

CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM

CITY CLERK DEPT
2019 JAN 30 PM1:40

DEPARTMENT: Environmental Services

AGENDA DATE: February 5, 2019

PUBLIC HEARING DATE: February 19, 2019

CONTACT PERSON NAME AND PHONE NUMBER: Ellen Smyth, Director, 915-212-6000
Karl Rimkus, Operations Manager, 915-212-6053

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: Goal 2 - Set the Standard for a Safe and Secure City

SUBGOAL: 2.8 - Implement effective code enforcement strategies to reduce nuisances, enhance visual appearance and improve overall health and safety

SUBJECT:

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.40 (NOISE) TO UPDATE THE ORDINANCE AND REMOVE PERMIT-RELATED LANGUAGE THROUGHOUT THE ORDINANCE SO THAT ONLY NUISANCE LANGUAGE REMAINS; BY DELETING PERMIT RELATED LANGUAGE FROM 9.40.010 (DEFINITIONS); TO REPLACE SECTION 9.40.020 (DECIBEL MEASUREMENT CRITERIA) WITH "(APPLICABILITY)"; TO REPLACE SECTION 9.40.030 (DESIGNATED NOISE ZONES) WITH "(SOUND LEVEL VIOLATIONS)"; TO REPLACE SECTION 9.40.040 (EXTERIOR NOISE STANDARDS) WITH "(VIBRATION)"; TO REPLACE SECTION 9.40.050 (INTERIOR NOISE STANDARDS) WITH "(SOUND LEVEL MEASUREMENT)"; TO REPLACE SECTION 9.40.060 (ADDITIONAL NOISE STANDARDS) WITH "(IDENTIFICATION OF VIOLATOR)"; TO REPLACE SECTION 9.40.070 (NOISE SENSITIVE ZONES) WITH "(PENALTIES)"; TO REPLACE SECTION 9.40.080 (NOISE LEVEL MEASUREMENT) WITH "(ENFORCEMENT)"; TO DELETE SECTIONS 9.40.090-9.40.140; THE PENALTY BEING AS PROVIDED IN SECTION 9.40.070 OF THE EL PASO CITY CODE

BACKGROUND / DISCUSSION:

Numerous requests have been made by the public over the past several years to revise the City's existing noise ordinance (Chapter 9.40 of the El Paso City Code), due to its complexity and heavy reliance on confirming noise nuisances based on decibel levels.

The current ordinance regulates noise by placing maximum sound level limits (measured in dB) based on three different noise zones and time of day/night. This presents a challenge to EPPD patrol officers, who are required to have a sound level meter to be able to document a nuisance, which they do not have in most cases. Furthermore, the strictest standard of a maximum of 50 dB at residential properties after 10 p.m. may not be reasonable when such districts are abutted by a commercial district where noise may be generated after 10 p.m.

The proposed revisions include certain exemptions, prohibitions, a maximum sound level of 70 dB at the property line between 10 p.m. – 7:00 p.m., and emphasis on noises that annoy a person of "reasonable sensibilities." Additionally, the most common noise nuisances are defined and described in plain language, in order for the public and enforcement officers to more easily understand and interpret what constitutes certain nuisances.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

CITY CLERK DEPT
2019 JAN 30 PM1:40

ORDINANCE _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.40 (NOISE) TO UPDATE THE ORDINANCE AND REMOVE PERMIT-RELATED LANGUAGE THROUGHOUT THE ORDINANCE SO THAT ONLY NUISANCE LANGUAGE REMAINS; BY DELETING PERMIT RELATED LANGUAGE FROM 9.40.010 (DEFINITIONS); TO REPLACE SECTION 9.40.020 (DECIBEL MEASUREMENT CRITERIA) WITH (APPLICABILITY); TO REPLACE SECTION 9.40.030 (DESIGNATED NOISE ZONES) WITH (SOUND LEVEL VIOLATIONS); TO REPLACE SECTION 9.40.040 (EXTERIOR NOISE STANDARDS) WITH (VIBRATION); TO REPLACE SECTION 9.40.050 (INTERIOR NOISE STANDARDS) WITH (SOUND LEVEL MEASUREMENT); TO REPLACE SECTION 9.40.060 (ADDITIONAL NOISE STANDARDS) WITH (IDENTIFICATION OF VIOLATOR); TO REPLACE SECTION 9.40.070 (NOISE SENSITIVE ZONES) WITH (PENALTIES); TO REPLACE SECTION 9.40.080 (NOISE LEVEL MEASUREMENT) WITH (ENFORCEMENT); TO DELETE SECTIONS 9.40.090-9.40.140; THE PENALTY BEING AS PROVIDED IN SECTION 9.40.070 OF THE EL PASO CITY CODE.

