

**CITY OF EDGEWATER
ORDINANCE NO. 2015 - 05
SERIES 2015**

AN ORDINANCE AMENDING SECTION 10-14-10 OF THE EDGEWATER MUNICIPAL CODE CONCERNING UNREASONABLE NOISE

WHEREAS, the City of Edgewater, Colorado ("City") is a home rule municipality, duly organized and existing under Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-15-401(1)(e), the City, acting by and through its City Council ("Council"), possesses the authority to declare certain acts, including the creation of disturbances and excessive noise, to be unlawful and punishable as violations of the Edgewater Municipal Code ("Code"); and

WHEREAS, under this authority, the Council previously adopted Code Section 10-14-10, concerning unreasonable noise; and

WHEREAS, the Council finds that it is desirable to amend said Code section to set forth more objective measures of prohibited noise in the interests of providing the public with clear notice of the type of noise that is prohibited and the police with clear enforcement parameters and tools.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDGEWATER, COLORADO, THAT:

Section 1. Section 10-14-10 of the Edgewater Municipal Code, concerning noise generally, is hereby amended as follows:

Sec. 10-14-10. – Unreasonable Noise generally.

(a) It is unlawful for any person to make, continue or cause to be made or continued any unreasonable noise which either annoys, injures or endangers the comfort, repose, health or safety of others, unless the making and continuing of the same is necessary for the protection or preservation of property or the health, safety, life or limb of a person.

(b) No person shall knowingly permit ~~such~~ unreasonable noise upon any premises owned or possessed by such person or under such person's control. For purposes of subsection (a) above ~~this Section~~, members of the Police Department are empowered to make a prima facie determination as to whether a noise is unreasonable.

(c) The following noises are declared to be per se unreasonable, without limiting the applicability of subsection (a) hereof to any other unreasonable noise:

(1) Any noise or sound that is audible from within a detached single-family residence, with its windows and doors closed, which sound is created from a location outside of the property on which the residence is located; provided, however, that such noise or sound shall not include that created by any domestic power equipment operated between 7:00

a.m. and 10:00 p.m. of the same day. Such domestic power equipment shall include, but not be limited to, lawn mowers, garden tools, snow removal equipment, electric or gas chain saws, riding tractors and hand-held power tools.

(2) Bells and chimes, or any reproduction of the sounds of bells or chimes, from any church, clock or school, between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day.

(3) Noise created by the discharge of the exhaust of any steam engine, stationary internal combustion engine, air compressor equipment, motorboat, motor vehicle or other power device, which is not equipped with an adequate muffler in constant operation and properly maintained or which muffler or exhaust system is modified or used with a cutoff, bypass or similar device.

(4) Noise created by the loading or unloading of any garbage, trash or compactor truck, or any other vehicle, within a residential district or within three hundred feet of any hotel, motel, or residential district between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day.

(5) Sound from the operation of any domestic power equipment between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day. Such domestic power equipment shall include, but not be limited to, lawn mowers, garden tools, snow removal equipment, electric or chain saws, riding tractors and hand-held power tools.

(6) Sound from the operation of any commercial power equipment between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day.

(d) Decibel limits.

(1) It is unlawful for any person to emit or cause to be emitted any noise that leaves the premises on which it originates, crosses a property line, and enters onto any other premises in excess of the sound pressure levels permitted during the time periods specified in Table A. It is further unlawful for any person to emit or cause to be emitted any noise within public property in excess of the limits established in Table A.

(2)The noise source shall be measured at any point along the property line of the receptor premises or within the property line of the receptor premises to determine compliance with this chapter.

(3)When it is determined that the background sound pressure level at the receptor premises equals or exceeds the maximum allowable sound pressure level specified in Table A, then the background sound pressure level is the standard that cannot be exceeded by the noise source.

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Table A: Allowable Sound Pressure Levels (in dB(A)) with Time of Day Allowance

<u>Source Premises</u>	<u>Residential Receptor Premises:</u>		<u>Commercial Receptor Premises:</u>	
	<u>7am—10pm</u>	<u>10pm—7am</u>	<u>7am—10pm</u>	<u>10pm—7am</u>
<u>Residential</u>	<u>55</u>	<u>50</u>	<u>65</u>	<u>60</u>
<u>Commercial</u>	<u>55</u>	<u>50</u>	<u>65</u>	<u>60</u>

(e) Exemptions: The prohibition of unreasonable noise set forth in subsections (a) and (b) hereof, and the maximum permissible sound pressure levels as specified in Table A under subsection (d) hereof, shall not apply to sounds emitted from:

(1) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in case of fire, collision, civil defense, police activity or imminent danger.

(2) Any motor vehicles designed for and operated on public streets, alleys, highways or freeways that are regulated by Table B.

(3) Any domestic or commercial power equipment operated at times other than the time periods prohibited by paragraphs (5) and (6) of subsection (c) hereof. This exemption does not apply if the equipment is not in good working order, not used for the manufacturer's intended purpose, or not operated in compliance with any required license.

