

**AGENDA
OURAY CITY COUNCIL**

**TUESDAY, February 16, 2021
Regular Meeting – 1pm**

VIRTUAL MEETING

Join Zoom Meeting
<https://zoom.us/j/9349389230>

Meeting ID: 934 938 9230 Passcode: 491878
Or dial: 408 638 0968 or 669 900 6833

Regular Meeting – 1pm

- Changes to this agenda can be found on the bulletin board at City Hall
- Electronic copies of the Council Packet are available on the City website at www.cityofouray.com. A hard copy of the Packet is also available at the Administrative Office for interested citizens.
- Action may be taken on any agenda item
- Notice is hereby given that a majority or quorum of the Planning Commission, Community Development Committee, Beautification Committee, and/or Parks and Recreation Committee may be present at the above noticed City Council meeting to discuss any or all of the matters on the agenda below for Council consideration

1. CALL TO ORDER
2. ROLL CALL
3. CEREMONIAL/INFORMATIONAL
 - a. COP Update – Northland Securities Page 2
 - b. Ridgway Ouray Community Council (ROCC) Update on Dispersed Camping issues within Blue Lakes Park Trail and Ironton Park
 - c. Waste Water Treatment Facility Building Materials (JVA)
4. CITIZENS' COMMUNICATION
5. CITY COUNCIL REPORTS/INFORMATION - Glenn Boyd, Ethan Funk, Peggy Lindsey, John Wood, and Greg Nelson Page 4
6. DEPARTMENT REPORTS
 - a. City Administrator Page 6
 - b. Finance and Administration Director
 - i. Sales Tax – Year-end Report Page 8
 - ii. LOT – Year-end Report Page 16
7. CONSENT AGENDA
 - a. Liquor License Renewal, Brickhouse737 Page 19
 - b. Liquor License Renewal, Colorado Boy South, Inc. dba Colorado Boy Southwest Page 20
8. ACTION ITEMS - none
9. DISCUSSION ITEMS
 - a. Noise Ordinance Revision Page 21
 - b. Future Agenda Items
10. Executive Session
Executive Session under C.R.S. § 24-6-402(4)(b) and (e), for a conference with the City attorney for the purpose of receiving legal advice on specific legal questions concerning City easements and contractual rights for private use of City geothermal water from the Box Canyon pipeline and Vinegar Hill Spring and for the purpose of determining positions relative to matters that may be subject to negotiations, and/or instructing negotiators, concerning agreements for private geothermal uses.
11. ADJOURNMENT

City of Ouray, Colorado

\$2,700,000* Refunding COP, Series 2021

Private Placement Transaction Update

February 16, 2021



Troy Bernberg
TBernberg@northlandsecurities.com
Mobile: 303-641-4878

www.northlandsecurities.com
Member FINRA and SIPC / Registered with SEC and MSRB

**Preliminary; subject to change*

Update

- ❑ Late 2019:
 - The first solicitation resulted in rate proposals generating negative savings.
- ❑ Early 2020:
 - The second RFP was distributed February 26, with a March 20th, 2020 deadline. Upon the onset of the COVID-19 pandemic in early March, bank lending almost universally paused.
- ❑ Spring:
 - The extension of credit (lending) resumed in early May, but at new restricted levels.
 - At this point, financial outlooks were dire. This limited the number of banks willing to lend in public finance. And for those still interested in lending, were only doing so with existing clients or with increased lending standards.
 - Several banks noted blanket changes to credit policy, which instituted restrictions related to tourism economies, reliance on sales tax.
 - Less significant credit factors such as “appropriation” risk; population; and demographics played larger roles in credit decisions or in higher-than-expected interest rates.
- ❑ Summer-Fall:
 - Despite the challenges noted above, one proposal remained in hand. Savings were on the lower side of the range expected. Credit approval began and took some months as information requests trickled in. Improving sales tax data was shared in request to consider an interest rate concession.
 - A credit approved term sheet was provided, but at an interest rate that generated minimum savings and now with a more restrictive prepayment feature. Requests were made to reconsider the prepayment restriction and again lower the interest rate in light of improving sales tax receipts.
- ❑ Winter:
 - Another interested lender was sought and found. The interest rate was lower providing a little more savings, but still at the low end of the expected range. The second, and more impactful wave of COVID-19 cases caused a great deal of operational delay within their bank.
 - By the holidays, go-ahead for a final credit approval was finally underway with the second bank. However, as unpredictable as the pandemic, follow-up communications with this institution were not returned and ultimately not answered.
- ❑ February 2021
 - Two new banks are currently considering the COP refinancing, one of which is currently in underwriting, about a week following initial contact. A third bank bid is being pursued.
 - Market dynamics are keeping tax-exempt interest rates from increasing like taxable (Treasury) rates. So, current expectations are for achieving savings closer to initial estimates.

OURAY VOLUNTEER FIRE DEPARTMENT MONTHLY MEETING

DECEMBER 14, 2020

CALLED TO ORDER AT 7:30

ATTENDANCE AND REPORTS

13 members present; 0 excused; 11 absent
The Treasurer's Report was not read and approved.
Prior minutes were read and approved.

DETAILED ATTENDANCE

Present

Sam Tyler, Dave Turner, Brittany Kunz, Dack Klein, Nathan Judd, Tyler Ferguson, Max Austin, Bumper Williams, Craig Kaminsky, Adam Kunz, Patrick Rondinelli, John Fedel, Trevor Latta

Excused

None

Absent

Amy Winterrowd, Danny Wilbur, Ted Pullig, Steve Martinez, Chris Lee, Kevin Koprek, Chris Folsom, Steve Duce, Travis Manley, Chris Miller, Junior Mattivi

OLD BUSINESS

None

NEW BUSINESS

Chains - Chief requested a crew of members to coordinate at the fire house and put the chains on the trucks. Chief suggested Wednesday at 6:00 pm with John Fedel, Tyler Fergusson, Patrick Rondinelli, Dack Klein, and Adam Kunz able to help.

Fireworks - Bumper Williams thinks we're going to take two trailers. Adam Kunz suggested we tie on the 30th so it's set and ready to roll on the 31st. In terms of show and duration, the sense is the town would like a bigger show. It was suggested to do a 15-minute show but it'll be fairly packed/dense. Adam felt that we will have quite a bit of setup and work. Bumper noted that, if we have some bad weather, we'll want to forgo some larger shells as they'll be lost in a storm, etc.

Fireworks Setup - John Fedel suggested Wednesday, December 30 around 5:30 pm to start getting loaded and set for the show. Preference is to use the City Shop. Barring a reason not to, we will plan to load the trailers, tie fireworks, etc. at the shop (it's just safer and a better space in which to do the work). In the meantime, we need to go through the inventory to ensure we have all necessary supplies.

Radios - 10 new radios (2 of which are dual-band). Bumper will be working tomorrow to setup the correct communication terminology on the radios. 2 of the radios are destined for an officer while the remaining 8 will go on the racks.

OCEMS - Kim Mitchell offered rapid tests for any fire members who are about to engage in a training exercise. Fire fighters would simply need to meet 15 minutes prior to the training.

Vaccinations - Adam Kunz reached out to Katie Link and passed along a list of department members. Katie has ordered vaccines for each member but we do not yet know when, exactly, we'll get them. While they will not be required, all fire fighters are encouraged to take one.

Trainings - There have been a few issues that have hampered our training efforts. Officers from both departments are trying to figure out ways for the departments to train together so that there can be a massive rapid-test before hand, etc. In general, the department feels better holding off on trainings until after the new year.

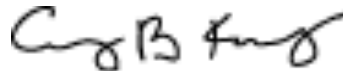
Chief will also check in on the Utah Fire Academy in January but acknowledged that we might be a few more months down the line before we're able to go away for trainings and the like. Max Austin noted the Utah academy has already been cancelled for 2021.

ADJOURNED AT 8:25

Department Officer Signatures



TREVOR LATTA
CHIEF, OURAY FIRE



CRAIG KAMINSKY
SECRETARY, OURAY FIRE



City Administrator

Report for February 16, 2020 City Council

February 1 – February 12, 2021:

During the last two weeks, the Community Development Coordinator (CDC) position has been vacated and the Building Inspector provided notice of leaving the City. The City will begin conducting interviews for the CDC position during the week of February 22, 2021. I plan to reorganize the Building Inspector position hours to ensure we have adequate coverage for our Building Department. Building permit issuance has been taking over a month and I hope to better serve our builders and residents in the future.

I have personally talked to four builders this past week and asked their opinions on our building department. Each stated concerns with permit issuance timing and the lack of days the City is able to conduct inspections. These are issues that will need to be addressed by allowing the building inspector more than 20 hours per week. Currently the Building Inspector is spending 10 hours on Short Term Rental Inspections and 10 hours on plan review and inspections. This has proven not to be enough hours for our building department to be successful. While hiring for a new inspection, Dan Reardon from Colorado Code Consulting will again be utilized to assist the City.

The Hot Springs Pool Manager position remains open and we will begin reviewing the applications in the near future.

The City's Information Technology (IT) position and temporary part-time Visitor Center Coordinator are the next two positions that will be opened. The vacancy of the IT position has continued to cause problems for all departments. There will still need to be an outside vender utilized for some server and local desktop support. There are multiple special IT projects that need to be accomplished along with the day-to-day system maintenance.

Future special projects include the implementation of an improved GIS system, City of Ouray website revamp, and agenda management software.

Meetings Attended:

Unified Command

COVID Recovery Working Group

Multi-Agency Coordination Group

City Council Agenda Setting Meeting

City Council Meeting

City Council Work Session (Noise Ordinance)

JVA (Waste Water Treatment Facility Bi-Weekly Project Meeting)

Leadership Team Meeting (Weekly)

CEDC Transition Meeting (Due to Aja Leaving Position)

CEDC Meeting

Two Developer Meetings

Ouray Fire Department

City Debt Refinancing Update

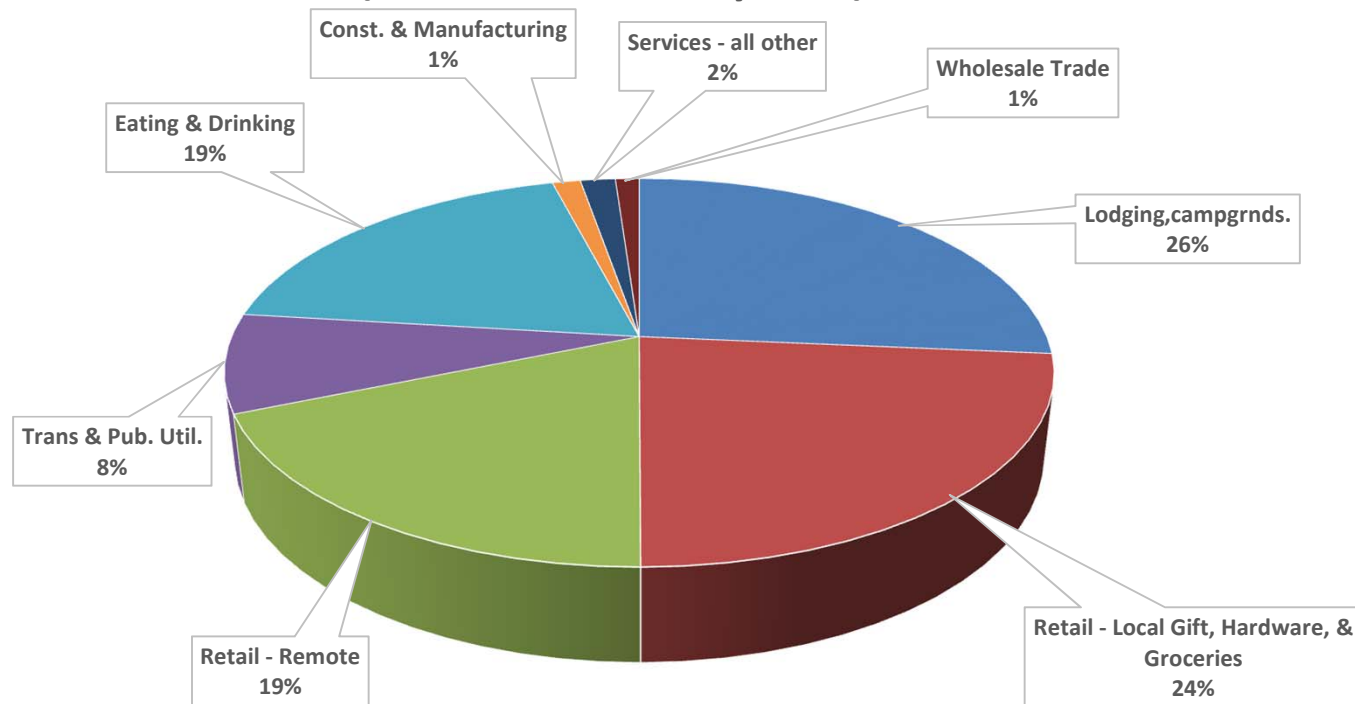
Planning Commission

Wright Water Engineering Meeting (Water Infrastructure Discussion)