WHEREAS, City Code Chapter 9.40 contains various sections regarding noise-related topics;

WHEREAS, City Council now wishes to move all of the language regarding permits for noise-related topics over to Title 5 of the City Code, so that only nuisance language remains in Chapter 9.40.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.010 (Definitions) be amended as follows:

9.40.010 Definitions

The following words shall have the following meanings:

1. "Amplified Sound" means sound including but not limited to music, singing or spoken words that are conveyed through the utilization of sound amplification equipment.
2. "A-weighted sound system" means standards related to the measurement of sound pressure that accounts for the relative loudness perceived by the human ear.

3. "dB(A)" means a unit of the measurement of sound in decibels, as measured on a sound level meter using the A-weighted system.
4. "Decibel (dB)" means a unit of measurement for sound pressure level at a specified location.
5. "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, watercraft, go-carts, dune buggies or racing vehicles, but not including motorcycles.
6. "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, motor scooters and minibikes.
7. "Muffler" means a device for abating the sound of escaping gases of an internal combustion engine.
8. "Noise nuisance" means any loud, irritating, vexing or disturbing sound originating from a nearby property under separate ownership or occupancy which causes injury, discomfort, or distress of a person of reasonable sensibilities, or any sound that exceeds the maximum permitted sound levels specified in this chapter.
9. "Nonresidential property" means any real property that is not included in the definition of residential property as defined in this section. Without limitation, the term includes properties that have been developed other than as residential properties, properties that are undeveloped, and properties that are devoted to public purposes, such as public streets and parks.
10. "Park" means any public park within the limits of the City of El Paso, including parks owned by the City of El Paso, County of El Paso, or State of Texas.
11. "Permit official" has the same meaning as defined in Section 1.04.030.I of the El Paso City Code.
12. "Person" means an individual, firm, association, partnership, joint venture, corporation or any entity, public or private in nature.
13. "Public right-of-way" means any street, alley, sidewalk or other place to which the public has legal access.
14. "Reasonable sensibilities" means the ordinary, typical and/or expected sensory perception of noise when taking into account the source, volume, time of day and duration of the noise.
15. "Residential property" means a parcel of real property which is developed and used in part or in whole for human habitation, other than transient uses such as hotels, motels, and hospitals.
16. "Sound Amplification Equipment" means a loud speaker, public address system, amplification system for voice and musical

instruments, or other sound producing device that relies on electrical power to generate and/or amplify sound.

17. "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network as specified in American National Standards Institute specifications for sound level meters. If the frequency weighting employed is not indicated, the A-weighting shall apply.
18. "Sound level meter" means an instrument which is used to measure sound pressure levels, issued by the City and meeting the standards prescribed by the American National Standards Institute.
19. "Stadium Event" means an event occurring at an outdoor stadium that is not related to a public or private school activity, including but not limited to concerts, professional sports competitions, and entertainment events.

Section 2. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.020 (Decibel Measurement Criteria), be amended in its entirety as follows:

9.40.020 Applicability.

A. This chapter shall not apply to the following:

1. The emission of sound for the purpose of alerting persons to an emergency;
2. Sound produced by emergency vehicles or utility vehicles and utility crews undertaking emergency work; or
3. Sound produced by a vehicle motor with a properly installed muffler while the vehicle is moving on a public right-of-way, public waterway, airport runway, or railway; or
4. Sound produced by any governmental body in the performance of a governmental function, nor to sound from activities from a government-sponsored event on governmentally owned or leased property or property under the control of a public utility;
5. Sound generated at a scheduled Stadium Event;
6. Sound generated by any activity in which the regulation thereof has been preempted by state or federal law, including, but not limited to, sound produced by aircraft in flight and including all activities taking place at the El Paso International Airport; or
7. Sound generated by the normal maintenance of property, such as lawn mowing, provided the activities take place from 7:00 a.m. to 10:00 p.m.; or
8. Sound produced by the operation of any air-conditioning unit, heat pump, HVAC system, or swimming pool machinery which does not produce a sound exceeding seventy (70) dBA on residential

