

ORDINANCE NO. 19-11

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CASTLE PINES, COLORADO AMENDING CHAPTER 7 OF THE
MUNICIPAL CODE TO ADD A NEW
ARTICLE 9 ADDRESSING NOISE ABATEMENT AND REPEALING
SECTION 10-4-10 OF THE MUNICIPAL CODE**

WHEREAS, the City of Castle Pines (the “City”) is a home rule municipality authorized to exercise its police powers to promote and protect the public health, safety, and welfare; and

WHEREAS, the City currently regulates noise through nuisance regulations; and

WHEREAS, the City Council desires to codify noise-specific regulations to provide consistency and predictability throughout the City and protect public safety.

**THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO,
ORDAINS:**

Section 1. Chapter 7 of the Municipal Code is amended to add a new Article 9, titled Noise Abatement, to read in full as follows:

CHAPTER 7 – Health, Sanitation and Animals

ARTICLE 9 – Noise Abatement

Section 7-9-10 - Intent.

It is declared that at certain levels, noise is detrimental to public health, comfort, convenience, safety, and welfare of the citizens of the City. This Article is enacted to protect, preserve, and promote the health, welfare, peace, and quiet of the citizens of the City through the reduction, prohibition, and regulation of noise. It is the intent of this Article to establish and provide for sound levels that will eliminate unreasonable and excessive noise, reduce community noise, promote a comfortable enjoyment of life, property and conduct of business, and prevent sound levels that are physically harmful and detrimental to individuals and the community.

Section 7-9-20 – Definitions.

For purposes of this Article, certain words and phrases 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).

Decibel means a logarithmic unit of measure often used in measuring magnitudes of sound. The symbol is dB.

City Manager means the City Manager of Castle Pines as defined in Section 2-3-30 of this Code or their designee.

Construction activities shall have the meaning set forth in Section 7-3-140 of this Code.

Device means any mechanism that is intended to, or that actually produces, audible sound when operated or handled.

Emergency work means work necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.

Motor vehicle means any vehicle such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, motorcycles, mini-bikes, go-carts, snowmobiles, motorboats, racing vehicles, and other devices propelled by mechanical power.

Person means any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner, or operator, including any municipal corporation or its officers or employees.

Property line means an imaginary line at the ground surface that separates the real property owned by one person from that owned by another person, and its vertical extension.

Public right-of-way means any street, avenue, boulevard, highway, alley, premises, or public place owned or controlled by the City or another public governmental entity.

Sound amplification system means any loudspeaker or sound amplifier, or any system comprised of multiple loudspeakers and/or amplifiers.

Unreasonable noise means any sound that exceeds the maximum permissible levels set forth in this Article.

Section 7-9-30 – Classification and Measurement.

For purposes of determining and classifying any noise as unreasonable, the following measurement must be applied:

- (1) Noise occurring within the jurisdiction of the City shall be measured at least ten (10) feet from the property line of the property on which the noise source is located, except as provided in Subsections (2) and (3) below.
- (2) Noise from a motor vehicle located within the public right-of-way shall be measured at a distance of at least ten (10) feet from the near side of the traffic lane marking of the lane being monitored and at a height of at least four (4) feet above the immediate surrounding surface.

(3) Noise from a motor vehicle located other than within the public right-of-way shall be measured at a distance of at least ten (10) feet from such motor vehicle and at a height of at least four (4) feet above the immediate surrounding ground surface.

(4) Sound level measurements.

a. Noise shall be measured on the a-weighted scale with a calibrated sound level meter of standard design and quality having characteristics established by the American National Standards Institute.

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

Section 7-9-40 – Prohibited Noise Generally.

The making and creating of an unreasonable noise within the City as heard and measured in the manner prescribed in this Article is hereby declared unlawful except as otherwise provided in this Article or when made under and in compliance with a permit issued pursuant to Section 7-9-90 or 7-9-100.

Section 7-9-50 –Noise in Excess of Permissible Levels.

It shall be unlawful for any person to operate or permit to be operated a source of noise that creates a sound pressure level that exceeds the limits set forth in Table I in this Section for more than ninety (90) percent of any measurement period except as otherwise provided in this Article or when made under and in compliance with a permit issued pursuant to Section 7-9-90 or 7-9-100. The measurement period shall not be less than ten (10) minutes in any one (1) hour and shall be measured in accordance with Section 7-9-30. When a noise source can be measured from more than one category, the permissible sound level of the more restrictive category shall govern.

Table I

Category	7:00 A.M. To Next 7:00 P.M.	7:00 P.M. To Next 7:00 A.M.
Residential	70 dB(A)	60 dB(A)
Commercial/Mixed Use	80 dB(A)	75 dB(A)
Light Industrial/Industrial	90 dB(A)	85 dB(A)

For purposes of this Section, the categories are defined as follows:

(1) Residential: An area of single, two-family, or multi-family dwellings where businesses may or may not be conducted in the dwellings as a home occupation. The category includes

areas where multiple-unit dwellings, apartments, and redevelopment districts are located. The residential category may include areas containing accommodations for transient occupancy such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. The residential category includes hospitals, nursing homes, and similar institutions.

(2) Commercial/Mixed Use:

- a. An area where offices, clinics, and the facilities needed to serve them are located;
- b. An area with local shopping and service establishments located within walking distances of the residents served;
- c. A shopping center;
- d. An area containing offices, retail businesses, and commercial enterprises; or
- e. A mixed-use area with commercial and multiple-unit dwellings.

(3) Light Industrial/Industrial:

- a. An area containing research laboratories; or
- b. An area containing industrial activities such as warehousing where the general environment is free from concentrated industrial activity.

Section 7-9-60 –Motor Vehicles.