Colorado Department of Public Health and Environment Water Classification

Joint Policy Group Work Session (Ouray; Ridgway; County of Ouray)

City of Ouray
December 2020 Sales Tax Revenues by Business Category
(received in February 2021)

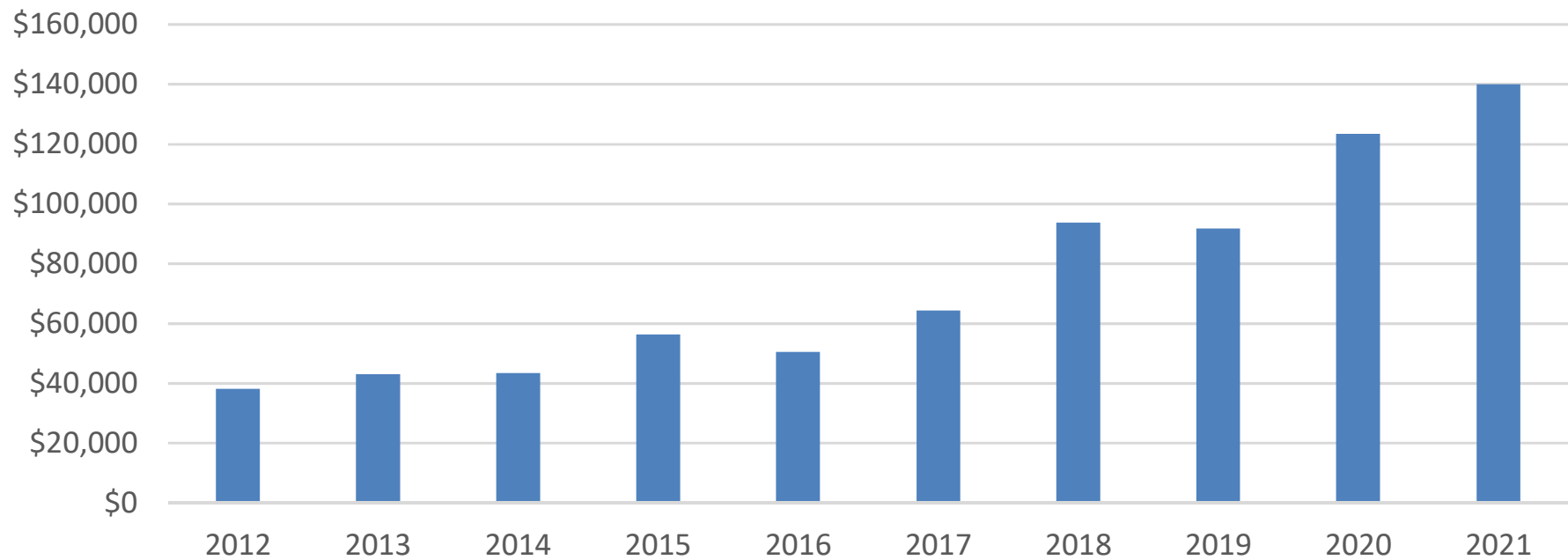


CITY OF OURAY
2021 MONTHLY SALES TAX REVENUES BY BUSINESS CATEGORY

(1) Month tax received from State of Colorado, representing sales from two months earlier (e.g. tax shown as APRIL is mostly from FEBRUARY)

| 2021 SALES TAX REVENUES BY BUSINESS CATEGORY | | | | | | | |
|--|---------------|---------------|-----------|---------|----------|----------|---------------|
| (1) Funds received by City in: July (mostly re: May) | | | | | | | |
| Business Category | January | February | March | April | May | June | |
| Lodging, campgrnds. | \$ 26,010.45 | \$ 36,995.90 | | | | | |
| Retail - Local Gift, Hardware, & Groce | \$ 21,286.27 | \$ 32,966.65 | | | | | |
| Retail - Remote | \$ 22,394.45 | \$ 26,286.38 | | | | | |
| Trans & Pub. Util. | 8,743.59 | 11,494.47 | | | | | |
| Eating & Drinking | 21,469.16 | 26,647.64 | | | | | |
| Const. & Manufacturing | 651.34 | 1,830.76 | | | | | |
| Services - all other | 1,978.85 | 2,282.00 | | | | | |
| Wholesale Trade | 755.57 | 1,551.93 | | | | | |
| Retail - groceries,liquor, candy, hardware, gas | | | | | | | |
| Retail - gift, souvenir, variety, books | | | | | | | |
| Finance, Ins. Real Estate | | | | | | | |
| Mining | | | | | | | |
| All Other | | | | | | | |
| | | | | | | | |
| TOTAL | \$ 103,289.68 | \$ 140,055.73 | \$ - | \$ - | \$ - | \$ - | |
| | | | | | | | |
| Business Category | July | August | September | October | November | December | Year-to-date |
| Lodging, campgrnds. | | | | | | | \$ 63,006.35 |
| Retail - Local Gift, Hardware, & Groceries | | | | | | | \$ 54,252.92 |
| Retail - Remote | | | | | | | \$ 48,680.83 |
| Trans & Pub. Util. | | | | | | | 20,238.06 |
| Eating & Drinking | | | | | | | 48,116.80 |
| Const. & Manufacturing | | | | | | | 2,482.10 |
| Services - all other | | | | | | | 4,260.85 |
| Wholesale Trade | | | | | | | 2,307.50 |
| Retail - groceries,liquor, candy, hardware, gas | | | | | | | - |
| Retail - gift, souvenir, variety, books | | | | | | | - |
| Finance, Ins. Real Estate | | | | | | | - |
| Mining | | | | | | | - |
| All Other | | | | | | | - |
| | | | | | | | |
| TOTAL | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 243,345.41 |

CITY OF OURAY
DECEMBER SALES TAX REVENUE COMPARISON
Over Past 10 Years



Notes: Figures represent tax revenue received February 2021
Sales Tax increased from 3% to 4% on January 1, 2016

CITY OF OURAY
SALES TAX REVENUES BY BUSINESS CATEGORY 2012-2021

SALES TAX REVENUES BY BUSINESS CATEGORY

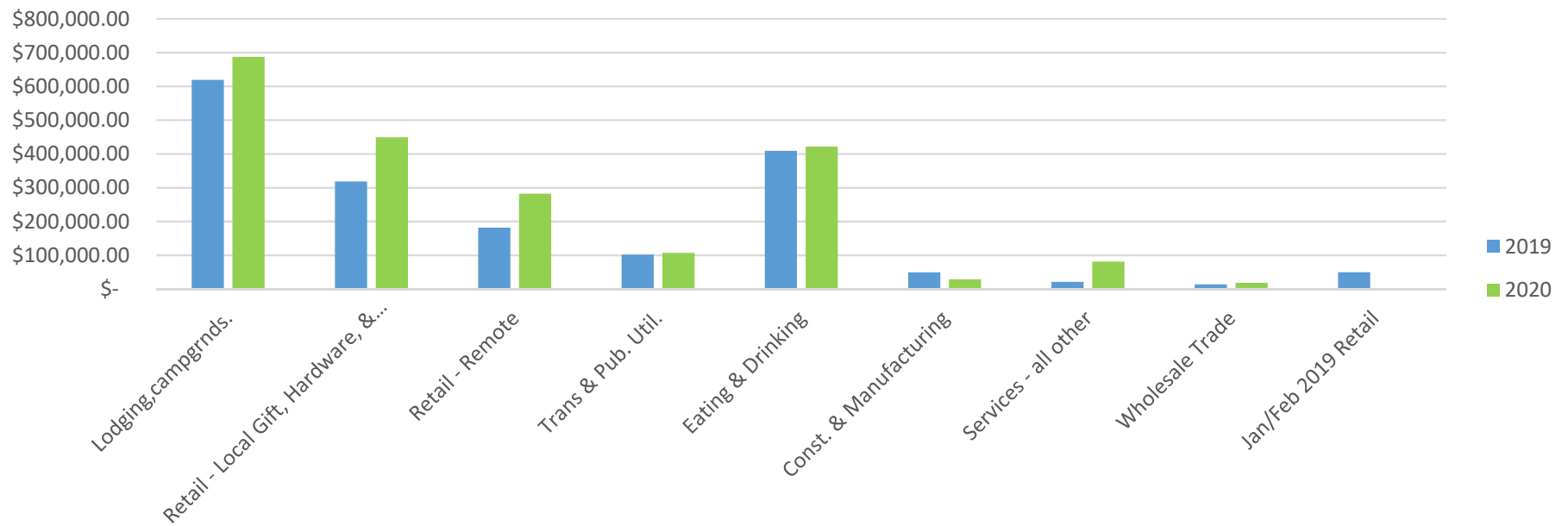
| Business Category | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|--|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|-----------------------------|------------------------------|-----------------------------|
| Lodging, campgrnds. | \$ 7,589.53 | \$ 11,400.37 | \$ 9,233.95 | \$ 12,085.00 | \$ 11,321.41 | \$ 15,363.88 | \$ 27,217.45 | \$ 23,993.54 | \$ 32,873.34 | \$ 36,995.90 |
| Retail - Local Gift, Hardware, & Groceries | | | | | | | | | \$ 22,157.99 | \$ 32,966.65 |
| Retail - Remote | | | | | | | | | \$ 21,204.34 | \$ 26,286.38 |
| Retail - groceries, liquor, candy, hardw | 6,284.60 | 6,024.72 | 6,800.46 | 11,543.14 | 9,561.16 | 14,572.24 | 18,705.19 | 24,305.11 | | |
| Retail - gift, souvenir, variety, books | 4,536.65 | 5,282.53 | 6,239.64 | 6,680.43 | 6,560.29 | 6,619.21 | 8,263.50 | 9,235.38 | | |
| Trans & Pub. Util. | 6,729.71 | 6,970.86 | 9,338.62 | 7,368.27 | 6,125.74 | 7,521.63 | 7,321.11 | 7,669.12 | 15,972.66 | 11,494.47 |
| Eating & Drinking | 6,372.99 | 5,903.90 | 6,754.74 | 10,015.60 | 8,171.87 | 9,443.19 | 19,730.16 | 14,237.33 | 27,216.57 | 26,647.64 |
| Const. & Manufacturing | 4,832.13 | 3,517.47 | 3,069.93 | 3,016.80 | 6,225.16 | 6,409.34 | 8,546.01 | 7,047.90 | 2,337.47 | 1,830.76 |
| Services - all other | 1,398.53 | 2,547.34 | 1,502.06 | 1,803.94 | 1,563.93 | 2,942.46 | 3,371.18 | 3,285.33 | 1,369.61 | 2,282.00 |
| Finance, Ins. Real Estate | 348.44 | 1,121.10 | 358.49 | 798.21 | 845.53 | 1,353.98 | 537.11 | 1,045.92 | | |
| Wholesale Trade | 45.00 | 22.00 | 68.00 | 142.67 | 64.32 | 78.04 | 148.96 | 977.95 | 301.35 | 1,551.93 |
| Mining | - | - | - | - | - | - | - | - | - | - |
| All Other | 72.80 | 322.45 | 87.25 | 3,006.54 | 63.00 | 105.00 | | | | |
| TOTAL | \$ 38,210.38 | \$ 43,112.74 | \$ 43,453.14 | \$ 56,460.60 | \$ 50,502.41 | \$ 64,408.97 | \$ 93,840.67 | \$ 91,797.58 | \$ 123,433.33 | \$ 140,055.73 |
| | | | | | | | | \$2,834.54 out-of-period | \$22,126.82 out-of-period | \$7,310.05 out-of-period |

