

6.36: NOISE ABATEMENT

SECTIONS:

- 6.36.010 DECLARATION OF POLICY
- 6.36.020 DEFINITIONS AND STANDARDS
- 6.36.030 NOISES PROHIBITED
- 6.36.040 USE DISTRICT NOISE LEVELS—MAXIMUM PERMISSIBLE SOUND LEVELS
- 6.36.050 SOUND LEVEL MEASUREMENT
- 6.36.060 EXEMPTIONS
- 6.36.070 PERMITS
- 6.36.080 APPEALS FOR PERMIT DENIAL
- 6.36.090 MOTOR VEHICLE NOISE
- 6.36.100 ENFORCEMENT RESPONSIBILITY
- 6.36.110 VIOLATIONS—PENALTIES
- 6.36.120 COURT ORDERED ABATEMENT

6.36.010: DECLARATION OF POLICY

The board of county commissioners finds and declares that noise is a significant source of environmental pollution that represents a present and increasing threat to the public peace and to the health, safety and welfare of the residents of Pitkin County and its visitors. Noise has an adverse effect on the psychological and physiological well-being of persons, thus constituting a present danger to the public health, economic and aesthetic well-being of the county. Accordingly, it is the policy of the board to provide standards for permissible noise levels in various areas and manners and at various times and to prohibit noise in excess of those levels. Further, it is the policy of the county to permit only that development which will not generate noise which would adversely impact land uses or occupants thereof. (*Ord. 99-38 § 1; Ord. 92-6 § 1*)

6.36.020: DEFINITIONS AND STANDARDS

All terminology used in this chapter and not defined below shall be in conformance with applicable American National Standards Institute publications SI.4-1971 or its successor publications. For the purposes of this chapter, certain words and phrases used are defined as follows:

“‘A’ weighted sound pressure level” means the sound pressure level, as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.

“Ambient sound pressure level” means the sound pressure level or the all-encompassing noise associated with a given environment usually a composite of sounds from many sources. It is also the A-weighted sound pressure level exceeded ninety (90) percent of the time based on a measurement period which shall not be less than ten (10) minutes.

“Business district” means an area zoned as defined in the Pitkin County Land Use Code, including but not limited to areas designated B-1, B-2, PUB, VC and as such designations may be amended.

“Construction activities” means any and all activity incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling.

Construction District. A “floating district,” for the purposes of this chapter, is defined as a site of ongoing construction activity. This designation will be in effect only for the duration of said activity or for the dates of any applicable building permit at a designated site, whichever is shorter. This designation may occur in any of the zone districts as defined in the Pitkin County Land Use Code.

“Continuous noise” means any sound which exists, essentially without interruption, for a period of ten (10) minutes or more.

“Cyclically varying noise” means any sound which varies in sound level such that approximately the same level is obtained repetitively at reasonably uniform intervals of time.

“Decibel” means logarithmic and dimensionless unit of measure often used in describing amplitude of sound. Decibel is symbolized by the letters “dB.”

“Department” means the Aspen/Pitkin environmental health department.

“Device” means any mechanism which is intended to produce, or which actually produces, noise when operated or handled.

“Emergency vehicle” means a motor vehicle authorized to have sound warning devices such as sirens and/or bells and/or air horns which may lawfully be used when responding to an emergency or during a police activity.

“Emergency work” means work made necessary to restore property to a safe condition following an unusual event, or work required to protect persons or property from exposure to danger. This includes, but is not limited to, snow, ice, mud and debris removal from public rights-of-way.

“Grounds maintenance equipment” means that equipment necessary to maintain yards, parks and lots which includes but is not limited to lawn mowers, edgers, trimmers, tillers and chain saws.

“Impulsive noise” means a noise containing excursions usually less than one second measured with the sound level meter set in the “fast” meter mode.

“Industrial district” means an area zoned as defined in the Pitkin County Land Use Code under the subheading of “I.”

“Motor vehicle” means any vehicle which is propelled by mechanical power, including, but not limited to, passenger cars, trucks, truck-trailers, campers, motorcycles, mini bikes, mopeds, semi-trailers, go-carts, snowmobiles and racing vehicles.

“Muffler” means an apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

“Noise” means a sound which is measured as the sound pressure level in decibels (dB) which is unwanted or which causes or tends to cause an adverse psychological or physio-logical effect on human beings.

“Nuisance” means the doing of or the failure to do something which allows or permits noise to be emitted from any source(s) in excess of the standards of this chapter.

Percentile Sound Pressure Level.

1. “Tenth percentile noise level” means the “A” weighted sound pressure level that is exceeded ten (10) percent of the time in any measurement period (such as the level that is exceeded for one minute in a ten (10) minute period) and is denoted “L 10.”