(4) Snow removal equipment operated between the hours of 5:00 a.m. and 11:00 p.m. during any snowfall or during a declared snow emergency and snow removal equipment operated by or on behalf of the City.

(5) Any emergency power generator providing emergency electrical power at any location during a power outage at the location, or at any premises at any time when such equipment is required by the Edgewater Police Department or Wheat Ridge Fire Authority. Additionally, the sound pressure level emitted during the routine testing of emergency electrical power generators, so long as the sound pressure level does not exceed eighty-eight (88) dB(A) at a distance of twenty-five (25) feet or a receptor premises' property line, whichever is greater. Routine testing shall not exceed one (1) hour in any one-week period, or two (2) hours in any six-week period and shall be confined to the hours of 10:00 a.m. to 4:00 p.m.

(6) Any commercial premises causing the standards of Table A to be exceeded at a residential receptor premises when the zoning of the

residential receptor premises does not allow residential use (residential use is nonconforming), provided, however, that such sound pressure level may not exceed the standards afforded a commercial receptor premises.

(7) Any emergency-related work and all associated equipment, training, and activities, such as emergency preparedness training, exercises, and drills.

(8) Any special event of the City, or any special event sponsored by the City, or any special event sponsored by others pursuant to the terms of a contract, lease or permit granted by the City.

(f) Motor vehicle noise. No person shall operate nor shall the owner permit the operation of any motor vehicle or combination of motor vehicles at any time or place when such operation exceeds the sound pressure levels for the corresponding category of motor vehicle as specified in Table B. Except as provided in this subsection (f), the standards in Table B apply to all noise emitted from motor vehicles including any and all equipment thereon, under any condition of acceleration, deceleration, idle, grade or load and regardless of whether in motion. In lieu of Table B, the provisions of subsection (d) Table A apply when a motor vehicle is parked and vehicle auxiliary equipment is in use.

Table B: Maximum Allowable Noise Sound Pressure Levels for Motor Vehicles

<u>Type of Vehicle</u>	<u>Maximum Allowable Sound Pressure Level</u>	<u>Measurement Distance from Motor Vehicle</u>
<u>Motor vehicles weighing less than 10,000 pounds, manufacturers gross vehicle weight</u>	<u>82 dB(A)</u>	<u>25 feet</u>
<u>Motor vehicles weighing 10,000 pounds or more, manufacturers gross vehicle weight</u>	<u>90 dB(A)</u>	<u>50 feet</u>

Section 2. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined to be invalid or unenforceable, such determination shall not affect, impair or invalidate the remaining sections or provisions of this Ordinance, it being the intent of the City Council of the City of Edgewater that such invalid or unenforceable provisions are severable.

Section 3. Safety Clause. The City Council hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety, and welfare of the public, that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare, and that this ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. Effective Date. This ordinance shall become effective in accordance with the Home Rule Charter of the City of Edgewater.

INTRODUCED, READ, PASSED ON FIRST READING AND ORDERED PUBLISHED this 7th day of May, 2015.

Bonnie McNulty, Mayor

ATTEST:

/s/ Elizabeth A. Hedberg, MMC
City Clerk

PASSED AND ADOPTED ON SECOND READING AND ORDERED PUBLISHED this 28th day of May, 2015.

/s/ Bonnie McNulty, Mayor

ATTEST:

/s/ Elizabeth A. Hedberg, MMC
City Clerk

APPROVED AS TO FORM:

/s/ Thad Renaud, City Attorney

CERTIFICATE OF PUBLICATION

STATE OF COLORADO)
)
CITY OF EDGEWATER) SS:
)
COUNTY OF JEFFERSON)

I, Beth A. Hedberg, City Clerk, in and for said City of Edgewater, in the County of Jefferson, in the State of Colorado, do hereby certify that Ordinance 2015-05 was published in full on the City website in accordance with Section 1-3-50 of the Edgewater Municipal Code on May 8, 2015. In witness whereof, I have hereunto set my hand and the seal of the City of Edgewater, this 8th day of May, 2015.

/s/ Beth A. Hedberg, MMC
Edgewater City Clerk

CERTIFICATE OF PUBLICATION

STATE OF COLORADO)
)
CITY OF EDGEWATER) SS:
)
COUNTY OF JEFFERSON)

I, Beth A. Hedberg, City Clerk, in and for said City of Edgewater, in the County of Jefferson, in the State of Colorado, do hereby certify that Ordinance 2015-05 was published in full on the City website in accordance with Section 1-3-50 of the Edgewater Municipal Code on May 29, 2015. In witness whereof, I have hereunto set my hand and the seal of the City of Edgewater, this 29th day of May, 2015.

/s/ Beth A. Hedberg, MMC
Edgewater City Clerk

SUMMARIZED HISTORY FOR ORDINANCE NO. 2015-05

Action	Date
Workshopped	April 16, 2015
First Reading	May 7, 2015
Posted	May 8, 2015
Publication	May 8, 2015
Second Reading	May 28, 2015
Sent to Codifier	May 29, 2015
Posted	May 29, 2015
Publication	May 29, 2015
Enacted	June 3, 2015