Year End Sales Tax Comparison

| | |
|---|-----------------|
| 2019 Activity (Received March 2019-February 2020) | \$ 1,766,682.69 |
| 2020 Activity (Received March 2020-February 2021) | \$ 2,077,297.74 |

Percentage increase from 2019 **17.6%**

2020 vs 2019 Category Year-end Sales Tax Distribution



City of Ouray

2019 Sales Tax Activity by Category

| 2019 SALES TAX REVENUES BY BUSINESS CATEGORY | | | | | | | | |
|--|----------------------|----------------------|----------------------|----------------------|---------------------|----------------------|--------------|--------------|
| Business Category | January | February | March | April | May | June | | |
| Lodging, campgrnds. | \$ 28,795.73 | \$ 23,081.46 | \$ 24,204.56 | \$ 11,514.27 | \$ 27,510.54 | \$ 78,071.91 | | |
| Retail - Local Gift, Hardware, & Groceries | | | 15,796.08 | \$ 13,537.82 | 17,935.12 | \$ 40,820.67 | | |
| Retail - Remote | | | 11,214.47 | \$ 8,713.63 | 15,040.67 | \$ 24,312.87 | | |
| Trans & Pub. Util. | 8,921.19 | 8,674.18 | 7,669.48 | 7,682.91 | 7,580.80 | 8,159.57 | | |
| Eating & Drinking | 14,541.71 | 11,248.23 | 14,162.03 | 9,778.52 | 26,140.45 | 53,058.86 | | |
| Const. & Manufacturing | 8,063.58 | 5,624.30 | 5,881.55 | 5,063.81 | 498.78 | 1,785.74 | | |
| Services - all other | 2,234.44 | 1,096.78 | 1,503.59 | 616.97 | 755.76 | 2,508.36 | | |
| Wholesale Trade | 992.09 | 565.13 | 411.73 | 970.54 | 1,009.61 | 1,734.70 | | |
| Jan/Feb 2019 Retail | 26,709.15 | 23,177.68 | | | | | | |
| TOTAL | \$ 90,257.89 | \$ 73,467.76 | \$ 80,843.49 | \$ 57,878.47 | \$ 96,471.73 | \$ 210,452.68 | | |
| Business Category | July | August | September | October | November | December | Year-to-date | |
| Lodging, campgrnds. | \$ 126,807.22 | \$ 102,731.15 | \$ 99,997.70 | \$ 48,195.15 | \$ 15,650.17 | \$ 32,873.34 | \$ | 619,433.20 |
| Retail - Local Gift, Hardware, & Groceries | \$ 66,406.83 | \$ 49,445.23 | \$ 48,454.56 | \$ 30,173.17 | \$ 13,822.47 | \$ 22,157.99 | \$ | 318,549.94 |
| Retail - Remote | \$ 23,844.82 | \$ 26,879.01 | \$ 13,496.64 | \$ 16,556.51 | \$ 20,761.13 | \$ 21,204.34 | \$ | 182,024.09 |
| Trans & Pub. Util. | 8,481.85 | 8,544.45 | 7,987.79 | 8,398.51 | 4,153.41 | 15,972.66 | | 102,226.80 |
| Eating & Drinking | 82,551.16 | 64,421.46 | 60,114.11 | 33,855.23 | 12,366.72 | 27,216.57 | | 409,455.05 |
| Const. & Manufacturing | 4,389.99 | 1,523.28 | 5,527.96 | 4,772.80 | 4,386.21 | 2,337.47 | | 49,855.47 |
| Services - all other | 2,109.50 | 1,973.44 | 4,811.89 | 1,704.33 | 774.99 | 1,369.61 | | 21,459.66 |
| Wholesale Trade | 2,151.08 | 1,618.22 | 1,491.24 | 1,862.85 | 683.11 | 301.35 | | 13,791.65 |
| Jan/Feb 2019 Retail | | | | | | | | 49,886.83 |
| TOTAL | \$ 316,742.45 | \$ 257,136.24 | \$ 241,881.89 | \$ 145,518.55 | \$ 72,598.21 | \$ 123,433.33 | | |
| | | | | | | | \$ | 1,766,682.69 |

City of Ouray
2020 Sales Tax Activity by Category

| 2020 SALES TAX REVENUES BY BUSINESS CATEGORY | | | | | | | |
|--|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|------------------------|
| Business Category | January | February | March | April | May | June | |
| Lodging, campgrnds. | \$ 32,270.70 | \$ 26,580.81 | \$ 8,537.56 | \$ 2,831.80 | \$ 17,607.03 | \$ 68,221.11 | |
| Retail - Local Gift, Hardware, & Groce | \$ 18,926.37 | \$ 17,147.45 | 13,653.00 | \$ 8,465.09 | 18,532.27 | \$ 46,147.82 | |
| Retail - Remote | \$ 13,972.85 | \$ 15,352.60 | 13,005.06 | \$ 16,707.24 | 20,976.71 | \$ 34,366.94 | |
| Trans & Pub. Util. | 11,518.84 | 12,276.40 | 8,821.34 | 8,448.08 | 6,477.23 | 7,004.14 | |
| Eating & Drinking | 25,248.24 | 22,111.84 | 9,551.59 | 2,444.33 | 7,172.66 | 42,780.09 | |
| Const. & Manufacturing | 1,205.57 | 1,661.83 | 3,440.51 | 2,075.69 | 878.37 | 3,246.39 | |
| Services - all other | 1,002.37 | 1,194.72 | 1,034.99 | 1,344.14 | 1,311.96 | 10,635.22 | |
| Wholesale Trade | 878.12 | 964.13 | 669.83 | 129.34 | 722.21 | 2,179.91 | |
| TOTAL | \$ 105,023.06 | \$ 97,289.78 | \$ 58,713.88 | \$ 42,445.71 | \$ 73,678.44 | \$ 214,581.62 | |
| Business Category | July | August | September | October | November | December | Year-to-date |
| Lodging, campgrounds | \$ 138,029.22 | \$ 126,505.93 | \$ 116,680.33 | \$ 87,070.66 | \$ 26,010.45 | \$ 36,995.90 | \$ 687,341.50 |
| Retail - Local Gift, Hardware, & Groce | \$ 83,403.22 | \$ 73,512.48 | \$ 68,429.62 | \$ 47,075.84 | \$ 21,286.27 | \$ 32,966.65 | \$ 449,546.08 |
| Retail - Remote | \$ 26,273.14 | \$ 30,268.92 | \$ 33,236.53 | \$ 29,939.39 | \$ 22,394.45 | \$ 26,286.38 | \$ 282,780.21 |
| Trans & Public Utilities | 7,618.04 | 8,337.39 | 8,193.44 | 8,475.92 | 8,743.59 | 11,494.47 | 107,408.88 |
| Eating & Drinking | 71,465.90 | 80,662.31 | 68,116.10 | 44,338.22 | 21,469.16 | 26,647.64 | 422,008.08 |
| Construction & Manufacturing | 3,089.93 | 3,428.77 | 4,716.23 | 2,198.85 | 651.34 | 1,830.76 | 28,424.24 |
| Services - all other | 24,523.99 | 16,156.73 | 13,052.85 | 6,773.69 | 1,978.85 | 2,282.00 | 81,291.51 |
| Wholesale Trade | 2,880.66 | 2,906.77 | 2,473.32 | 2,385.45 | 755.57 | 1,551.93 | 18,497.24 |
| TOTAL | \$ 357,284.10 | \$ 341,779.30 | \$ 314,898.42 | \$ 228,258.02 | \$ 103,289.68 | \$ 140,055.73 | \$ 2,077,297.74 |

Ouray Lodging Occ. Tax Collection Summary

| ROOMS | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 20 VS 19 |
|-------------|-------|-------|-------|-------|--------|--------|--------|--------|--------|----------|
| Month | | | | | | | | | | |
| January | 4452 | 4343 | 4349 | 5712 | 5826 | 5113 | 5782 | 6196 | 6245 | 0.79% |
| February | 3446 | 3673 | 3874 | 4816 | 5226 | 4509 | 5085 | 5593 | 4641 | -17.02% |
| March | 2975 | 2746 | 2949 | 3394 | 3638 | 3499 | 4763 | 4152 | 1952 | -52.99% |
| April | 1912 | 1661 | 1836 | 2236 | 2660 | 2411 | 3080 | 2857 | 32 | -98.88% |
| May | 4914 | 4248 | 4149 | 5047 | 5850 | 5939 | 7396 | 7894 | 3111 | -60.59% |
| June | 10282 | 10971 | 10718 | 12015 | 13521 | 14494 | 14578 | 15026 | 12736 | -15.24% |
| July | 16781 | 16285 | 17248 | 19171 | 19960 | 20248 | 19802 | 19482 | 20444 | 4.94% |
| August | 14672 | 13688 | 15198 | 16477 | 16949 | 17344 | 17613 | 18629 | 16919 | -9.18% |
| September | 12361 | 12004 | 13377 | 15478 | 16149 | 16526 | 17743 | 18498 | 17564 | -5.05% |
| October | 4876 | 5825 | 6450 | 7937 | 7691 | 7762 | 7462 | 9407 | 19127 | 103.33% |
| November | 1709 | 2084 | 1936 | 2141 | 2113 | 2674 | 2856 | 3237 | 3642 | 12.51% |
| December | 2805 | 3589 | 3696 | 3656 | 3382 | 4226 | 5038 | 4268 | 4963 | 16.28% |
| | | | | | | | | | | |
| Total Rooms | 81185 | 81117 | 85780 | 98080 | 102965 | 104745 | 111198 | 115239 | 111376 | -3.35% |

| DOLLARS | | | | | | | | | | |
|---------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|---------|
| January | \$11,755 | \$11,729 | \$11,848 | \$15,867 | \$15,819 | \$13,795 | \$16,294 | \$22,444 | \$25,204 | 12.30% |
| February | \$8,855 | \$9,749 | \$10,430 | \$12,468 | \$13,908 | \$12,648 | \$14,021 | \$19,580 | \$18,464 | -5.70% |
| March | \$7,792 | \$7,260 | \$7,945 | \$9,240 | \$9,505 | \$9,529 | \$12,884 | \$14,526 | \$6,834 | -52.95% |
| April | \$4,974 | \$4,475 | \$4,975 | \$5,701 | \$6,633 | \$6,294 | \$8,090 | \$8,312 | \$107 | -98.72% |
| May | \$13,131 | \$11,738 | \$11,357 | \$13,876 | \$15,372 | \$15,734 | \$19,031 | \$22,068 | \$7,922 | -64.10% |
| June | \$26,440 | \$28,572 | \$28,419 | \$31,431 | \$34,498 | \$36,654 | \$36,236 | \$62,392 | \$51,634 | -17.24% |
| July | \$43,054 | \$42,369 | \$44,740 | \$47,884 | \$49,767 | \$50,344 | \$49,371 | \$110,244 | \$114,230 | 3.62% |
| August | \$34,737 | \$35,708 | \$40,035 | \$41,643 | \$41,801 | \$42,090 | \$43,236 | \$90,952 | \$92,809 | 2.04% |
| September | \$33,413 | \$32,326 | \$35,960 | \$40,336 | \$41,704 | \$41,965 | \$44,480 | \$79,505 | \$93,050 | 17.04% |
| October | \$13,309 | \$15,848 | \$17,556 | \$21,385 | \$20,717 | \$20,355 | \$19,711 | \$37,511 | \$60,690 | 61.79% |
| November | \$4,261 | \$5,348 | \$5,092 | \$5,136 | \$5,802 | \$7,079 | \$7,000 | \$10,367 | \$14,616 | 40.99% |
| December | \$7,617 | \$9,816 | \$9,918 | \$9,571 | \$9,590 | \$11,882 | \$13,622 | \$17,593 | \$24,151 | 37.28% |
| | | | | | | | | | | |
| Total Dollars | \$209,338 | \$214,938 | \$228,275 | \$254,538 | \$265,116 | \$268,369 | \$283,976 | \$495,494 | \$509,710 | 2.87% |

Data represents rooms and dollars for month in which lodging activity occurred.
 LOT report and payment are due by 20th of following month.
 "ROOMS" data includes exempt rooms.