It shall be unlawful for any person who operates, drives, or is in possession of a motor vehicle that is stopped, standing, parked, or moving, to make, create, or permit a noise that creates a sound pressure level that exceeds the limits set forth in Table II below.

Table II

Vehicle Class	Maximum Level (DB(A))
Any Vehicle with Manufacturer’s Gross Vehicle Weight Rating over Ten Thousand (10,000) Pounds	88
Motorcycles	80
All Other Motor Vehicles	80

Section 7-9-70 –Sound Amplification Systems.

It shall be unlawful to use or operate a sound amplification system in a fixed or movable position or mounted upon any motor vehicle upon any street, alley, sidewalk, park, or public or private property within the City without a permit issued pursuant to Section 7-9-90 or 7-9-100. Nothing in this Section shall prohibit the use of a sound amplification system within a building or other fully enclosed area sealed off on all sides from the elements, as long as the noise created from such sound amplification system does not exceed the limitations set forth in this Article.

Section 7-9-80 – Exemptions.

- (1) Emergencies and Warning Devices. The provisions of this Article shall not apply to:
 - (a) The emission of sound necessary for protection of public safety, including for the purpose of alerting persons to the existence of an emergency;
 - (b) The emission of sound in the performance of emergency work or action.
- (2) Construction Activities. All construction activity is exempt from the maximum permissible levels set forth in Sections 7-9-50 and 7-9-60 provided such activity is conducted in accordance with Section 7-3-140 of this Code and any other applicable limitations. Any noise generated by construction activity outside of the limitations set forth in Section 7-3-140 is a violation of this Article unless the City Manager has granted written permission for such activity.
- (3) Service Activities and Places of Assembly. The provisions of this Article shall not apply to:
 - (a) Deliveries to commercial establishments and residences;
 - (b) Street and parking lot sweeping;
 - (c) Garbage, recycling, and green waste collection;
 - (d) Chimes, bells, or other temporary noise associated with places of assembly.
- (4) School and City Events. The provisions of this Article shall not apply to any event or activity organized by a school or the City and held on school or public property.

Section 7-9-90 – Noise Hardship Permits.

- (1) Applications for a permit, for other than vehicular traffic, for relief from the noise levels designated in this Article on the basis of undue hardship may be made to the City Manager. Any permit granted in accordance with this Section shall contain all conditions upon which the permit has been granted and shall specify a reasonable time for which the permit shall be effective.
- (2) A permit fee to cover the reasonable cost of review may be imposed by City Council as set forth in the City's comprehensive fee schedule.

- (3) The City Manager may grant the relief as applied for upon a finding of undue hardship for the applicant in considering the following:
- a. That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this Article; or
 - b. The activity, operation, or noise source will be of temporary duration and cannot be done in a manner that would comply with this Article, and no other reasonable alternative is available to the applicant.
- (4) The City Manager may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or surrounding neighborhood.

Section 7-9-100 – Special Events Noise Waiver.

Applications for a special event permit pursuant to Article 7 of Chapter 11 of the Code may include a noise waiver to allow amplified sound or other noise that may violate the provisions of this Article. Such waiver request shall be made at the time of application in accordance with Section 11-7-40, and if approved as part of the special events permit, shall be valid only at the specified times and dates and only upon the specified conditions noted in such permit. In considering whether to grant the permit, the City Manager shall consider the time of day that the noise is created, the duration of the noise, the loudness of the noise relative to the required limits, whether the noise is temporary or continuous in nature, and the extensiveness of the noise.

Section 7-9-110 – Violations.

If any violation of this Article occurs, the City may, at its discretion, take one or more of the following actions:

- (a) Abate the violation as a nuisance in accordance with the provisions of Article 2 of Chapter 7 of this Code;
- (b) Enforce the provisions of this Article 9 in accordance with the City's laws governing nuisances or in accordance with the provisions set forth in Article 4, Chapter 1 of this Code.

Section 7-9-120 – Penalty.

Every person convicted of a violation of this Article shall be punished by a fine not to exceed five hundred dollars (\$500.00) for the first offense and not more than one thousand dollars (\$1,000) for any subsequent violations, but shall not be subject to imprisonment or jail sentence.

Section 2. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect, in accordance with Section 6.8 of the Charter.

Section 3. No Existing Violation Affected. Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any ordinance hereby repealed or amended by this Ordinance, or any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 4. Repeal of Section 10-4-10 and Previous Ordinances. Section 10-4-10 of the Municipal Code and any other ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

Section 5. Codification Amendments. The codifier of the City’s Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Castle Pines Municipal Code.

Section 6. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Castle Pines, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. Publication and Effective Date. The City Clerk is hereby directed to cause publication of this Ordinance in accordance with Section 6.5 of the Charter. This Ordinance shall be effective thirty (30) days after final publication on the City’s official website and posted at the City Clerk’s office pursuant to Section 1-3-40 of the Municipal Code.


INTRODUCED, READ, AND PASSED ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, the 24th day of SEPTEMBER, 2019.

READ, PASSED, AND ADOPTED ON SECOND READING, FOLLOWING A PUBLIC HEARING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 22nd day of October, 2019.

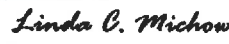


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Tera Stave Radloff
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Tera Stave Radloff, Mayor

ATTEST:

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Tobi Basile, CMC, City Clerk


Approved as to form:

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Linda C. Michow, City Attorney

CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading on September 24, 2019; published by title only in the *Douglas County News-Press*, together with the statement that “[t]he complete text of the ordinance is available through the City Clerk’s office and on the City’s official website with second reading and public hearing to be held on October 22, 2019”; and finally passed and adopted by the City Council on October 22, 2019, following a duly noticed public hearing and published on the City’s official website and posted at the City Clerk’s office on September 25, 2019.

ATTEST:

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Tobi Basile, CMC, City Clerk