in this article whenever it is found, after a public hearing before a
24 Hearing Officer and upon presentation of adequate proof, that compliance with
25 any part of this article will impose an undue economic burden upon any lawful
26 business, occupation or activity, and that the granting of the variance will not
27 result in a condition injurious to health or safety.

28 (B) Any variance, or renewal thereof, shall be granted within the
29 requirements of division (A) of this section and for time periods and under
30 conditions consistent with the reasons therefore, and within the following
31 limitations:

32 (1) If the variance is granted on the grounds that compliance with the
33 particular requirement or requirements will necessitate the taking of measures

1 which, because of their extent or cost, must be spread over a considerable
2 period of time, it shall be for a period not to exceed such reasonable time as,
3 in the view of the Mayor, is requisite for taking of the necessary measures. A
4 variance granted on the ground specified in this division shall contain a
5 timetable for taking of action in an expeditious manner and shall be
6 conditioned on adherence to the timetable; or

7 (2) If the variance is granted on the ground that it is justified to
8 relieve or prevent hardship of a kind other than that provided for in division (1)
9 of this division (B), it shall be for not more than one year.

10 (C) Any person seeking a variance shall file a petition for variance and a \$50
11 filing fee with the Mayor. The Mayor shall submit the petition to the Hearing
12 Officer to conduct a public hearing after notice has been provided in
13 accordance with this section and to make the final decision regarding the
14 granting of the variance. The Hearing Officer shall conduct the hearing and
15 accept documentary and testimonial evidence in accordance with accepted
16 administrative hearing procedures.

17 (D) Written notice of the public hearing shall be mailed by the Hearing Officer
18 at least 10 days prior to the hearing to:

19 (1) the petitioner;

20 (2) the petitioner's agent;

21 (3) the owners as shown by the records of the County Assessor of lots
22 comprising the site of the variance and lots within 100 feet, excluding public
23 right-of-way, of the site of the variance;

24 (4) any neighborhood association or homeowner association that
25 has notified the City Office of Neighborhood Coordination of two persons'
26 addresses where it wishes notice to be sent if the site of the variance is within
27 the neighborhood or homeowner association's boundaries or within 100 feet
28 of the neighborhood or homeowner association's boundaries, excluding
29 public right-of-way.

30 (5) any other person or entity that has filed with the Mayor a request to
31 receive a notice of the variance proceeding.

32 (E) The notice of hearing shall set forth the name and address of the
33 petitioner, the location of the site of the variance, that the petitioner has

1 requested a variance from this ordinance, the nature of the requested
2 variance, and that part of the ordinance that would be waived if approved.

3 (F) Following the hearing, the Hearing Officer shall render a written final
4 decision including findings of fact and conclusions of law. The Hearing
5 Officer shall mail the decision to all parties of record. The exclusive remedy
6 for any parties to the administrative proceedings described in this paragraph
7 shall be a petition for writ of certiorari to the State District Court. The petition
8 for review shall be limited to the record made at the public hearing described
9 herein.

10 ('74 Code, § 6-22-4) (Ord. 21-1975; Am. Ord. 30-1981; Am. Ord. 9-2001; Am.
11 Ord. 42-2007)

12 ~~§ 9-9-15 CROSS-REFERENCES.~~

13 ~~The following sources of noise are specifically governed within the indicated~~
14 ~~Article of the Albuquerque Code of Ordinances:~~

15 ~~(A) animal noise: Animal Control Ordinance (Chapter 9, Article 2);~~

16 ~~(B) alarm system noise (structure/facility): Alarm Systems Ordinance~~
17 ~~(Chapter 9, Article 3);~~

18 ~~(C) vehicular horn noise: Traffic Code (Chapter 8, Article 6);~~

19 ~~(D) vehicular engine muffler noise: Traffic Code (Chapter 8, Article 6);~~

20 and

21 ~~(E) "unreasonable noise": Criminal Code (Chapter 12, Article 2).~~

22 ~~(Ord. 9-2001)}~~

23 § 9-9-7 MACHINERY, EQUIPMENT FANS, AND AIR CONDITIONERS

24 (A) Except for emergency work as defined in this article, no person shall
25 operate or allow the operation of any stationary machinery, equipment, fan,
26 air-conditioning apparatus, or similar permanently installed mechanical device
27 in any manner so as to create noise which results in exceedance of the sound
28 level limits specified in § 9-9-4.

29 (B) No person shall operate or allow to be operated outdoors, any power
30 equipment, including, but not limited to, sweepers, power mowers, leaf
31 blowers, rototillers, power saws or other power equipment used to sweep
32 parking areas or other surfaces or perform gardening, property repair or other
33 functions, within 500 feet of any noise-sensitive property:

1 (1) during the nighttime; or
2 (2) between the hours of 7:00 a.m. and 9:00 a.m. on a Sunday or
3 holiday. Power mowers at golf courses are exempt from the requirements of
4 this subsection.