OURAY LODGING OCCUPANCY TRENDS

Based on Lodging Occupation Tax Collections

| | 2018 | | | | 2019 | | | | 2020 | | | |
|-----------|---------------------------|--------|-------|--------|---------------------------|--------|-------|--------|---------------------------|--------|-------|--------|
| | Avail. | Rooms | | Exempt | Avail. | Rooms | | Exempt | Avail. | Rooms | | Exempt |
| | Rooms | Rented | Occ.% | Rooms | Rooms | Rented | Occ.% | Rooms | Rooms | Rented | Occ.% | Rooms |
| | + RVs, Unfurnished Cabins | | | | + RVs, Unfurnished Cabins | | | | + RVs, Unfurnished Cabins | | | |
| January | 16882 | 5782 | 34.2% | 244 | 19378 | 6196 | 32.0% | 387 | 19301 | 6245 | 32.4% | 61 |
| February | 15960 | 5085 | 31.9% | 261 | 17556 | 5593 | 31.9% | 287 | 15753 | 4641 | 29.5% | 103 |
| March | 17293 | 4763 | 27.5% | 252 | 18409 | 4152 | 22.6% | 388 | 13973 | 1952 | 14.0% | 18 |
| April | 16699 | 3080 | 18.4% | 213 | 18291 | 2857 | 15.6% | 247 | 42 | 32 | 76.2% | 10 |
| May | 20713 | 7396 | 35.7% | 401 | 22770 | 7894 | 34.7% | 334 | 12725 | 3111 | 24.4% | 29 |
| June | 21403 | 14578 | 68.1% | 626 | 21708 | 15026 | 69.2% | 302 | 21195 | 12736 | 60.1% | 28 |
| July | 21763 | 19802 | 91.0% | 815 | 22944 | 19482 | 84.9% | 452 | 22744 | 20444 | 89.9% | 654 |
| August | 21741 | 17613 | 81.0% | 837 | 24090 | 18629 | 77.3% | 465 | 18745 | 16919 | 90.3% | 10 |
| September | 21339 | 17743 | 83.1% | 767 | 22482 | 18498 | 82.3% | 493 | 20654 | 17564 | 85.0% | 30 |
| October | 19545 | 7462 | 38.2% | 351 | 21554 | 9407 | 43.6% | 307 | 19127 | 12877 | 67.3% | 18 |
| November | 16113 | 2856 | 17.7% | 400 | 17290 | 3237 | 18.7% | 184 | 12875 | 3642 | 28.3% | 40 |
| December | 17028 | 5038 | 29.6% | 388 | 18825 | 4268 | 22.7% | 170 | 16009 | 4963 | 31.0% | 107 |
| Total | 226479 | 111198 | 49.1% | 5555 | 245297 | 115239 | 47.0% | 4016 | 193143 | 105126 | 54.4% | 1108 |

Data represents rooms for month in which lodging activity occurred.

LOT report and payment are due by 20th of following month.

"Rooms Rented" columns includes exempt rooms.

"Exempt Rooms" columns are for memo purposes only.

2020 Lodging Occupation Tax, By Business Category

| AVAILABLE ROOMS | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Total |
|-----------------------------|--------|--------|--------|-----|--------|--------|--------|--------|--------|--------|--------|--------|---------|
| Hotel, Motel | 12,741 | 10,390 | 8,805 | 38 | 6,779 | 13,042 | 14,165 | 12,529 | 14,141 | 13,991 | 9,831 | 12,458 | 128,910 |
| Bed and Breakfast | 1,044 | 542 | 262 | - | 255 | 995 | 1,016 | 1,010 | 1,790 | 410 | 169 | 671 | 8,164 |
| House, Townhouse, Condo (1) | 2,788 | 2,327 | 2,545 | 4 | 2,236 | 2,733 | 2,913 | 2,912 | 2,503 | 2,895 | 2,875 | 2,880 | 29,611 |
| RV Space, Unfurnished Cabin | 2,728 | 2,494 | 2,361 | - | 3,455 | 4,425 | 4,650 | 2,294 | 2,220 | 1,831 | - | - | 26,458 |
| Total Rooms | 19,301 | 15,753 | 13,973 | 42 | 12,725 | 21,195 | 22,744 | 18,745 | 20,654 | 19,127 | 12,875 | 16,009 | 193,143 |

| ROOMS RENTED | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Total |
|-----------------------------|-------|-------|-------|-----|-------|--------|--------|--------|--------|--------|-------|-------|---------|
| Hotel, Motel | 4,856 | 3,668 | 1,448 | 28 | 1,974 | 8,007 | 12,909 | 11,906 | 12,206 | 10,126 | 3,062 | 3,801 | 73,991 |
| Bed and Breakfast | 175 | 97 | 18 | - | 21 | 433 | 918 | 858 | 1,828 | 258 | 32 | 334 | 4,972 |
| House, Townhouse, Condo (1) | 700 | 467 | 168 | 4 | 57 | 1,017 | 1,997 | 1,892 | 1,439 | 1,416 | 548 | 828 | 10,533 |
| RV Space, Unfurnished Cabin | 514 | 409 | 318 | - | 1,059 | 3,279 | 4,620 | 2,263 | 2,091 | 1,077 | - | - | 15,630 |
| Total Rooms | 6,245 | 4,641 | 1,952 | 32 | 3,111 | 12,736 | 20,444 | 16,919 | 17,564 | 12,877 | 3,642 | 4,963 | 105,126 |

| DOLLARS | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Total |
|-----------------------------|--------------|--------------|-------------|-----------|-------------|--------------|---------------|--------------|--------------|--------------|--------------|--------------|---------------|
| Hotel, Motel | \$ 17,816.90 | \$ 14,130.79 | \$ 5,242.52 | \$ 85.51 | \$ 5,958.17 | \$ 35,919.22 | \$ 81,256.25 | \$ 68,592.15 | \$ 67,111.60 | \$ 47,428.53 | \$ 11,488.18 | \$ 17,093.21 | \$ 372,123.03 |
| Bed and Breakfast | \$ 803.81 | \$ 354.91 | \$ 91.77 | \$ - | \$ 130.41 | \$ 2,564.46 | \$ 5,564.87 | \$ 5,744.68 | \$ 10,400.95 | \$ 1,506.39 | \$ 195.75 | \$ 1,904.77 | \$ 29,262.77 |
| House, Townhouse, Condo (1) | \$ 5,870.72 | \$ 3,396.81 | \$ 1,129.93 | \$ 21.00 | \$ 174.01 | \$ 6,984.56 | \$ 19,089.19 | \$ 15,289.60 | \$ 12,274.02 | \$ 9,292.64 | \$ 2,932.34 | \$ 5,153.09 | \$ 81,607.91 |
| RV Space, Unfurnished Cabin | \$ 712.48 | \$ 581.12 | \$ 369.70 | \$ - | \$ 1,659.83 | \$ 6,165.26 | \$ 8,319.90 | \$ 3,182.27 | \$ 3,263.26 | \$ 2,462.40 | \$ - | \$ - | \$ 26,716.22 |
| Total Dollars | \$ 25,203.91 | \$ 18,463.63 | \$ 6,833.92 | \$ 106.51 | \$ 7,922.42 | \$ 51,633.50 | \$ 114,230.21 | \$ 92,808.70 | \$ 93,049.83 | \$ 60,689.96 | \$ 14,616.27 | \$ 24,151.07 | \$ 509,709.93 |

(1) For a property that is marketed as a stand-alone short-term rental, for which there are no hotel/motel amenities offered.

Data represents rooms for month in which lodging activity occurred.

LOT report and payment are due by 20th of following month.

"Rooms Rented" columns includes exempt rooms.

BRICKHOUSE 737
PO BOX 806
Ouray CO 81427

| Fees Due | |
|--|---------|
| Renewal Fee | 500.00 |
| Storage Permit \$100 X _____ | \$ |
| Sidewalk Service Area \$75.00 | \$ 75.- |
| Additional Optional Premise Hotel & Restaurant \$100 X _____ | \$ |
| Related Facility - Campus Liquor Complex \$160.00 per facility | \$ |
| Amount Due/Paid | \$ |

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

| | | | | |
|---|---|---|---|-----------------------------------|
| Licensee Name BRICKHOUSE 737 LLC | | Doing Business As Name (DBA) BRICKHOUSE 737 | | |
| Liquor License # 03-06211 | License Type Hotel & Restaurant | Sales Tax License # 31414600 | Expiration Date 04/04/2021 | Due Date 02/18/2021 |
| Business Address 737 MAIN STREET Ouray CO 81427 | | | | Phone Number 9703250565 |
| Mailing Address PO BOX 806 Ouray CO 81427 | | | Email CONTACT@BRICKHOUSE737.COM | |
| Operating Manager HANS VANDER PLOEG | Date of Birth | Home Address | | Phone Number |
| 1. Do you have legal possession of the premises at the street address above? <input checked="" type="radio"/> Yes <input type="radio"/> No Are the premises owned or rented? <input checked="" type="radio"/> Owned <input type="radio"/> Rented* *If rented, expiration date of lease _____ | | | | |
| 2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. <input checked="" type="radio"/> Yes <input type="radio"/> No | | | | |
| 3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? Yes <input type="radio"/> No <input checked="" type="radio"/> | | | | |
| 3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? Yes <input type="radio"/> No <input checked="" type="radio"/> | | | | |
| 4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. Yes <input type="radio"/> No <input checked="" type="radio"/> | | | | |
| 5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. Yes <input type="radio"/> No <input checked="" type="radio"/> | | | | |
| 6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes <input type="radio"/> No <input checked="" type="radio"/> | | | | |
| 7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes <input type="radio"/> No <input checked="" type="radio"/> | | | | |

COLORADO BOY SOUTHWEST
PO BOX 1326
Ouray CO 81427

| Fees Due | |
|--|-----------------------|
| Renewal Fee | Waived due to 20B-001 |
| Storage Permit \$100 X _____ | \$ 0 |
| Sidewalk Service Area \$75.00 | \$ 0 |
| Additional Optional Premise Hotel & Restaurant \$100 X _____ | Waived due to 20B-001 |
| Related Facility - Campus Liquor Complex \$160.00 per facility | Waived due to 20B-001 |
| Amount Due/Paid | \$ 0 |

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

| | | | | |
|---|--|---|--------------------------------------|-----------------------------------|
| Licensee Name COLORADO BOY SOUTH, INC | | Doing Business As Name (DBA) COLORADO BOY SOUTHWEST | | |
| Liquor License # 03-11482 | License Type Hotel & Restaurant (city) | Sales Tax License # 416549370000 | Expiration Date 04/15/2021 | Due Date 03/01/2021 |
| Business Address 515 MAIN STREET Ouray CO 81427 | | County Ouray | | Phone Number 3034195730 |
| Mailing Address PO BOX 1326 Ouray CO 81427 | | Email | | |
| Operating Manager DANIEL B. HINDS | Date of Birth | Home Address | | Phone Number |
| 1. Do you have legal possession of the premises at the street address above? Yes No Are the premises owned or rented? Owned Rented* *If rented, expiration date of lease _____ | | | | |
| 2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. Yes No | | | | |
| 3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? Yes No | | | | |
| 3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? Yes No | | | | |
| 4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. Yes No | | | | |
| 5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. Yes No | | | | |
| 6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes No | | | | |
| 7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes No - NO CHANGE FROM LAST YEAR | | | | |

Chapter 16 - NOISE

Sec. 16-1. - Declaration of policy.