- property or seventy (75) dBA on nonresidential property, when measured at the nearest exterior wall of a residential or commercial building under separate ownership, or occupancy; or
9. Solid waste collection vehicles collecting waste at residential or nonresidential properties; or
 10. Sound produced by bells or chimes from a religious institution, provided the sound is during 7:00 a.m. to 10:00 p.m., or at some other time in accordance with the tradition of a church specifically on a religious holiday; or
 11. Sound produced by the operation of agricultural equipment, when such equipment is being used for the purpose of agricultural endeavors; or
 12. 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 7:00 a.m. to 12:00 a.m.; or
 13. Noncommercial public speaking and public assembly activities conducted during the hours of 7:00 a.m. to 10:00 p.m. on any public space or public right-of-way;
- B. Unless otherwise regulated by a current, valid permit issued by the permit official or specifically mentioned in 9.40.020A, specific noises that can constitute a noise nuisance include, but are not limited to the following:
1. Amplified sound at a park. Emitting amplified sound at a park, or on a public right of way adjacent to a park, is prohibited, except when authorized in accordance with a duly-issued governmental permit or posted park rule.
 2. Animals. Owning, keeping, possessing, or harboring any animal or animals which, by frequent or habitual noisemaking, unreasonably disturbs or interferes with the sleep, peace, comfort, or repose of a person of reasonable sensibilities. The provisions of this subsection shall apply to all private facilities, including but not limited to any private or commercial animal shelters or kennels, which hold or treat animals.
 3. Construction work. Operating or permitting to be operated any equipment used in commercial construction, repair, alteration, or demolition work on buildings, structures, streets, alleys, or appurtenances thereto, between the hours of 10:00 p.m. and 6:00 a.m. the following day, or in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, and repose of a person of reasonable sensibilities.

4. Emergency signaling devices. The intentional sounding or permitting the sounding outdoors of any fire, burglar or private entity emergency management alarm, siren, whistle, or similar stationary emergency signaling device for more than five minutes during any consecutive 60-minute period in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities, except for those exemptions outlined in this chapter. Nothing herein shall be construed to authorize the operation of any emergency signaling device in violation of Chapter 5.13 (Security Alarm Systems) of this City Code.
5. Exterior loudspeakers. Operating or permitting to be operated between the hours of 10:00 p.m. and 7:00 a.m. any loudspeaker or sound-amplifying equipment in a fixed or movable position in or upon any street, alley, sidewalk, park, place, or public or private property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons, or in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.
6. Horns and signal devices. The continued or frequent sounding of any horn or other signal device on any automobile or vehicle, motorcycle, bus or other vehicle, except as a danger signal.
7. Mechanical devices. Operating or permitting to be operated, any mechanical, electrical, or electronic device outdoors on residential property in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.
8. Off-road motor vehicles. No person shall operate or permit to be operated any motorized vehicle off a public right-of-way in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.
9. Open air discharge. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, or other motor vehicle or boat, except through a properly installed muffler or other device which prevents loud or explosive noises therefrom.
10. Other prohibited sound levels. Any emanations of the human voice or sound from any other source, including but not limited to fireworks, motor vehicle horns or other noise nuisance-creating object, device or equipment, whether amplified or not, which unreasonably disturbs or interferes with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.

11. Power equipment. Operating or permitting to be operated any power equipment on residential property outdoors between the hours of 10:00 p.m. and 7:00 a.m. the following day, or in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.
12. Radios, television sets, musical instruments, and similar devices. Operating or permitting to be operated in a fixed or movable position or mounted upon or within any vehicle in or upon any street, alley, sidewalk, park, place, or public or private property any radio receiving set, musical instrument, television, phonograph, drum, or other machine or device for the production or reproduction of sound or vibrations in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.

Section 3. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.030 (Designated Noise Zones), be amended in its entirety as follows:

9.40.030 Sound Level Violations.

- A. It shall be unlawful for any person to conduct, permit, allow, or produce a sound that is discernable beyond the property lines of the property on which the sound is being produced that, when measured with a sound level meter using the standardized frequency weighting as specified by the American National Standards Institute, exceeds seventy (70) dB(A) between the hours of 10:00 p.m. and 7:00 a.m. daily for the property on which the sound is received.
- B. The dB(A) levels set forth in this section apply to a property where the sound is being received. Any sound that when measured at the property where the sound is being received exceeds the dB(A) level set forth in this section is a violation of this chapter.
- C. Procedure. Sound levels regulated in this Chapter shall be measured in accordance with a City-adopted policy.