5 (C) No person shall install or allow the installation of any mechanical
6 equipment, such as, but not limited to, air conditioning or freezer
7 compressors, evaporative coolers, exhaust fans or other noise-producing
8 machines, on commercial property with such equipment on a side adjacent to
9 noise-sensitive property or a side separated from noise-sensitive property
10 only by an alley. Roof locations may be used when the mechanical equipment
11 is installed and maintained so as to not result in an exceedance of the sound-
12 level limits in § 9-9-4. Mechanical equipment legally installed or for which
13 official final approval for installation was received before the effective date of
14 this ordinance is specifically exempt from this location requirement.

15 (D) No person shall place or allow the placement of any garage door used for
16 entry or exit of vehicles from an automotive repair facility on a side of any
17 building adjacent to noise-sensitive property or a side separated from noise-
18 sensitive property only by an alley. Garage doors legally installed or for which
19 an official final approval for installation was received before the effective date
20 of this ordinance are specifically exempt from this location requirement.

21 (E) Public Utilities. Public utility generation, transmission or distribution
22 sites, facilities or substations shall be deemed compliant with this section if
23 operated so as not to exceed the noise limits of any applicable City of
24 Albuquerque/Bernalillo County Facility Plan: Electric Service Transmission
25 and Subtransmission Facilities. In the absence of applicable Facility Plan
26 noise limits, the sound level limits corresponding to the zoning district
27 designation of the receiving property at the time of the equipment installation
28 as set forth in §9-9-4 shall govern. If a subsequent zoning district designation
29 is less restrictive, the limits for that zoning district shall apply.]

30 [§9-9-[7] [8] EXCEPTIONS AND EXCLUSIONS

31 Aircraft and airports. The limits set forth in this Article do not apply to sounds
32 or vibrations generated by any aircraft or generated in connection with the
33 operation of any airport or approved helipad used in support of law

1 enforcement, public utility restoration, emergency medical transport or search
2 and rescue.
3 Earthshaking vibrations. – The limits set forth in this Article do not apply to
4 vibrations caused by construction, demolition or repair work.
5 Emergency or civic construction, demolition, or repair work. The limits set
6 forth in this Article do not apply to sounds generated in construction,
7 demolition or repair work of an emergency nature or in work on public
8 improvements authorized by a governmental body or agency.
9 Entertainment events. The limits set forth in this Article shall not apply to
10 those reasonable sounds emanating from authorized school bands, school
11 athletic, and school entertainment events. Furthermore, the limits set forth in
12 this Article shall not apply to those reasonable sounds emanating from
13 occasional outdoor or indoor gatherings, public dances, shows, and band
14 performances conducted during the Daytime.
15 Human voices. The limits set forth in this Article do not apply to noise created
16 by unamplified human voices.
17 Fireworks displays. The limits set forth in this Article do not apply to any
18 public or private legally permitted fireworks displays.
19 Mass transit. The limits set forth in this Article do not apply to sounds or
20 vibrations generated in the operation of any mass transit system.
21 Parades and Protests. The limits set forth in this Article do not apply to legally
22 permitted parades or to protests.
23 Mosquito control. Equipment for the use of mosquito control and prevention
24 by the City of Albuquerque or other governmental agency.
25 Pre-existing mechanical equipment. The limits set forth in this Article do not
26 apply to legally installed mechanical equipment for which official final
27 approval for installation was received before the effective date of this
28 ordinance.
29 Refuse Collection. The limits set forth in this Article do not apply to municipal
30 refuse collection activities taking place during the Daytime.
31 Stadiums. The limits set forth in this Article do not apply to sounds generated
32 at any stadium.

1 Total Preemption. The limits set forth in this Article do not apply to sounds
2 otherwise governed by Federal, State, or Municipal laws or regulations.]

3 § 9-9-[16][8] [9] ADMINISTRATION.

4 The Mayor shall be responsible for the administration of this article. Rules,
5 [policies,] regulations, and test and compliance procedures to carry out the
6 intent and purpose of this article shall be promulgated by the Mayor.

7 [(74 Code, § 6-22-15) (Ord. 21-1975; Am. Ord. 30-1981; Am. Ord. 9-2001)]

8 [§ 9-9-[9][10] NOISE MITIGATION PLANS

9 In addition to the other powers set forth in this Article, the Mayor may
10 request an acoustical review of a proposed facility as part of the building
11 permit review process. Such acoustical review shall be performed by an
12 acoustical/sound professional and may require the submission and
13 acceptance of a noise mitigation plan to ensure that the facility's noise
14 activities fall within the dB limitations specified in this Article prior to building
15 permit approval. Failure to comply with a noise mitigation plan will result in
16 enforcement actions as provided in this Article.]