The making and creating of excessive, unnecessary or unusually loud noises within the city limits which are prolonged, unusual or unreasonable in their time, place and use are a detriment to the public health, comfort, convenience, safety and welfare of the residents of the city and may cause damage to property or business. The necessity for the provisions and prohibitions contained and enacted in this chapter is declared as a matter of legislative determination and public policy to be in the public interest and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and peace and quiet of the inhabitants of the city.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-2. - Definitions.

All terminology used in this chapter shall be consistent with applicable American National Standards Institute publications, or those from successor publications or bodies. For purposes of this chapter, certain words and phrases are defined as follows:

A-weighted sound pressure level means the sound pressure as monitored with a sound level meter using the A-weighted network. The standard notation is dB(A).

Ambient noise level means the sound pressure level of all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources. It is also the sound pressure level exceeded ninety (90) percent of the time based on a sample of at least one (1) minute.

Commercial district means all property located within commercial zones according to the official zoning map of the city.

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

Continuous noise means steady or fluctuating noise which exists essentially without interruption during the period of observation.

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

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

Dynamic braking device means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

Emergency work or *emergency vehicle* means work made 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. An emergency vehicle is a vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

Industrial district means all property located within the industrial zones according to the official zoning map of the city.

Intermittent noise means a noise whose sound pressure level equals or is less than the ambient noise level two (2) or more times during the period of observation and is greater than the ambient noise level during the remainder of the period.

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.

Muffler means any apparatus consisting of baffles, chambers, or acoustical absorbing material whose primary purpose is to transmit liquids or gases while causing a reduction in sound emission at one (1) end. To qualify, such an apparatus must cause a reduction of at least ten (10) dB(A) upon insertion into the system for which it is intended.

Noise disturbance means any sound which annoys or disturbs reasonable persons with normal sensitivity, or which injures or endangers the comfort, repose, health, safety or peace of other persons.

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 boundary means an imaginary line at the ground surface which separates the real property owned by one (1) person from that owned by another person, and its vertical extension.

Public right-of-way means any street, avenue, boulevard, highway, alley, premise or public conveyance which is owned or controlled by a public governmental entity.

Residential district means all property located within residential zones according to the official zoning map of the city.

Sound level meter means an instrument, including a microphone, amplifier, output meter and weighting networks, for the measurement of sound pressure. The output meter reads sound pressure level when properly calibrated and the instrument is of type 2 or better as specified in the American National Standards Institute Publication SI. 4-1974, including successor publications.

Stationary noise source means any equipment or facility, fixed or movable, capable of emitting sound beyond the property boundary of the property on which it is located.

Unreasonable noise means any excessive or unusually loud sound, or any sound which disturbs the peace and quiet of any person, family, neighborhood or assembly, or causes damage to any property or business. The term includes "excessive noise" and "unnecessary noise."

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-3. - Prohibitions.

- (a) The making and creating of an unreasonable, excessive or unusually loud noise, or a noise which is unreasonable and objectionable because it is impulsive, continuous, rhythmic, periodic or shrill within the city as heard without measurement or heard and measured in the manner prescribed in section 16-4 is hereby declared unlawful except when made under and in compliance with a permit issued pursuant to section 16-15. In proof of a violation of this chapter, evidence of noise heard and measured in the manner

prescribed in section 16-4 which is less than that required for conviction by use of test or measurement as set out in section 16-4 may be offered to prove a violation of this chapter as heard without measurement. The time and location of the noise as well as the above-mentioned characteristics of noise shall be considered in reaching a decision under this chapter.

- (b) It shall be unlawful for any person to operate or to allow to be operated any type of vehicle, machine, motor, airplane or device or carry on any other activity in such a manner as would be a violation of sections 16-5 and 16-6, or other applicable sections contained within this chapter.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-4. - Classification and measurement.

For purposes of determining and classifying any noise as unreasonable, excessive or unusually loud as declared to be unlawful and prohibited by this chapter, the following test measurements and requirements may be applied; provided, however, a violation of section 16-3 or 16-8 may occur without the following measurements being made:

- (a) Noise occurring within the jurisdiction of the city shall be measured at a distance of at least twenty-five (25) feet from a noise source located within the public right-of-way and if the noise source is located on private property or property other than the public right-of-way, at least twenty-five (25) feet from the property line of the property on which the noise source is located.
- (b) Sound level measurements:
- (1) The noise shall be measured on the A-weighted scale on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute.
 - (2) For purposes of this chapter, measurements with sound level meters shall be made when the wind velocity at the time and place of such measurement is not more than five (5) miles per hour or twenty-five (25) miles per hour with a wind screen.
 - (3) 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.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-5. - Permissible levels.

It shall be unlawful for any person to operate or permit to be operated any stationary source of noise which creates a sound pressure level which exceeds the limits set forth in table I for more than ninety (90) percent of any measurement period. The measurement period shall not be less than a period of two (2) minutes and shall be measured at a distance in accordance with the requirements of section 16-4. When a noise source can be identified and its noise measured in more than one (1) zoning category, the limits of the most restrictive zoning classification shall apply at the boundaries between different zoning classifications. Noise levels for any planned unit development shall conform with table I and shall be determined by the predominant land use as set forth in the planned unit development plan. Table I is as follows:

TABLE I
PERMISSIBLE LEVELS

| <i>Zoning district</i> | <i>7 a.m. to next 7 p.m. (in dB(A))</i> | <i>7 p.m. to next 7 a.m. (in dB(A))</i> |
|------------------------|---|---|
| Residential | 55 | 50 |
| Commercial | 60 | 55 |
| Industrial | 80 | 75 |

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-6. - Motor vehicle sound pressure levels.

- (a) It shall be unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved within the city any motor vehicle which emits a sound pressure level in excess of the levels established in table II of this section.
- (b) Noise from a motor vehicle within the public right-of-way shall be measured at a distance of at least twenty-five (25) feet from the near side of the traffic lane being monitored and at a height of at least four (4) feet above the immediate surrounding surface on a sound level meter of type 2 or better and operated on the A-weighting network, as specified in the American National Standards Institute Publication SI. 4-1974, or successor publications.
- (c) Noise from a motor vehicle which is located other than within the public right-of-way shall be measured at a distance of at least twenty-five (25) feet from such motor vehicle and at a height of at least four (4) feet above the immediate surrounding surface on a sound level meter of type 2 or better, and operated on the A-weighting network, as specified in the American National Standards Institute Publication SI. 4-1974, or successor publications.

TABLE II

MAXIMUM PERMISSIBLE SOUND
PRESSURE LEVELS

| <i>Vehicle class</i> | <i>Maximum level db(A)</i> |
|---|--------------------------------|
| Any vehicle greater than ten thousand (10,000) pounds manufacturers gross vehicle weight other than an interstate motor carrier | 88 |
| Motorcycles | 80 |

Other motor vehicles

80

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-7. - Construction projects.

Construction projects shall be subject to the maximum permissible noise levels specified for industrial zones for the period within which construction is to be completed pursuant to any applicable construction permit issued by a proper authority, or if no time limitation is imposed pursuant to such permit, then for a reasonable period of time for completion of the construction project. However, this section shall not preclude emergency work of public service utilities.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-8. - Unreasonable noise prohibited.

- (a) No person shall make, continue or cause to be made or continued any unreasonable noise, and no person shall knowingly permit such unreasonable noise upon any premises or in or upon any vehicle owned or possessed by such person or under such person's control or operation.
- (b) Unreasonable noise is hereby declared to be a nuisance and may be abated in accordance with law.
- (c) For purposes of this section, officers are empowered to make a prima facie determination as to whether a noise is unreasonable, which determination may be based upon, but need not be limited to, a consideration of the following factors:
 - (1) The time of day or night;
 - (2) The size of any gathering of persons creating or contributing to the noise;
 - (3) The presence or absence of noise amplification equipment;
 - (4) The type of neighborhood in which such noise is occurring; and
 - (5) Any other factors tending to show the magnitude and/or disruptive effect of the noise.
- (d) In any prosecution charging a violation of this section, proof that the owner of tenant of the premises upon which the unreasonable noise occurred was present at the time of the violation shall constitute prima facie evidence that such person was in control of the premises and knowingly permitted the violation to occur.
- (e) With regard to motor vehicles, and without limiting the generality of subsection (c) above, unreasonable noise shall include, but not be limited to:
 - (1) The continuous or repeated sounding of any horn or signal device of a motor vehicle, except as a danger signal. For purposes of this subsection, "continuous" shall mean continuing for an unnecessary or unreasonable period of time.
 - (2) The operation of any motor vehicle in a manner which causes excessive noise as a result of an unlawful, defective or modified exhaust system, or as a result of unnecessary rapid acceleration, deceleration, revving the engine or tire squeal.
 - (3) If sound broadcast from speakers or similar equipment from a motor vehicle is audible within other

motor vehicles on the road with the windows up or closed.

- (4) The loading of any garbage, trash or compactor truck, or any other truck involving the loading or unloading of boxes, crates, equipment or other objects within residential zones or residential areas between the hours of 7:00 p.m. of one day and 6:00 a.m. of the following day.
- (5) The operation or engaging of a dynamic braking device within the city except for the aversion of immediate danger.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-9. - Exterior loudspeakers.

It shall be unlawful to use or operate a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any motor vehicle upon any street, alley, sidewalk, park, place, public or private property within the city without a written noise variance permit issued by the police chief. Nothing in this section shall prohibit the use of speakers or sound amplifying equipment within an enclosed area; provide, however, the noise created from such speakers or sound amplifying equipment shall be subject to the limitations set forth in sections 16-3 and 16-5.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-10. - Quiet zones.

The city manager or his authorized representative has the authority to designate quiet zones within the city, which zones shall be in the vicinity of any school, hospital, institution of learning, court, rest home or other designated area where exceptional quiet is necessary, while the same are in use; provided, however, conspicuous signs shall be placed or displayed in such streets or areas indicating that the same has been designated as a quiet zone. For purposes of this chapter, all property designated quiet zones shall have a maximum permissible steady sound pressure level limit as set forth within table I under section 16-5 for residential use or residential zoning districts. It shall be unlawful for any person to create any loud or excessive noise in excess of the sound pressure level limits set forth for residential zones under section 16-5 within any area that has been designated as a quiet zone pursuant to this section.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-11. - Mufflers, modification.

- (a) It shall be unlawful for any person to sell, lease, rent or install any device or modified/alterd muffler or sell, rent, lease or operate any motor vehicle, engine or mechanical device with a device or modified/alterd muffler which when attached to or placed upon such motor vehicle, engine or mechanical device amplifies or increases the noise emitted by it above that emitted by the motor vehicle, engine or mechanical device or muffler in its original factory design.
- (b) Officers who encounter any motor vehicle with what, based upon the officer's experience and training, sounds louder than a normal exhaust or muffler system have reasonable suspicion to believe that the muffler is either altered or replaced. Officers have the right to initiate a traffic stop to further investigate the motor vehicle's exhaust system under such circumstances.
- (c) No person shall, nor shall any owner allow any person to, operate a motor cycle manufactured after December 31, 1982, that is not equipped with an exhaust muffler bearing the Federal EPA required labeling applicable to the motorcycle's model year, as set out in the Code of Federal Regulations, Title 40, Volume 24,

Part 205, Subparts D and E, or a muffler or muffler system not in compliance with the decibel levels set forth in table II of section 16-6.

- (1) Motorcycles and/or mufflers manufactured prior to 1983 shall require and inspection to determine whether the muffler system has internal chambers or baffler plates.
- (2) If the muffler has an EPA label as described in this subsection (c) but no chambers or baffles are present, such a finding by the police officer shall be prima facie evidence that such muffler has been illegally altered, regardless of the year of manufacture.

Citations for violations of this subsection (c) shall be limited to circumstances where the officer has observed loud or excessive noise as described in subsection (b) of this section, or circumstances where the officer has probable cause to investigate the vehicle based upon a citizen complaint involving excessive or unreasonable noise.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-12. - Emergencies.