Section 4. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.040 (Exterior Noise Standards), be amended in its entirety as follows:

9.40.040 Vibration.

It shall be unlawful for any person to create, maintain or cause any ground or airborne vibration which is perceptible without instruments by a person at any point on any affected property adjoining the property in which the vibration source is located, in such

a manner as to unreasonably disturb or interfere with the sleep, peace, comfort and repose of a person of reasonable sensibilities, unless such activity is otherwise regulated under other applicable law.

Section 5. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.050 (Interior Noise Standards), be amended in its entirety as follows:

9.40.050 Sound level measurement.

Whenever portions of this chapter prohibit a sound level over a certain dB(A) limit, measurement of said sound level shall be made with a sound level meter by a duly authorized representative of the City Manager to include, but not be limited to an officer or official from Code Compliance, Police Department, or Planning and Inspections.

Section 6. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.060 (Additional Noise Standards), be amended as follows:

9.40.060 Identification of Violator.

A person responsible for violations of this chapter are identified as follows:

- A. At residential property. Any resident, owner or occupant present at the time of the offense, and any guest or trespasser with the ability to control the sound level at the time of the offense when no resident, owner or occupant is present at the time of the offense.
- B. At nonresidential property. Any property owner, business owner, operator, manager, employee in charge, and all persons in control or in possession of the noise nuisance generating instrument or device at the time of the offense.
- C. At any location with an unattended noise nuisance producing machine, device, instrument, animal or combination of same. Any person who leaves unattended any machine, instrument, device, animal, or any combination of same, which thereafter commences to produce a sound in violation of this chapter.

Section 7. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.070 (Noise Sensitive Zones) be amended as follows:

9.40.070 Penalties.

- A. Any person who violates any provision of this Chapter shall, upon conviction, be guilty of a Class C misdemeanor and punished by a fine not to exceed five hundred dollars. Unless otherwise specifically set forth herein, or in state law as adopted, allegation and evidence of culpable mental state are not required for the proof of an offense defined by this Ordinance. Each act of violation and each day of violation is considered a separate violation.
- B. Any person who obstructs, impedes, or interferes with a representative of the city, with a representative of a city department, with monitoring equipment, or with a person who has been ordered to abate a situation pursuant to this chapter and who is lawfully engaged in such abatement is guilty of a Class C misdemeanor and upon conviction is punishable by a fine not to exceed five hundred dollars. Unless otherwise specifically set forth herein, or in state law as adopted, allegation and evidence of culpable mental state are not required for the proof of an offense defined by this Ordinance. Each act of violation and each day of violation is considered a separate violation.
- C. In addition to proceeding under authority of Subsections (A) and (B) of this Section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person that remains in violation of this chapter.

Section 8. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.080 (Noise Level Measurement) be amended in its entirety as follows:

9.40.080 Enforcement.

The Director of the Department of Environmental Services, Director of Planning and Inspections Department, or the Police Chief or their designated representative, shall be responsible for the enforcement of this chapter.

Section 9. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.090 (Vibration) be amended in its entirety as follows:

9.40.090 Reserved.

Section 10. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.100 (Proposed Developments) be amended in its entirety as follows:

9.40.100 Reserved.

Section 11. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.110 (Motor Vehicle Maximum Sound Levels) be amended in its entirety as follows:

9.40.110 Reserved.

Section 12. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.120 (Exemptions) be amended in its entirety as follows:

9.40.120 Reserved.

Section 13. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.130 (Enforcement) be amended as follows:

9.40.130 Reserved.

Section 14. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.140 (Violation - Penalty) be amended as follows:

9.40.140 Reserved.

Section 15. Title 9 (Health and Safety), Chapter 9.40 (Noise) amendments shall take effect 180 days after adoption.

Section 16. Except as herein amended, Title 9 (Health and Safety) shall remain in full force and effect.

(Signatures on the following page)

PASSED AND APPROVED this _____ day of _____, 20__.


CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Ana Schumacher
Assistant City Attorney

APPROVED AS TO CONTENT:

Ellen A. Smyth, P.E., Director
Department of Environmental Services

ORDINANCE _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.40 (NOISE) TO UPDATE THE ORDINANCE AND REMOVE PERMIT-RELATED LANGUAGE THROUGHOUT THE ORDINANCE SO THAT ONLY NUISANCE LANGUAGE REMAINS; BY DELETING PERMIT RELATED LANGUAGE FROM 9.40.010 (DEFINITIONS); TO REPLACE SECTION 9.40.020 (DECIBEL MEASUREMENT CRITERIA) WITH (APPLICABILITY); TO REPLACE SECTION 9.40.030 (DESIGNATED NOISE ZONES) WITH (SOUND LEVEL VIOLATIONS); TO REPLACE SECTION 9.40.040 (EXTERIOR NOISE STANDARDS) WITH (VIBRATION); TO REPLACE SECTION 9.40.050 (INTERIOR NOISE STANDARDS) WITH (SOUND LEVEL MEASUREMENT); TO REPLACE SECTION 9.40.060 (ADDITIONAL NOISE STANDARDS) WITH (IDENTIFICATION OF VIOLATOR); TO REPLACE SECTION 9.40.070 (NOISE SENSITIVE ZONES) WITH (PENALTIES); TO REPLACE SECTION 9.40.080 (NOISE LEVEL MEASUREMENT) WITH (ENFORCEMENT); TO DELETE SECTIONS 9.40.090-9.40.140; THE PENALTY BEING AS PROVIDED IN SECTION 9.40.070 OF THE EL PASO CITY CODE.

WHEREAS, City Code Chapter 9.40 contains various sections regarding noise-related topics;
WHEREAS, City Council now wishes to move all of the language regarding permits for noise-related topics over to Title 5 of the City Code, so that only nuisance language remains in Chapter 9.40.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.010 (Definitions) be amended as follows:

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 standards related to the measurement of sound pressure that accounts for the relative loudness perceived by the human ear. 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 zoned in any zoning district described as being commercial in Title 20 of this Code.~~

- ~~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.~~
- ~~4. "Cumulative period" means an additive period of time composed of individual time segments which may be continuous or interrupted.~~
3. "dB(A)" means a unit of the measurement of sound in decibels, as measured on a sound level meter using the A-weighted system.
- ~~4. 6. "Decibel (dB)" means a unit of measurement for sound pressure level at a specified location, 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. "Director" means director of the department of environmental services, or designee.
- ~~8. "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.~~
- ~~9. "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.~~
- ~~10. "Equivalent A weighted sound level" means the constant sound level that, in a given situation and time period, conveys the same sound.~~
- ~~11. "Exterior noise" means sounds which originate from any source that is not within a building or structure.~~
- ~~12. "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.~~
- ~~13. "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.~~
- ~~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.~~

ORDINANCE NO. _____

17-1005-1450/PL Doc #859577/REDLINE OF NOISE NUISANCE ORD V3 AMD CHAPTER 9.40./AS

~~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.~~

5. 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.

6. 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.

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

8. "Noise nuisance" means any loud, irritating, vexing or disturbing sound originating from a nearby property under separate ownership or occupancy which causes injury, discomfort, or distress of a person of reasonable sensibilities, or any sound that exceeds the maximum permitted sound levels specified in this chapter."~~24. "Noise sensitive zone" means any area designated pursuant to Section 9.40.070 for the purpose of ensuring exceptional quiet.~~

9. "Nonresidential property" means any real property that is not included in the definition of residential property as defined in this section. Without limitation, the term includes

ORDINANCE NO. _____

17-1005-1450/PL Doc #859577/REDLINE OF NOISE NUISANCE ORD V3 AMD CHAPTER 9.40 /AS

properties that have been developed other than as residential properties, properties that are undeveloped, and properties that are devoted to public purposes, such as public streets and parks.

10. "Park" means any public park within the limits of the City of El Paso, including parks owned by the City of El Paso, County of El Paso, or State of Texas.
11. "Permit official" has the same meaning as defined in Section 1.04.030.I of the El Paso City Code.
12. ~~25.~~ "Person" means an individual, firm, association, partnership, joint venture, corporation or any entity, public or private in nature.
13. ~~26.~~ "Public right-of-way" means any street, alley, sidewalk or other place to which the public has legal access.
14. "Reasonable sensibilities" means the ordinary, typical and/or expected sensory perception of noise when taking into account the source, volume, time of day and duration of the noise.
15. ~~27.~~ "Residential property" means a parcel of real property which is developed and used in part or in whole for human habitation, other than transient uses such as hotels, motels, and hospitals.~~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).
16. "Sound Amplification Equipment" means a loud speaker, public address system, amplification system for voice and musical instruments, or other sound producing device that relies on electrical power to generate and/or amplify sound.
17. "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network as specified in American National Standards Institute specifications for sound level meters. If the frequency weighting employed is not indicated, the A-weighting shall apply.
18. ~~29.~~ "Sound level meter" means an instrument which is used to measure sound pressure levels, issued by the City and meeting the standards prescribed by the American

ORDINANCE NO. _____

17-1005-1450/PL Doc #859577/REDLINE OF NOISE NUISANCE ORD V3 AMD CHAPTER 9.40./AS

~~National Standards Institute. 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.~~

19. "Stadium Event" means an event occurring at an outdoor stadium that is not related to a public or private school activity, including but not limited to concerts, professional sports competitions, and entertainment events.