17 ~~[§ 9-9-17 VIOLATIONS; ADDITIONAL REMEDIES; INJUNCTIONS.~~

18 ~~As an additional remedy to the penalty set forth in § 9-9-99, the operation or~~
19 ~~maintenance of any device, instrument, vehicle, or machinery in violation of~~
20 ~~any provision of this article, which operation or maintenance exceeds the~~
21 ~~limitations of this article, may be subject to abatement summarily by a~~
22 ~~restraining order or injunction issued by a court of competent jurisdiction.~~

23 ~~(74 Code, § 6-22-17) (Ord. 21-1975; Am. Ord. 30-1981; Am. Ord. 9-2001)]~~

24 ~~[§ 9-9-18 REVIEW.~~

25 ~~This ordinance shall be reviewed by the City Council within five years of its~~
26 ~~effective date.~~

27 ~~(Ord. 9-2001)]~~

28 ~~[§ 9-9-99 PENALTY.~~

29 ~~Any person who violates any provision of this article shall be subject to the~~
30 ~~following penalties for offenses during any 36-consecutive-month period:~~

31 ~~(A) fine of \$100 for the first offense;~~

32 ~~(B) fine of \$250 for the second offense;~~

33 ~~(C) fine of \$500 for the third and subsequent offenses.~~

~~Each calendar day during which the violation occurs shall constitute a separate and distinct offense.~~

~~('74 Code, § 6-22-16) (Ord. 21-1975; Am. Ord. 9-2001)}~~

[§ 9-9-[10][11] MAKING VIOLATIONS OF THE NOISE ORDINANCE CIVIL VIOLATIONS; PROVIDING A HEARING; ADDITIONAL REMEDIES; INJUNCTIONS.

(A) Each act in violation of this Article shall constitute a public nuisance and a separate civil violation. Civil violations of this Article shall subject the owner of the offending property to the following penalties for offenses during any 36-consecutive-month period:

(1) a civil fine of \$250 for the first offense;

(2) a civil fine of \$500 for the second offense;

(3) a civil fine of \$1,000 for the third and subsequent offenses

Each calendar day during which the civil violation occurs shall constitute a separate and distinct offense.

(B) Upon determination by the Mayor that a violation of this Article has occurred, the Mayor will cause to be sent a Notice of Violation, which notice will be mailed postage pre-paid return-receipt-requested to the lawfully registered owner of the property as determined by the records of the Bernalillo County Clerk. The notice shall contain the following information:

(1) The address where the violation occurred;

(2) The approximate time the violation occurred;

(3) A brief narrative of the circumstances surrounding the violation;

(4) A statement regarding whether this is the first, second, or third or subsequent offense within a consecutive 36-month period;

(5) A name and phone number or title of municipal employee from whom the owner can obtain further information;

(6) The address where payment for the violation may be made.

(7) A statement that the owner has the right to contest the validity of the civil violation by requesting a hearing in writing within ten days of the date of mailing of the Notice of Violation; and

(8) A copy of this Article.

1 (C) Any person who is issued a Notice of Violation may request that a
2 hearing be scheduled by the city hearing officer by submitting a timely hearing
3 request and paying a \$50 hearing fee to the Independent Office of Hearings.
4 The hearing shall be conducted by a City Hearing Officer, as defined by the
5 Independent Office of Hearings Ordinance (§§ 2-7-8-1 et seq. ROA 1994). The
6 hearing shall be held within 20 working days (excluding weekends and
7 holidays) of receipt of the request unless the hearing is continued with the
8 agreement of the parties. The hearing shall be informal and not bound by the
9 technical rules of evidence. The City Hearing Officer shall determine whether a
10 violation of this article occurred. The Hearing Officer shall mail a written notice
11 of decision to the owner within five working days of the hearing. If the Hearing
12 Officer finds that there was no violation of this Article, then the Hearing Officer
13 shall (i) refund hearing fee and (ii) issue and date a Certificate of Compliance.
14 If the Hearing Officer determines that a violation of this Article did occur, then
15 the Hearing Officer shall impose a fine as above prescribed.

16 (D) Failure to pay a fine imposed by this Article—whether the fine is
17 uncontested or unsuccessfully contested—shall subject the property owner to
18 the penalty provisions set forth in § 9-9-[10][11] of this code of ordinances.
19 Each failure is considered a separate offense.

20 (E) As an additional remedy to the civil fines set forth in this section, the
21 Mayor may seek a restraining order or injunction issued by a court of
22 competent jurisdiction to prohibit ongoing violations of any provision of this
23 Article

24 § 9-9-[11][12] ORDINANCE NOT TO EFFECT PROVISIONS OF OTHER CITY
25 ORDINANCES

26 The enactment of this Ordinance shall not be construed to supersede or effect
27 the following provisions of the Albuquerque Code of Ordinances:

28 (A) Section 9-2-4-7 “animal noise”;

29 (B) Chapter 9, Article 3 “alarm systems”;

30 (C) Section 8-6-14 “use of horn”;

31 (D) Section 8-6-13 “muffler required”; and

32 (E) Section 12-2-4 "unreasonable noise".]

1 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
2 clause, word or phrase of this ordinance is for any reason held to be invalid or
3 unenforceable by any court of competent jurisdiction, such decision shall not
4 affect the validity of the remaining provisions of this ordinance. The Council
5 hereby declares that it would have passed this ordinance and each section,
6 paragraph, sentence, clause, word or phrase thereof irrespective of any
7 provision being declared unconstitutional or otherwise invalid.

8 SECTION 3. COMPILATION. Section 1 of this ordinance shall be
9 incorporated in and made part of the Revised Ordinances of Albuquerque, New
10 Mexico, 1994.

11 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five days
12 after publication by title and general summary.

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