Noise caused in the performance of emergency work for the immediate safety, health or welfare of the community or individuals of the community or to restore property to a safe condition following a public calamity shall not be subject to the provisions of this chapter. Nothing in this section shall be construed to permit law enforcement, ambulance, fire or other emergency vehicles to make excessive noise in the performance of their duties when such noise is clearly unnecessary.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-13. - Permit for relief from provisions.

Application for a permit for relief from the provisions of this chapter on the basis of undue hardship may be made to the police chief or his duly authorized representative by any person subject to the jurisdiction of this chapter. In administering such application, the police chief or his duly authorized representative shall construe the term "undue hardship" to mean noise caused, which if prohibited, would cause undue hardship to the person responsible for the creation of the noise. In determining whether relief should be granted in the form of a permit pursuant to this section, consideration shall be given to 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, the extensiveness of the noise and the technical and economic feasibility of bringing such noise source into conformance with the provisions of this chapter.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-14. - Public events.

Applications for a permit to hold a public event which may violate the provisions of this chapter shall be made to the police chief or his duly authorized representative in accordance with the requirements of section 16-15. Such permit, if issued, shall be valid only at the specified times and dates and only upon the specified conditions noted in such permit.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-15. - Applications for temporary permits.

Applications for a temporary permit for relief from the provisions of this chapter may be made to the police chief or his duly authorized representative. Any permit granted by the police chief pursuant to this chapter shall be effective only for the location and times designated within the permit and shall be further subject to such limitations with regard to sound pressure levels or equipment limitations as may be set forth in such permit.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-16. - Penalties.

Any person violating any section of this chapter, performing any act which is prohibited or declared unlawful by this chapter or permitting or causing any noise in excess of limits set forth within this chapter shall, upon conviction thereof, be subject to a fine in a sum not to exceed one thousand dollars (\$1,000.00), or to imprisonment not to exceed ninety (90) days, or both such fine and imprisonment.

(Ord. No. O-2007-46, § 1, 12-18-07)

Sec. 16-17. - Additional remedy, injunction.

As an additional remedy, the operation or maintenance of any noise source in violation of any provisions of this chapter which causes discomfort or annoyance to reasonable persons of normal sensitivity or which endangers the comfort, repose, health, or peace of residents within the city shall be deemed and is declared to be a public nuisance and may be subject to abatement by restraining order or injunction by a court of competent jurisdiction. It shall be presumed, subject to rebuttal, that a person seeking relief from noise disturbance is a reasonable person of normal sensitivity and the burden of proof to show otherwise shall be upon the person or entity against whom relief is sought.

(Ord. No. O-2007-46, § 1, 12-18-07)



"Good Neighbors Keep Their Noise to Themselves"

Boulder, CO Noise Ordinance

(NPC posted this April 2004)

TITLE 5 GENERAL OFFENSES

Chapter 6 Miscellaneous Offenses¹

¹Adopted by Ordinance No. 4654. Derived from Ordinance Nos. 4543, 4611, 4627.

5-6-1 Unreasonable Noise.

(a) No person shall make unreasonable noise in a public place or near a private residence that such person has no right to occupy².

(b) No person shall electronically amplify any sound, or make any noise by means of any electronic amplifier, which is loud enough to be audible to a person of normal hearing one hundred or more feet beyond the property line of the property upon which the loudspeakers are located during the hours of 11:00 p.m. through 7:00 a.m.

(1) Each resident of a dwelling unit who is present within that dwelling unit or upon the premises of that dwelling unit when such sound is amplified or generated shall be responsible for the generation of that sound or noise pursuant to the provisions of this section. However, it shall be a specific defense to a violation of this provision that a resident of the dwelling unit attempted to remedy the situation and was precluded from doing so or was incapacitated or otherwise unable to remedy the situation.

(2) The provisions of this section do not apply to sounds generated by authorized emergency vehicles, to vehicle horns sounded as a danger warning signal, to sound made on property belonging to or leased or managed by a federal, state, or county governmental body other than the city and made by an activity of the governmental body or by others pursuant to a contract, lease, or permit granted by such governmental body, to audible alarm police alarm devices operated in conformity with Chapter 4-16, "Police Alarm Systems," B.R.C. 1981, or to fire alarms.

(c) No person shall make any trash pickup with a truck which has a compactor or the capacity to raise and dump dumpsters in any area zoned for residential or business uses between the hours of 11:00 p.m. and 7:00 a.m., and no employer shall fail to prevent its employee from violating this subsection while the employee is driving a trash truck owned by or under the control of the employer. For the purposes of this subsection, testimony that the name of a business which holds itself out as being in the business of trash hauling was written on the trash truck shall be prima facie evidence that the trash truck was owned by or was under the control of the employer so identified.

(d) Trash haulers may apply to the city manager for a variance of the provisions of subsection (c) above for business district locations. Possession of a valid variance shall be a specific defense to any charge under subsection (c) above if the act complained of was within the variance granted. The manager may grant all or a part of any

requested variance, and may place such conditions upon any variance granted as are reasonably suited to limit the harmful effects of the variance. Such variances shall be granted only if the applicant can demonstrate to the manager's satisfaction:

- (1) That the location in question is sufficiently removed from any residential use that the noise of trash removal will not disturb anyone in their residence, including, without limitation, hotel and motel accommodations; or
- (2) That the location cannot feasibly be serviced during permitted hours, and that the variance is the least necessary to permit trash removal while still assuring nearby residents reasonable nocturnal quiet.

²People v. Fitzgerald, 194 Colo. 415, 573 P.2d 100 (1978).

Ordinance Nos. 5660 (1994); 7151 (2001); 7349 (2004).

5-6-2 Excessive Sound Levels.

(a) No person shall:

- (1) Operate any type of vehicle, machine, or device;
- (2) Carry on any activity; or
- (3) Promote or facilitate the carrying on of any activity, which makes sound in excess of the level specified in this section.

(b) Sound from a moving vehicular source located within the public right-of-way shall not exceed eighty decibels on the "A" weighting scale (dBA), except that sound from a vehicle with a manufacturer's gross weight rating of ten thousand pounds and above operated on a prescribed truck route at all times or elsewhere within the city during the hours of 7:00 a.m. to 6:00 p.m. on Monday through Saturday may exceed eighty dBA but shall not exceed eighty-eight dBA. Such sound shall be measured at a distance of at least twenty-five feet from a vehicle located within the public right-of-way.

(c) Sound from any source, other than a moving vehicular source located within the public right-of-way, shall not exceed any of the following limits for its appropriate zone:

(1) The zone limits prescribed by this section are set forth in the following table:

| Zoning Designation of the Property on Which the Sound is Received | Maximum Number of Decibels Permitted from 7:00 a.m. until 11:00 p.m. of the Same Day | Maximum Number of Decibels Permitted from 11:00 p.m. until 7:00 a.m. of the Following Day |
|---|--|---|
| (All zoning designations include suffixes) | | |
| RR, RR1, ER, LR, MR, MXR, HR, MH, HZ | 55 dBA | 50 dBA |
| TB, RB, RB1, RB2, RB3, RMS, MU, BMS, CB, A, P | 65 dBA | 60 dBA |
| IG, IM, IS, IMS | 80 dBA | 75 dBA |

(2) Sound from construction work for which a building permit has been issued shall be deemed to be received in an industrial zoning district during the hours of 7:00 a.m. to 5:00 p.m. for work of any type, and until 9:00 p.m. for light construction work that uses only hand tools and power tools (but not including nail guns) of no more than five horsepower. Under no circumstances shall amplified sound be considered as construction work activity.

(3) Sound from a source regulated by this subsection:

(A) Sound from a source on private property shall be measured at or inside the property line of property other than that on which the sound source is located; or

(B) Sound from a source on public property may be measured on that property so long as the measurement is taken at least twenty-five feet from the source, or it may be measured at or inside the property line of property other than the public property on which the sound source is located; and

(C) For the purposes of this paragraph, a leasehold shall be deemed a property, and its boundary shall be deemed a property line.

(d) All sound measurements shall be made on a sound level meter that meets ANSI specification S1.4-1974 for Type I or Type II equipment. The manufacturer's published indication of compliance with such specifications is prima facie evidence of compliance with this subsection.

(e) It is a specific defense to a charge of violating this section that:

- (1) The sound was made by an authorized emergency vehicle when responding to an emergency call or acting in time of emergency;
- (2) The sound was made within the terms of a parade, fireworks display, or temporary street closure permit issued by the city manager, or was made by the rendering of military honors at a funeral by a military funeral honors detail;
- (3) The sound was made by an animal;
- (4) The sound was made by the sounding of the horn of any vehicle as a danger warning signal or by the sounding of any warning device as required by law;
- (5) The sound was made on property belonging to or leased or managed by a federal, state or county governmental body other than the city and was made by an activity of the governmental body or by others pursuant to a contract, lease, or permit granted by such governmental body; or
- (6) The sound was made within the terms and conditions of a sound level variance granted by the city manager or the manager's authorized representative. A variance shall be granted after application is made if the manager finds that compliance will cause an undue hardship and further finds that:
 - (A) Additional time is necessary for the applicant to alter or modify the activity or operation to comply with this section; or
 - (B) The activity, operation or sound source will be of temporary duration, and even with the application of the best available control technology cannot be done in a manner that would comply with this section. In either case, the manager must also find that no reasonable alternative is available to the applicant. If the manager grants a variance, the manager shall prescribe such reasonable conditions or requirements as are necessary to minimize adverse effects upon the community or the surrounding neighborhood.

(f) This section shall not be construed to conflict with the right of any person to maintain an action in equity to abate a noise nuisance under the laws of the state.

(g) Each offense of violation of this section constitutes a separate and distinct violation.

Ordinance Nos. 4981 (1986); 5206 (1989); 5271 (1990); 5821 (1996); 5930 (1997); 7083 (2000); 7152 (2001).

Colorado Springs, Colorado Noise Related Provisions

6.7.115: NOISY PETS OR ANIMALS PROHIBITED

A. It shall be unlawful for any person to own or keep any pet or hoofed animal which by any unreasonably loud and persistent barking, howling, baying, yelping, crowing, crying or other utterance disturbs the peace and quiet of the neighborhood.

B. It shall be a defense to the violation of this section that the complainant provoked the pet or hoofed animal whose noise is complained of by the complainant.

C. In the event an animal control officer determines that a violation of this section has occurred, the animal control officer shall give the owner or keeper of the animal a written warning of the violation pursuant to this chapter. The owner or keeper shall be entitled to a period of three (3) days after the date on which the written warning is given to correct the violation. If the violation persists or recurs for any pet or hoofed animal at the same residence cited in the warning after the three (3) day period, the owner or keeper shall be subject to enforcement action under this chapter. No enforcement action for a violation of this section shall be taken more than six (6) calendar months after the date on which a written warning for that violation is given. If enforcement action is taken within six (6) months of the date on which a written warning was given, the issuance of a summons and complaint shall constitute written warning for the purposes of calculating a new six (6) month enforcement period. Only one warning per residence, per enforcement period, regardless if served on the owner or keeper, will be given.

D. The warning process to be employed by the animal control officer shall be as follows:

1. A written warning pursuant to subsection C of this section will be issued by the animal control officer if, upon investigation, the officer establishes that there is one witness to the unreasonably loud and persistent nature of the noise. The officer or the complaining witness may be relied upon as a witness in meeting this requirement.

2. The warning shall be sufficient if it cites this section, states that a complaint has been received, that the person's pet or hoofed animal is disturbing the peace of another in the neighborhood, identifies the date and time of the disturbance, identifies the animal disturbing the peace, identifies the witness to the disturbance and is identified as coming from within the City limits.

3. A warning is given under this section if it is posted on the owner's or keeper's premises.

4. The City shall keep records of all warnings given and the records shall be prima facie evidence that the warnings were given.

E. No person shall be convicted at trial of violating this section unless some testimonial or demonstrative evidence is presented corroborating the complaining witness's allegation of the unreasonably loud and persistent nature of the noise and a warning was issued pursuant to subsection D of this section. A corroborating witness shall not include the complainant nor a member of the complainant's household.