~~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.~~

Section 2. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.020 (Decibel Measurement Criteria), be amended in its entirety as follows:

9.40.020 Applicability, 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.~~

Note: See prior section 9.40.120-Exemptions.

A. This chapter shall not apply to the following:

1. The emission of sound for the purpose of alerting persons to an emergency;
2. Sound produced by emergency vehicles or utility vehicles and utility crews undertaking emergency work; or
3. Sound produced by a vehicle motor with a properly installed muffler while the vehicle is moving on a public right-of-way, public waterway, airport runway, or railway; or
4. Sound produced by any governmental body in the performance of a governmental function, nor to sound from activities from a government-sponsored event on governmentally owned or leased property or property under the control of a public utility;
5. Sound generated at a scheduled Stadium Event;
6. Sound generated by any activity in which the regulation thereof has been preempted by state or federal law, including, but not limited to, sound produced by aircraft in flight and including all activities taking place at the El Paso International Airport; or
7. Sound generated by the normal maintenance of property, such as lawn mowing, provided the activities take place from 7:00 a.m. to 10:00 p.m.; or

ORDINANCE NO. _____

17-1005-1450/PL Doc #859577/REDLINE OF NOISE NUISANCE ORD V3 AMD CHAPTER 9.40 /AS

8. Sound produced by the operation of any air-conditioning unit, heat pump, HVAC system, or swimming pool machinery which does not produce a sound exceeding seventy (70) dBA on residential property or seventy (75) dBA on nonresidential property, when measured at the nearest exterior wall of a residential or commercial building under separate ownership, or occupancy; or
9. Solid waste collection vehicles collecting waste at residential or nonresidential properties; or
10. Sound produced by bells or chimes from a religious institution, provided the sound is during 7:00 a.m. to 10:00 p.m., or at some other time in accordance with the tradition of a church specifically on a religious holiday; or
11. Sound produced by the operation of agricultural equipment, when such equipment is being used for the purpose of agricultural endeavors; or
12. 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 7:00 a.m. to 12:00 a.m.; or
13. Noncommercial public speaking and public assembly activities conducted during the hours of 7:00 a.m. to 10:00 p.m. on any public space or public right-of-way;

B. Unless otherwise regulated by a current, valid permit issued by the permit official or specifically mentioned in 9.40.020A, specific noises that can constitute a noise nuisance include, but are not limited to the following:

1. Amplified sound at a park. Emitting amplified sound at a park, or on a public right of way adjacent to a park, is prohibited, except when authorized in accordance with a duly-issued governmental permit or posted park rule.
2. Animals. Owning, keeping, possessing, or harboring any animal or animals which, by frequent or habitual noisemaking, unreasonably disturbs or interferes with the sleep, peace, comfort, or repose of a person of reasonable sensibilities. The provisions of this subsection shall apply to all private facilities, including but not limited to any private or commercial animal shelters or kennels, which hold or treat animals.
3. Construction work. Operating or permitting to be operated any equipment used in commercial construction, repair, alteration, or demolition work on buildings, structures, streets, alleys, or appurtenances thereto, between the hours of 10:00 p.m. and 6:00 a.m. the following day, or in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, and repose of a person of reasonable sensibilities.
4. Emergency signaling devices. The intentional sounding or permitting the sounding outdoors of any fire, burglar or private entity emergency management alarm, siren, whistle, or similar stationary emergency signaling device for more than five minutes during any consecutive 60-