2. “Ninetieth percentile noise level” means the “A” weighted sound pressure level that is exceeded ninety (90) percent of the time in any measurement period (such as the level that is exceeded for nine minutes in a ten (10) minute period) and is denoted “L 90.”

“Person” means any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner or operator, including any municipal corporation, state or federal government agency, district, and any officer or employee thereof.

“Plainly audible noise” means any noise for which the information content of the noise is unambiguously transferred to the listener, such as, but not limited to, understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

“Premise” means any building, structure, land, utility or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person.

“Property boundary” means an imaginary line exterior to any enclosed structure, at the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person and separates real property from the public premise, or in multiple dwelling units from adjoining units.

“Public right-of-way” means any street, avenue, boulevard, highway, alley, sidewalk, mall or similar place which is owned or controlled by a public governmental entity.

“Repetitive impulse noise” means any noise which is composed of impulsive noises that are repeated at sufficiently slow rates such that a sound level meter set at “fast” meter characteristics will show changes in sound pressure levels greater than ten (10) dB(A).

“Residential district” means an area zoned as defined in the Pitkin County Land Use Code, including, but not limited to, areas designated R-6, R-15, R-15A, R-30, MHP, AH, AHZ/PUD, AH3/PUD, AHO/PUD, AFR-1, AFR-2, AFR-10, AF-SKI, RS-20 PUD, RS-30 PUD, RS-160 PUD, AR-1, AR-2, T, SR, VR, RR, U and as such designations may be amended.

“Sound” means a temporal and spatial oscillation in pressure, or other physical quantity, in a medium with interval forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distance points.

“Sound level meter” means an instrument, including a microphone, amplifier, RMS detector and integrator, time averager, output meter and/or visual display and weighing networks, that is sensitive to pressure fluctuations. The instrument reads sound pressure level when properly calibrated and is of Type 2 or better as specified in American National Standards Institute Publication S1.4-1971 or its successor publications.

“Sound pressure” means an instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space due to sound.

“Sound pressure level” means twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of a sound to the reference pressure of twenty (20) micronewtons per square meter (20×10^6 newtons/meter²), and is expressed in decibels.

Special Review. For a land use allowed under the special review designation, the allowable noise level will be governed by the predominate use of that zone as it exists prior to special review use being allowed to function.

“Steady noise” means a sound pressure level which remains essentially constant during the period of observation, i.e., does not vary more than six dB(A) when measured with the “slow” meter characteristic of a sound level meter.

“Use district” means those districts established by the Pitkin County zoning ordinance and those established by this chapter. (*Ord. 99-38 § 2: Ord. 92-6 § 2*)

6.36.030: NOISES PROHIBITED

A. General Prohibitions. In addition to the specific prohibitions outlined in subsection B of this section, and Sections 6.36.040 and 6.36.080, it is unlawful for any person to make, continue, or cause to be made or continued any noise as defined in Section 6.36.020, within the unincorporated areas of Pitkin County.

B. Specific Prohibitions. The following acts are declared to be in violation of this chapter.

1. Horns and Signaling Devices. Sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle or other vehicle on any street or public place within unincorporated areas of Pitkin County, except as a danger warning signal, or the sounding of any such signaling device for an unnecessary and unreasonable period of time, which period is deemed herein to be any time after which the danger being warned against is clearly passed.

2. Radios, Television Sets, Musical Instruments, Tape Players, Record Players and Similar Devices.

a. Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television, tape player, compact disc player or other machine or device for the production or reproduction of sound, except as provided for in subsection (B)(3) of this section, in such a manner to violate Section 6.36.040;

b. The operating of any such device in such a manner as to be plainly audible at twenty-five (25) feet from such device when operated within a vehicle parked or moving on a public right-of-way.

3. Public Loud Speakers.

a. Using or operating a loudspeaker or sound amplifying equipment in a fixed or movable position, or mounted upon any vehicle; located in or upon private property or upon any street, alley, sidewalk, mall, park, place or any public property for the purpose of entertainment, commercial advertising, giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages or persons in such a manner as to violate Section 6.36.040 unless a permit as provided in Section 6.36.070 is first obtained.

b. This subsection does not apply to any person who is participating in a parade for which a parade permit has been issued by the county.

4. Animals. Owning, keeping, possessing or harboring any animal or animals, including birds, which by frequent or habitual noise making, violate(s) Section 6.36.040. The provisions of this section shall apply to all public and private facilities, including any animal pounds, which hold or treat animals.