F. Upon a second conviction entered and in addition to any other penalties that may be imposed, the court may order the owner or keeper of the pet to abate the nuisance within five (5) days. Failure to abate the nuisance within five (5) days shall constitute a "contempt of court" as defined in chapter 11 of this Code.

G. For the purpose of this section, "neighborhood" means the area within five hundred feet (500') of the exterior boundaries of the premises where the pet resides; "disturb" means to unreasonably annoy, perturb or interfere with the quiet enjoyment of another's premises.

H. Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that an owner's or keeper's pet or hoofed animal is in violation of this section are:

1. The time of day.
2. The location of the noise.
3. The frequency of the noise.
4. The length of time for which the noise persists. (Ord. 96-131; Ord. 01-42; Ord. 03-31; Ord. 04-178)

7.2.102: INTENT AND PURPOSE OF ZONING CODE:

This Zoning Code is designed to ensure the most appropriate use of land throughout the City; to ensure a logical growth of the various physical elements of the City; to lessen congestion in the streets and to facilitate the adequate provision of transportation; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to improve housing standards; to conserve property values; to facilitate adequate provision of utilities, schools, parks and other public infrastructure services; to protect against flood conditions and poor geologic and topographic conditions; and in general to promote health, safety and general welfare. The regulations within this Zoning Code have been made with reasonable consideration to the character of each zone district and its peculiar suitability for particular uses and with a view to encouraging the most appropriate use of land throughout the City. It is the intent and purpose of this Zoning Code to protect property values, to preserve neighborhoods and to protect private property from adjacent nuisances such as noise, excessive traffic, incompatibility of uses, inappropriate design of buildings, and visual obstructions. (1968 Code; Ord. 80-131; Ord. 81-149; Ord. 91-30; Ord. 94-107; Ord. 01-42)

7.2.108: SIMILAR USES:

When a use is not specifically identified as allowed in a zone district, it shall not be allowed in the zone district unless it meets the following description and criteria of a similar use. The function, performance characteristics, and location requirements of the unlisted, proposed use must be consistent with the purpose and description of the zone district where it is proposed, compatible with the uses specifically allowed in the district, and similar in characteristics such as traffic and parking generation, noise, glare, vibration, and dust. Uses may be allowed as principal permitted, conditional, and accessory uses in any zone district where similar uses are allowed. Similar use determinations shall be made by the Manager or the designee in writing. (Ord. 94-107; Ord. 01-42).

9.8.101: NOISE PROHIBITED:

A. It is unlawful to make, create, or permit an excessive or unusually loud noise, or a noise which endangers public safety, or a noise which is harmful to any person, which can be heard without the use of an electronic measurement device or heard and measured in the manner prescribed in section 9.8.103 of this part; except when made under and in compliance with a permit issued pursuant to section 9.8.109 of this part.

B. It is unlawful for any person to operate or allow to be operated any vehicle, machine, motor, or device or carry on any other activity in a manner as would be a violation of section 9.8.104 of this part and section 9.8.201 of this article or other applicable sections.

C. It is unlawful for any person to operate, drive, or be in possession of a motor vehicle which is stopped, standing, parked or moving, and to make, create or permit an excessive or unusually loud noise, or a noise which endangers public safety, or is harmful to any person, which can be heard without the use of an electronic measurement device or heard and measured in the manner prescribed in section 9.8.103 of this part.

D. It is unlawful for any person to be in control of and allow operation of an electronic theft or burglar alarm which sounds an audible signal, without an automatic shut-off device, and the audible signal sounds continually for more than sixteen (16) minutes. No part of this section shall apply to fire, smoke, sprinkler, medical or personal distress signaling devices.

E. The complainant may include, but not be limited to, police officers acting under color of the person's authority.

F. It is an exception to a charge under subsection C of this section that:

1. The vehicle was an emergency, medical, or public safety vehicle operating in its official capacity; or
2. The vehicle's sound amplification system was used in compliance with a permit issued pursuant to section 9.8.109 of this part, or has the approval of the City Manager.

G. Evidence of noise heard and measured in a manner prescribed in section 9.8.103 of this part, which is less than that required for a conviction by use of test or measurement as set out in section 9.8.103 of this part may be offered to prove a violation of this section as heard without an electronic measurement device. Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that a person has violated this section are:

1. The time of day.
 2. The location of the noise.
 3. Whether the noise can be heard from at least one hundred feet (100') from its source.
- (Ord. 96-41; Ord. 01-42)

9.8.102: SOUND AMPLIFICATION SYSTEMS:

A. Prohibited: It is unlawful for any person to operate, drive, or be in possession of a motor vehicle which is stopped, standing, parked or moving, and to make, create or permit an excessive or unusually loud noise, or a noise which endangers public safety, or is harmful to any person, which is caused by a sound amplification system, and which can be heard without the use of an electronic measurement device or heard and measured in the manner prescribed in section 9.8.103 of this part. Words or phrases need not be discernible.

B. Sound Amplification System Defined: For the purposes of this section, "Sound Amplification System" means any radio, stereo, tape player, compact disc player, or other electronic device used for the amplification of sound.

C. Complainant: The complainant may include, but not be limited to, police officers acting under color of the person's authority.

D. Exception To Charge: It is an exception to a charge under subsection A of this section that:

1. The vehicle was an emergency, medical, or public safety vehicle operating in its official capacity; or

2. The vehicle's sound amplification system was used in compliance with a permit issued pursuant to section 9.8.109 of this part, or has the approval of the City Manager or the City Manager's designee, authorized to grant approval.

E. Evidence: Evidence of noise heard and measured in a manner prescribed in section 9.8.103 of this part, which is less than that required for a conviction by use of test or measurement as set out in section 9.8.103 of this part may be offered to prove a violation of this section as heard without an electronic measurement device. Among the circumstances which may be considered in determining whether reasonable grounds for belief have arisen that a person has violated this section are:

1. The time of day.
2. The location of the noise.
3. Whether the noise can be heard from at least one hundred feet (100') from its source.

F. Penalties:

1. Upon conviction for a first offense for violating subsection A of this section, the court shall impose a fine of not less than seventy five dollars (\$75.00), nor more than five hundred dollars (\$500.00). The minimum fine imposed by this subsection shall be mandatory and the court shall not suspend or waive any portion of the minimum fine.

2. Upon conviction for a second offense for violating subsection A of this section, the court shall impose a fine of not less than one hundred fifty dollars (\$150.00), nor more than five hundred dollars (\$500.00). The minimum fine imposed by this subsection shall be mandatory and the court shall not suspend or waive any portion of the minimum fine.

3. Upon conviction for a third or subsequent offense for violating subsection A of this section, the court shall impose a fine of not less than three hundred dollars (\$300.00), nor more than five hundred dollars (\$500.00). The minimum fine imposed by this subsection shall be mandatory and the court shall not suspend or waive any portion of the minimum fine. Furthermore, the sound amplification system shall be forfeited, pursuant to subsection 9.1.205C of this chapter.

a. The sound amplification system shall be confiscated by a police officer, when, on service of a citation for a violation of section 9.8.102 of this part the arresting officer has knowledge or information that the person suspected of violating this section has two (2) previous convictions for violating this section.

b. Upon a determination by the arresting officer that the sound amplification system will be removed at the scene, the arresting officer's designee shall conduct the removal of the sound amplification system. If the arresting officer determines, in the officer's own discretion, that it is impractical to remove the sound amplification system at the scene of the violation, then the vehicle shall be impounded by the police for the limited purpose of the expedient removal of the sound amplification system.

c. The sound amplification system shall remain impounded until ordered released, or forfeited by the court pursuant to subsection 9.1.205C of this chapter. (Ord. 96-41; Ord. 01-42)

9.8.103: CLASSIFICATION, MEASUREMENT OF NOISE:

For purposes of determining and classifying any noise as excessive or unusually loud as declared to be unlawful and prohibited by this article, the following test measurements and requirements

may be applied. A violation of sections 9.8.101 and 9.8.102 of this part may, however, occur without the following measurements being made:

A. Distance Of Measurement: Noise occurring within the jurisdiction of the City shall be measured at a distance of at least twenty five feet (25') from a noise source located within the public right of way, and if the noise source is located on private property or property other than the public right of way, at least twenty five feet (25') from the property line of the property on which the noise source is located.

B. Measurement:

1. The noise shall be measured on the A weighing scale on sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.
2. For purposes of this article, measurements with sound level meters shall be made when the wind velocity at the time and place of the measurement is not more than five (5) miles per hour, or twenty five (25) miles per hour with a windscreen.
3. 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 the sound level measurement. (Ord. 96-41; Ord. 01-42)

9.8.104: PERMISSIBLE NOISE LEVELS:

A noise measured or registered as provided in section 9.8.103 of this part from any source other than as provided in section 9.8.109 of this part at a level which is equal to or in excess of the dB(A) established for the time period and zones listed in this section, is declared to be excessive and unusually loud and is unlawful.

| <u>Zone</u> | <u>7:00 A.M. To Next 7:00 P.M.</u> | <u>7:00 P.M. To Next 7:00 A.M.</u> |
|--------------------|---|---|
| | | |
| Residential | 55 dB(A) | 50 dB(A) |
| Commercial | 60 dB(A) | 55 dB(A) |
| Light industrial | 70 dB(A) | 65 dB(A) |
| Industrial | 80 dB(A) | 75 dB(A) |

For purposes of this section only, these zones shall be defined as follows:

A. Residential: An area of single or multi-family dwellings where businesses may or may not be conducted in the dwellings. The zone includes areas where multiple-unit dwellings, high-rise apartment districts, and redevelopment districts are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. Residential zone includes educational facilities, hospitals, nursing homes and similar institutions.

B. Commercial:

1. An area where offices, clinics and the facilities needed to serve them are located;

2. An area with local shopping and service establishments located within walking distances of the residents served;
3. A tourist-oriented area where hotels, motels and gasoline stations are located;
4. A large integrated regional shopping center;
5. A business strip along a main street containing offices, retail businesses and commercial enterprises;
6. A central business district; or
7. A commercially dominated area with multiple-unit dwellings.

C. Light Industrial:

1. An area containing clean and quiet research laboratories;
2. An area containing light industrial activities which are clean and quiet;
3. An area containing warehousing; or
4. An area in which other activities are conducted where the general environment is free from concentrated industrial activity.

D. Industrial: An area in which noise restrictions on industry are necessary to protect the value of adjacent properties for other economic activity, but shall not include agricultural operations.

E. Adjacent Zones: When a noise source can be measured from more than one zone, the permissible sound level of the more restrictive zone shall govern. (Ord. 96-41; Ord. 01-42)

9.8.105: PERMISSIBLE INCREASES:

Between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., the noise levels permitted in section 9.8.104 of this part may be increased by ten (10) dB(A) for a period of not to exceed fifteen (15) minutes in any one hour period. (Ord. 96-41; Ord. 01-42)

9.8.107: CONSTRUCTION PROJECTS:

Construction projects shall be subject to the maximum permissible noise levels specified for industrial zones for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority, or if no time limitation is imposed, then for a reasonable period of time for completion of project. (Ord. 96-41; Ord. 01-42)

9.8.108: RAILROAD RIGHTS OF WAY:

All railroad rights of way shall be considered as industrial zones for the purposes of this part, and the operation of trains shall be subject to the maximum permissible noise levels specified for the zone. (Ord. 96-41; Ord. 01-42)

9.8.109: HARDSHIP PERMITS:

Applications for a permit, for other than vehicular traffic, for relief from the noise level designated in this part on the basis of undue hardship may be made to the City Manager. Any permit granted by the City Manager shall contain all conditions upon which the permit has been granted and shall specify a reasonable time for which the permit shall be effective. The City Manager is authorized to designate a fee which reasonably covers administrative costs incurred for the issuance of the permit. The City Manager may grant the relief as applied for if it is found:

A. That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this part; or

B. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with sections 9.8.104, 9.8.105, 9.8.106 and 9.8.107 of this part.