ORDINANCE NO. _____

17-1005-1450/PL Doc #859577/REDLINE OF NOISE NUISANCE ORD V3 AMD CHAPTER 9.40 /AS

- minute period in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities, except for those exemptions outlined in this chapter. Nothing herein shall be construed to authorize the operation of any emergency signaling device in violation of Chapter 5.13 (Security Alarm Systems) of this City Code.
5. Exterior loudspeakers. Operating or permitting to be operated between the hours of 10:00 p.m. and 7:00 a.m. any loudspeaker or sound-amplifying equipment in a fixed or movable position in or upon any street, alley, sidewalk, park, place, or public or private property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons, or in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.
 6. Horns and signal devices. The continued or frequent sounding of any horn or other signal device on any automobile or vehicle, motorcycle, bus or other vehicle, except as a danger signal.
 7. Mechanical devices. Operating or permitting to be operated, any mechanical, electrical, or electronic device outdoors on residential property in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.
 8. Off-road motor vehicles. No person shall operate or permit to be operated any motorized vehicle off a public right-of-way in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.
 9. Open air discharge. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, automobile, motorcycle, or other motor vehicle or boat, except through a properly installed muffler or other device which prevents loud or explosive noises therefrom.
 10. Other prohibited sound levels. Any emanations of the human voice or sound from any other source, including but not limited to fireworks, motor vehicle horns or other noise nuisance-creating object, device or equipment, whether amplified or not, which unreasonably disturbs or interferes with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.
 11. Power equipment. Operating or permitting to be operated any power equipment on residential property outdoors between the hours of 10:00 p.m. and 7:00 a.m. the following day, or in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.
 12. Radios, television sets, musical instruments, and similar devices. Operating or permitting to be operated in a fixed or movable position or mounted upon or within any vehicle in or upon any street, alley, sidewalk, park, place, or public or private property any radio receiving set, musical instrument, television, phonograph, drum, or other machine or device for the production or reproduction of sound or vibrations in such a manner as

ORDINANCE NO. _____

17-1005-1450/PL Doc #859577/REDLINE OF NOISE NUISANCE ORD V3 AMD CHAPTER 9.40/AS

to unreasonably disturb or interfere with the sleep, peace, comfort, or repose of a person of reasonable sensibilities.

Section 3. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.030 (Designated Noise Zones), be amended in its entirety as follows:

9.40.030 Sound Level Violations.~~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.~~

A. It shall be unlawful for any person to conduct, permit, allow, or produce a sound that is discernable beyond the property lines of the property on which the sound is being produced that, when measured with a sound level meter using the standardized frequency weighting as specified by the American National Standards Institute, exceeds seventy (70) dB(A) between the hours of 10:00 p.m. and 7:00 a.m. daily for the property on which the sound is received.

B. The dB(A) levels set forth in this section apply to a property where the sound is being received. Any sound that when measured at the property where the sound is being received exceeds the dB(A) level set forth in this section is a violation of this chapter.

C. Procedure. Sound levels regulated in this Chapter shall be measured in accordance with a City-adopted policy.

Section 4. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.040 (Exterior Noise Standards), be amended in its entirety as follows:

9.40.040 Vibration.~~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:~~

ORDINANCE NO. _____

17-1005-1450/PL Doc #859577/REDLINE OF NOISE NUISANCE ORD V3 AMD CHAPTER 9.40/AS

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.~~

It shall be unlawful for any person to create, maintain or cause any ground or airborne vibration which is perceptible without instruments by a person at any point on any affected property adjoining the property in which the vibration source is located, in such a manner as to unreasonably disturb or interfere with the sleep, peace, comfort and repose of a person of reasonable sensibilities, unless such activity is otherwise regulated under other applicable law.

Section 5. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.050 (Interior Noise Standards), be amended in its entirety as follows:

9.40.050 Sound level measurement.~~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.~~

Whenever portions of this chapter prohibit a sound level over a certain dB(A) limit, measurement of said sound level shall be made with a sound level meter by a duly authorized representative of the City Manager to include, but not be limited to an officer or official from Code Compliance, Police Department, or Planning and Inspections.

Section 6. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.060 (Additional Noise Standards), be amended as follows:

9.40.060 Identification of Violator.~~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 entrance, stating: "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT."~~

A person responsible for violations of this chapter are identified as follows:

A. At residential property. Any resident, owner or occupant present at the time of the offense, and any guest or trespasser with the ability to control the sound level at the time of the offense when no resident, owner or occupant is present at the time of the offense.

B. At nonresidential property. Any property owner, business owner, operator, manager, employee in charge, and all persons in control or in possession of the noise nuisance generating instrument or device at the time of the offense.

ORDINANCE NO. _____

17-1005-1450/PL Doc #859577/REDLINE OF NOISE NUISANCE ORD V3 AMD CHAPTER 9.40/AS

C. At any location with an unattended noise nuisance producing machine, device, instrument, animal or combination of same. Any person who leaves unattended any machine, instrument, device, animal, or any combination of same, which thereafter commences to produce a sound in violation of this chapter.

