

CITY OF EVANS, COLORADO

ORDINANCE NO. 796-23

**AN ORDINANCE AMENDING CHAPTER 8.25 OF THE EVANS MUNICIPAL CODE
TO REGULATE NOISE LEVELS IN THE CITY OF EVANS**

WHEREAS, the City of Evans is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council (the “Council”), is authorized to adopt ordinances for the protection of the public health, safety, or welfare; and

WHEREAS, in the exercise of this authority the Council has previously enacted Ordinance 773-22 to adopt Chapter 8.25 of the Evans Municipal Code (the “Code”) concerning the regulation of noise; and

WHEREAS, in the interests of the health, safety, and welfare of the public, the Council finds it necessary to amend Chapter 8.25 to establish that plainly audible noise detectable more than 50 feet from a vehicle sound system should be prohibited.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF EVANS, COLORADO:**

Section 1. Underlined and bolded text is added. Section 8.25.020 of the Evans Municipal Code is hereby amended to read in full as follows:

Section 8.25.020

Definitions. As used in this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

Ambient Noise Level shall mean the sound level of all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources.

Amplified sound shall mean the use or operation of any loudspeaker, public address system, or other sound amplifying equipment for the purpose of giving instructions, directions, talks, addresses or lectures, or for transmitting music or sound to any persons or assemblages of persons.

City Manager shall mean the City Manager or the City Manager’s designee.

Construction Noise shall mean any noise created by or in connection with any activity for which a building, excavation or grading permit is required, or by or in connection with any other activity which requires the use of hand or power tools, or other machinery used for building.

Construction Noise does not include sound made in the use of domestic power equipment on residential property.

Exterior Loudspeaker or Amplifier: A noise source for the amplification of sound which: a) is located on an exterior deck, patio or balcony of any structure, b) is affixed to the exterior wall of any structure, c) is in or on any lawn or landscaped area outside of any structure, or d) is otherwise placed, affixed, or located outside the exterior walls of any structure.

Liquor Licensed Establishment: an establishment for which a license has been issued under Chapter 5.08 [Alcoholic Beverages] of the Evans Municipal Code, or for which a special events alcoholic beverage license has been issued.

Noise shall mean any sound which is unwanted, or which causes or tends to cause an adverse psychological or physiological effect on human beings.

Noise Source shall mean any equipment, facility, or device capable of emitting sound beyond **the vehicle** or the property boundary of the property on which it is located.

Person shall mean any individual, firm, association, organization, partnership, business, trust, corporation, company, limited liability entity, contractor, supplier, installer, user, owner, or operator, including any municipal corporation or its officers or employees.

Plainly audible means any sound that can be detected and clearly comprehended by a person using their own unaided hearing faculties. **Plainly audible includes detectable sound such as the beat, cadence, or vibration of sound emanating from a Noise Source located inside of a vehicle.**

Public Space shall mean any real property or structure on real property owned by a governmental entity and normally accessible to the public, including, but not limited to, parks and other recreational areas.

Responsible Party means a person or entity who has violated the Code, or, in the case of property violations, the responsible party may also be the property owner, the occupant, or an individual or an entity who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to an administrative citation under this Chapter.

Unreasonable noise shall mean any noise, which because of its loudness and frequency, while taking into consideration the ambient noise typical of its location, unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of reasonable persons or ordinary sensitivity or causes damage to any property or business.

Unavoidable Noise shall mean noise generally associated with transportation regulated by the Colorado Department of Transportation (CDOT); Federal Highway Administration (FHA); Federal Railroad Administration (FRA); and the Federal Aviation Administration (FAA).

Section 2. Subsection 8.25.030.B.1 shall be amended to read as follows:

B. The foregoing noises and circumstances shall be deemed as unreasonable:

1. Any unreasonable noise or sound which is plainly audible one hundred (100) or more feet from a noise source **located on real property or fifty (50) or more feet from a noise source located in a vehicle;** or

Section 3. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certificate of Publication. This Ordinance shall become effective upon final passage.

Section 4. Severability. 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 thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 5. Repeal. Only parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed. In addition, this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

**INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF EVANS ON THIS 2nd DAY OF MAY, 2023.**

ATTEST:

CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By: _____
Mark C. Clark, Mayor

PASSED AND ADOPTED ON A SECOND READING THIS 16th DAY OF MAY, 2023.

ATTEST:

CITY OF EVANS, COLORADO

Julie Kamka, City Clerk

By: _____
Mark C. Clark, Mayor