5. Construction Work. Operating, or causing to be used or operated, any equipment, mechanical or nonmechanical, self-propelled or manually manipulated used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances, as follows:

a. In residential districts between the hours of seven p.m. and seven a.m.;

b. In residential zones on Sundays and federally recognized holidays;

c. In all other districts except residential zones on Sundays and federally recognized holidays between the hours of seven p.m. and nine a.m.;

d. In any defined districts where such operation exceeds the sound level limits for a floating construction district as set forth in Section 6.36.040;

e. This section shall not apply to emergency work as defined in Section 6.36.020, but such work shall be exempted only for the minimum period of time necessary to conclude the emergency repair(s) and restore property to a safe condition.

6. Racing Event. Permitting any motor vehicle endurance or racing event in any use district in such a manner as to violate Section 6.36.040.

7. Defect in Vehicle. Operating or permitting to be operated or used any truck, automobile, motorcycle, or other motor vehicle which, by virtue of disrepair, lack of maintenance or fact or manner or operation, violates Section 6.36.080.

8. Refuse Compacting Vehicles. The operating or causing or permitting to be operated or used any refuse compacting vehicle which creates a sound pressure level in excess of seventy-five (75) dB(A), at twenty-five (25) feet from the vehicle during loading, unloading and compaction cycles.

9. Bells, Alarms and Fixed Sirens. Sounding, operating or permitting to be sounded, or operating an electronically amplified signal from any burglar alarm, vehicle alarm, bell, chime or clock, horn or siren which exceeds the standards set forth in Section 6.36.040 for more than ten (10) aggregated minutes in any one hour.

10. Recreational Vehicles. Operating a recreational vehicle such as, but not limited to, a dirt bike or snowmobile in a manner which violates Section 6.36.080.

11. Mufflers Required.

a. It is unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order.

b. It is unlawful for any person operating a motor vehicle to use a cut-out, by-pass or similar muffler elimination device.

12. Motor or Motor Vehicle Repairs or Testing.

a. The commercial, non-construction or private repairing, building, rebuilding or testing of any truck, automobile, motorcycle or other motor or motor vehicle including grounds maintenance equipment within the unincorporated areas of the county shall be subject to the maximum permissible sound pressure level for the district in which the sound is located.

b. The floating construction district maximum permissible levels may not be applied to this use.

13. Fireworks. The discharge of fireworks or other similar explosive devices at any time or in any manner except as expressly allowed under a permit issued pursuant to Section 6.36.070. (*Ord. 99-38 § 3; Ord. 92-6 § 3*)

6.36.040: USE DISTRICT NOISE LEVELS—MAXIMUM PERMISSIBLE SOUND LEVELS

It shall be a violation of this chapter for any person to operate or permit to be operated any stationary source of sound in such a manner as to create a ninetieth-percentile sound pressure level (L90) of any measurement period (which shall not be less than ten (10) minutes unless otherwise provided in this chapter) which exceeds the limits set forth for the following receiving land use districts when measured at the property boundary or at any point within the property affected by the noise:

Use District	Night 7p.m. - 7a.m.	Day 7a.m. - 7p.m.
Residential	50 dB(A)	55 dB(A)
Business	55 dB(A)	65 dB(A)
Industrial	55 dB(A)	65 dB(A)
Construction	70 dB(A)	80 dB(A)

* For restricted days and times in residential zones see Section 6.36.030(B)(5)(b) and (c).

When a noise source can be identified and its noise measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between the different land use categories. This provision shall not apply when the least restrictive use is a floating construction district, in which case the limits applicable to the construction district shall apply, notwithstanding the boundaries of the more restrictive uses, because of the temporary nature of the construction use. (*Ord. 99-38 § 4: Ord. 92-6 § 4*)

6.36.050: SOUND LEVEL MEASUREMENT

Sound level measurements shall be made with a sound level meter using the “A” weighing scale, in accordance with standards promulgated by the American National Standards Institute or other reasonable standards tested and adopted by the Aspen/Pitkin environmental health department. (*Ord. 99-38 § 5: Ord. 92-6 § 5*)

6.36.060: EXEMPTIONS

The following uses and activities shall be exempt from noise level regulations:

- A. Noise of safety signals, warning devices and emergency pressure relief valves, except as provided for in Section 6.36.030(B)(1);
- B. Noise resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
- C. Noise resulting from emergency work, as further provided for in Section 6.36.030(B)(5)(d);
- D. Noise resulting from activities of a temporary duration for which a permit has been approved by the director of the Aspen/Pitkin environmental health department in accordance with Section 6.36.070. (*Ord. 99-38 § 6: Ord. 92-6 § 6*)

6.36.070: PERMITS

Applications for a permit for relief from noise restrictions in this chapter on the basis of undue hardship or special circumstances may be made to the Aspen/Pitkin environmental health department. Any permit granted by the director of the Aspen/Pitkin environmental health department or an authorized representative shall contain all conditions upon which the permit has been granted, including, but not limited to, the effective dates, any time(s) of day, location,

sound pressure level, or equipment limitation. The permit may be granted upon good and sufficient showing:

- A. That additional time is necessary for the applicant to alter or modify his or her activity or operation to comply with this chapter; or
- B. That the activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with this chapter; or
- C. That no reasonable alternative is available to the applicant.