Section 7. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.070 (Noise Sensitive Zones) be amended as follows:

9.40.070 Penalties.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.~~

- A. Any person who violates any provision of this Chapter shall, upon conviction, be guilty of a Class C misdemeanor and punished by a fine not to exceed five hundred dollars. Unless otherwise specifically set forth herein, or in state law as adopted, allegation and evidence of culpable mental state are not required for the proof of an offense defined by this Ordinance. Each act of violation and each day of violation is considered a separate violation.
- B. Any person who obstructs, impedes, or interferes with a representative of the city, with a representative of a city department, with monitoring equipment, or with a person who has been ordered to abate a situation pursuant to this chapter and who is lawfully engaged in such abatement is guilty of a Class C misdemeanor and upon conviction is punishable by a fine not to exceed five hundred dollars. Unless otherwise specifically set forth herein, or in state law as adopted, allegation and evidence of culpable mental state are not required for the proof of an offense defined by this Ordinance. Each act of violation and each day of violation is considered a separate violation.
- C. In addition to proceeding under authority of Subsections (A) and (B) of this Section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person that remains in violation of this chapter.

Section 8. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.080 (Noise Level Measurement) be amended in its entirety as follows:

9.40.080 Enforcement.Noise Level Measurement.

ORDINANCE NO. _____

17-1005-1450/PL Doc #859577/REDLINE OF NOISE NUISANCE ORD V3 AMD CHAPTER 9.40./AS

~~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.~~

The Director of the Department of Environmental Services, Director of Planning and Inspections Department, or the Police Chief or their designated representative, shall be responsible for the enforcement of this chapter.

Section 9. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.090 (Vibration) be amended in its entirety as follows:

9.40.090 Reserved. ~~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.~~

Section 10. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.100 (Proposed Developments) be amended in its entirety as follows:

9.40.100 Reserved. ~~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 director of the department of environmental services to any such approval.~~

Section 11. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.110 (Motor Vehicle Maximum Sound Levels) be amended in its entirety as follows:

9.40.110 Motor vehicle maximum sound levels. ~~Reserved.~~

~~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 of 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.~~

ORDINANCE NO. _____

17-1005-1450/PL Doc #859577/REDLINE OF NOISE NUISANCE ORD V3 AMD CHAPTER 9.40/AS

Section 12. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.120 (Exemptions) be amended in its entirety as follows:

9.40.120 Exemptions Reserved.

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

~~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.;~~

~~Outdoor events and temporary street closures conducted pursuant to a special privilege license and permit issued by the designated city official, provided that the event is compliant with permit requirements and restrictions, and Section 9.40.070 of this chapter;~~

~~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;~~

~~Noise sources associated with or vibration created by construction, repair, remodeling or grading of any real property or during authorized seismic surveys conducted during established construction hours as set forth in Section 18.02.105.20 of this Code. For exemptions to this chapter for construction, repair, remodeling or grading outside of established construction hours, on legal holidays or Sundays, the property owner or his authorized agent shall pay the established fee and obtain an after-hours noise exemption permit pursuant to the requirements set forth for after-hours construction/after-hours grading permits in Section 18.02.105.20 of this Code.~~

~~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;~~

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

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

~~The El Paso International Airport;~~

~~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.~~

ORDINANCE NO. _____

17-1005-1450/PL Doc #859577/REDLINE OF NOISE NUISANCE ORD V3 AMD CHAPTER 9.40/AS

Section 13. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.130 (Enforcement) be amended as follows:

9.40.130 ~~Enforcement~~Reserved.

~~The director of the department of environmental services, or the police chief or his designated representative, shall be responsible for the enforcement of this chapter.~~

Section 14. That Title 9 (Health and Safety), Chapter 9.40 (Noise), Section 9.40.140 (Violation - Penalty) be amended as follows:

9.40.140 ~~Violation Penalty~~Reserved.

~~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.~~

Section 15. Title 9 (Health and Safety), Chapter 9.40 (Noise) amendments shall take effect 180 days after adoption.

Section 16. Except as herein amended, Title 9 (Health and Safety) shall remain in full force and effect.

(Signatures on the following page)

ORDINANCE NO. _____

PASSED AND APPROVED this _____ day of _____, 20__.

CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM: _____

APPROVED AS TO CONTENT: _____

Ana Schumacher
Assistant City Attorney

Ellen A. Smyth, P.E., Director
Department of Environmental Services

ORDINANCE NO. _____