The director of environmental health may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood. (Ord. 99-38 § 7: Ord. 92-6 § 7)

6.36.080: APPEALS FOR PERMIT DENIAL

If an application for a permit for relief from noise restrictions in this chapter is denied by the director of the Aspen/Pitkin environmental health department or an authorized representative, the applicant may appeal to the board of county commissioners. (Ord. 99-38 § 8: Ord. 92-6 § 8)

6.36.090: MOTOR VEHICLE NOISE

A. No person shall drive, operate or emit knowingly permit to be driven or moved, a motor vehicle or combination of vehicles at any time in such a manner as to exceed the following noise limits for the category of motor vehicle shown below. Noise shall be measured at a distance of at least fifty (50) feet or more from the center of the lane of travel or fifty (50) feet or more from a vehicle designed for off highway use with the sound level meter at least four feet above the immediate surrounding surface.

Sound Pressure	
Level dB(A)	
Speed Limit	
≤35	>35
mph	mph

Motor vehicles with a manufacturer's gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) 10,000 pounds or more or by any combination of vehicles towed by such motor vehicle.	86	90
Any other motor vehicle or any combination of vehicles towed by any motor vehicle.	82	86

B. This section shall apply to the total noise from a vehicle or combination of vehicles and should not be construed as limiting or precluding enforcement of any other provisions of this chapter relating to motor vehicle mufflers for noise control. (*Ord. 99-38 § 9: Ord. 92-6 § 9*)

6.36.100: ENFORCEMENT RESPONSIBILITY

A. The director of the Aspen/Pitkin environmental health department is created noise ordinance enforcement officer for Pitkin County. The department shall have primary, but not exclusive, enforcement responsibility for this chapter. The director may appoint deputy noise enforcement responsibility for this chapter. The director may appoint deputy noise enforcement officers from among members of the department, members of the Pitkin County sheriff's department or other county departments as appropriate. The director shall be responsible for creating and administering a program of enforcement certification for the deputies covering the terms of this chapter and the operation of the instruments used in enforcement activities.

B. For purposes of this chapter, measurements with sound level meters shall be when the wind velocity is less than twenty (20) miles per hour.

C. In all sound level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise from all sources at the time and place of such sound level measurement.

D. This chapter is not intended to apply to the operation of aircraft or to other activities which are subject to federal law with respect to noise abatement. (*Ord. 99-38 § 10: Ord. 92-6 § 10*)

6.36.110: VIOLATIONS—PENALTIES

Any person violating any provision of this chapter may be punished by a fine of not more than six hundred dollars (\$600.00), and/or by imprisonment for a period of not more than ten (10) days. Such fine and imprisonment is at the discretion of the court. Each day this chapter is violated shall constitute a separate offense. (Ord. 99-38 § 11; Ord. 92-6 § 11)

6.36.120: COURT ORDERED ABATEMENT

Violations of Sections 6.36.030 through 6.36.080 are deemed and declared to be a nuisance, and as such may be subject to summary abatement by means of a restraining order or injunction issued by a court of competent jurisdiction. (Ord. 99-38 § 12; Ord. 92-6 § 12)

6.40: SMOKING

SECTIONS:

- 6.40.010 SHORT TITLE
- 6.40.020 LEGISLATIVE INTENT AND PURPOSES
- 6.40.030 DEFINITIONS
- 6.40.040 SMOKING PROHIBITED IN PUBLIC PLACES
- 6.40.050 REGULATION OF SMOKING IN PLACES OF EMPLOYMENT
- 6.40.060 POSTING OF SIGNS
- 6.40.070 EXCEPTIONS
- 6.40.080 ENFORCEMENT

6.40.010: SHORT TITLE

This chapter shall be known as and it may be cited as the “Pitkin County Clean Indoor Air Act.” (*Ord. 95-17 § 1 (part); prior code Title III § 5-0*)

6.40.020: LEGISLATIVE INTENT AND PURPOSES

The board of county commissioners finds that the smoking of tobacco, or any other weed or plant, is a form of air pollution, a material annoyance, inconvenience, nuisance, discomfort and a health hazard to those who are present in confined spaces, and in order to serve public health, safety and welfare the declared purpose of this article is to control and limit the smoking