- C. That no other reasonable alternative is available to the applicant; and
- D. The City Manager may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood. (Ord. 96-41; Ord. 01-42)

9.8.201: VEHICLE NOISE LIMITS:

A. Vehicles Weighing Less Than Ten Thousand Pounds: A noise measured or registered as provided in this article from any vehicles weighing less than ten thousand (10,000) pounds in excess of eighty (80) decibels in the A-weighting scale in intensity is excessive and unusually loud and unlawful.

B. Vehicles In Excess Of Ten Thousand Pounds:

1. A noise measured or registered as provided in this article from any vehicle weighing more than ten thousand (10,000) pounds in excess of eighty eight (88) decibels in intensity on the A-weighting scale shall be and is hereby declared to be excessive and unusually loud and unlawful.

2. Between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., the above decibel levels shall apply to all streets within the City.

3. Between the hours of seven o'clock (7:00) P.M. and seven o'clock (7:00) A.M., the above decibel levels shall apply only to designated streets within the City. Traffic on other than designated streets during these hours shall be subject to the decibel level as provided in subsection A of this section.

C. Designated Streets: Designated streets shall be named by the City Manager. In determining what streets shall be designated, the City Manager shall attempt to preserve low decibel noise levels within residential zones and give primary consideration to major arterial streets which allow travel to commercial areas requiring evening access.

D. Air Compression Brakes: The use of air compression brakes ("jake brakes") within City limits is prohibited, unless otherwise posted by the City Traffic Engineer. (Ord. 4517; 1968 Code §§8-46, 8-47, 8-48; Ord. 01-42; Ord. 09-131)

9.8.203: MODIFICATIONS PROHIBITED:

It is unlawful for any person to sell, lease, rent or install any device or sell, rent, lease or operate any vehicle, engine, motor or other mechanical device with a device which when attached to or placed on any vehicle, engine, motor or other mechanical device so as to amplify or increase the noise emitted by it above that emitted by the vehicle, engine, motor or mechanical device in its original factory design. This part shall not apply to devices sold for racing or pleasure purposes and used outside the City or in areas properly authorized by the City for pleasure or racing. It is unlawful for any person to operate a modified vehicle, engine, motor or device within the City and not in a properly authorized area. (Ord. 4517; 1968 Code §8-52; Ord. 01-42)

9.8.204: MOTORCYCLES AND OFF HIGHWAY MOTOR VEHICLES:

A. Findings And Purpose:

1. The City Council finds that the driving, riding and use of motorcycles, motor driven cycles and off highway motor vehicles on public and private property within the limits of the City is the cause of noise and dust and of the destruction of plants, landscaping and other real and personal property, and the conduct adversely affects the comfort and privacy of the residents of the City. Because the conduct may be intermittent, fleeting,

moving or caused by persons who are minors, other provisions of this Code, as well as other legal remedies, are inadequate to control the conduct and its adverse effects. The provisions of this part relating to the regulation of motorcycles, motor driven cycles or off highway motor vehicles are therefore necessary for the public welfare.

2. The City Council declares that the purpose of this part is to exercise the general police power in order to protect the enjoyment and use of public and private property, to protect the rights of privacy, to preserve property and personal values, to promote peace and quiet, and to provide management for and promote proper recreational use of motorcycles, motor driven cycles or off highway motor vehicles within the City.

3. This part shall not apply to the driving, riding and use of motorcycles, motor driven cycles or off highway motor vehicles on streets and highways or in other areas which are specifically governed or preempted by this Code or the motor vehicle laws of the State of Colorado.

B. Definitions:

PROPERTY: Any public or private property which is not an improved public street or highway, or an improved private street constructed in accord with City standards and approved by the City.

VEHICLE: A motorcycle, motor driven cycle or motor vehicle, as the vehicles are defined in the motor vehicle laws of the State of Colorado, including, but not limited to, motor scooters, motorbikes and minibikes.

C. Prohibited; Exceptions: It is unlawful for any person to drive or ride any vehicle upon any property which is within six hundred sixty feet (660') of a residence or other occupied structure or property authorized for motorcycle use as required herein, except that this subsection shall not apply in the following instances:

1. Where the vehicle is ridden, driven or used upon property by the owner, resident or tenant of the property; and provided that the operation shall not be within six hundred sixty feet (660') of the neighboring residences or occupied structures unless permission has been granted by the neighboring residents or occupants; or

2. Where the vehicle is ridden, driven or used by a visitor when the visitor is accompanied by a copy of a written authorization from the owner or occupant of the property, the original of which has been filed with the City Clerk; and provided that the operation shall not be within six hundred sixty feet (660') of the neighboring residences or occupied structures unless permission has been granted by the neighboring residents or occupants; or

3. Where the use is permitted pursuant to the City's Zoning Code.

D. Muffler Required: It is unlawful for any person to drive, ride or use a vehicle upon any property unless the vehicle is at all times equipped with an adequate muffler in constant operation and properly maintained so as to meet the requirements of the motor vehicle laws of the State of Colorado, as the same now exist or may hereafter be amended¹, and no muffler exhaust system shall be equipped with a cutout, bypass or similar device.

E. Other Regulations: The regulations do not supersede or preclude the enforcement of zoning regulations or any other regulations contained in this Code which are applicable to any conduct regulated in this part.

F. Penalty: Every person convicted of a violation of this part shall be punished by a fine not to exceed five hundred dollars (\$500.00) for each offense, but shall not be subject to imprisonment or jail sentence. (1968 Code §8-52.1; Ord. 79-63; Ord. 82-164; Ord. 01-42)

10.21.103: TRUCK ROUTE COMMITTEE:

A. As the need arises, City Council may appoint an Ad Hoc Truck Route Committee to coordinate with the Traffic Engineer and prepare and recommend a truck route plan to Planning Commission and City Council for approval. This Committee shall comply with all Charter and City Code provisions pertaining to Council appointed advisory committees.

B. In the best interests of the public health, safety and welfare, the Truck Route Committee shall monitor, review and recommend actions concerning truck operations and related traffic flow within the City. The primary objective of the Committee shall be to develop short and long range recommendations for achieving the best possible balance among economical and efficient movement of truck traffic, public safety, environmental protection against noise and air pollution relating to truck traffic, and protection of neighborhood values and characteristics. The Truck Route Committee may, from time to time, recommend legislation to the City Council concerning truck operations.

C. The discretion to handle signage, day to day operation of truck routes and long term implementation of the Council approved truck route plan is reserved to the Traffic Engineer. (1968 Code §6-21-3; Ord. 75-86; Ord. 01-42)

10.22.204: EXHAUST SYSTEMS:

Every motor vehicle shall at all times be equipped with an adequate exhaust system in constant operation and properly maintained to prevent any excessive or unusual noise, smoke or flame, and no person shall operate a motor vehicle within the City which is not so equipped, or is equipped with a muffler cutoff, bypass or similar device. It shall be unlawful for any person to operate a motor vehicle with an exhaust system that has been modified in a manner which amplifies or increases the noise emitted above that emitted by the exhaust system originally installed on the vehicle, and the original exhaust system shall comply with all the requirements of this section. (Ord. 98-248; Ord. 01-42)

Sec. 36-1. Purpose.

This chapter is enacted to protect, preserve and promote the health, safety, welfare, peace and quiet for the citizens of the city through the reduction, control, and prevention of noise. This chapter establishes standards intended to eliminate and reduce unnecessary and excessive motor vehicle and community noises that are physically harmful and otherwise detrimental to individuals and the community in the enjoyment of life and property and to the conduct of business.

(Code 1950, § 717.1; Ord. No. 237-99, § 1, 3-29-99; Ord. No. 313-08, § 1, 6-16-08)

Sec. 36-2. Definitions.

The following words and phrases, when used in this chapter, have the meanings respectively ascribed to them:

(1) *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).

(2) *Background sound level* means the A-weighted sound pressure level of all sound associated with a given environment, exceeded ninety (90) percent of the time (L90) measured and being a composite of sounds from many sources during the period of observation while the noise level from the noise source of interest is not present.

(3) *Commercial power equipment* means any equipment or device rated at more than five (5) horsepower designed to be used or being used for building repairs, or property maintenance, excluding snow removal equipment.

(4) *Commercial premises* means any land parcel with buildings where the use of less than fifty (50) percent of the gross floor area meets the definition of residential premises as contained in subsection (21).

(5) *Construction equipment* means any device or mechanical apparatus operated by human, fuel, electric, or pneumatic power in the excavation, construction, repair, or demolition of any building, structure, land parcel, street, alley, waterway, or appurtenance thereto.

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

(7) *Domestic power equipment* means any equipment or device rated at five (5) horsepower or less and used for building construction, remodeling and repairs or grounds maintenance, excluding snow removal equipment, operated by the owner and or occupant of the property.

(8) *Emergency vehicle* means a motor vehicle that has audible warning devices such as whistles, sirens and bells when being lawfully used to respond to an emergency, or during a police activity or that is required by state or federal regulations (e.g., back-up alarms).

(9) *Emergency work* is any activity made necessary to restore property to a safe condition following a public calamity, civil disturbance, natural disaster or other emergency; to protect persons or property from an imminent danger; or to secure medical care for any person. It includes work by private or public entities for providing or restoring immediately necessary service as well as all situations deemed necessary by the city.

(10) *Emergency power generator* means any power generator providing emergency electrical power at any hospital, health clinic, nursing home or similar facility where the

loss of electrical power poses a risk to the health, safety or welfare of any person, or at any premises where such equipment is required by the Denver Fire Department.

(10.5) *Festival*, for this purpose of this chapter, means cultural, athletic, educational, charitable, or civic events (including those with entertainment) provided the event does not exceed four days, is not part of a series of two (2) or more separate events in the same vicinity, is open to the general public, a permit for street closure or occupancy is obtained, and a license is, or licenses are, obtained to serve food, beverage, or liquor.

(11) *Gross floor area*: The sum of the horizontal floor areas of a building or unit of a building, including interior balconies and mezzanines, but excluding exterior balconies. All horizontal dimensions of all floors are to be measured by the exterior faces of walls of each such floor. The gross floor area computation shall exclude the following:

- a. Any floor area devoted to mechanical equipment serving the building;
- b. Any floor area used exclusively as parking space for motor vehicles; and
- c. Floor area serving as a pedestrian mall or public accessway to shops and stores.

(12) *Industrial premises* means any premises where manufacturing, processing or fabrication of goods or products takes place regardless of whether located in a residential, commercial or industrial zoned area.

(13) *Motor vehicle* means any vehicle that is self-propelled, used primarily for transporting persons or property upon public roadways and required to be licensed according to motor vehicle registration laws, including, without limitation, automobiles, trucks, and motorcycles. The term motor vehicle does not include: aircraft, watercraft, motorized bicycles as defined in subsection 54-1(37) of this Code, motor vehicles operated on private property for recreational or amusement purposes, vehicles used exclusively on stationary rails, or specialized utility vehicles normally used only on private property in the daily course of business, such as forklifts and pallet movers.

(14) *Muffler-approved type* means an apparatus consisting of a series of chambers, baffle plates, or other mechanical devices designed to receive and transmit exhaust gases that is in constant operation and properly maintained to prevent any excessive or unusual sound and that is not equipped with a cut-off, bypass, or similar device.

(15) *Noise* means sound that is unwanted and that causes or tends to cause adverse psychological or physiological effects on human beings.

(16) *Person* means any natural person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user or owner, and includes any municipal corporation, state or federal governmental agency, district, or any officer or employee thereof.

(17) *Premises* means every parcel of land in the city or portion thereof, including all buildings, structures, land utilities (and all appurtenances thereto), yards, lots, courts, and inner yards.

(18) *Property line* means that real or imaginary line and its vertical extension that separates real property owned or controlled by any person from contiguous real property owned or controlled by another person. The vertical and horizontal boundaries of a dwelling unit in a multi-dwelling-unit building, condominium, or townhouse complex shall not be considered property lines separating one (1) premises from another.

(19) *Public premises* means all real property, including appurtenances thereon, owned or controlled by any governmental entity and includes, without limitation, rights-of-way, streets, highways, sidewalks, alleys, parks, and waterways.

- (20) *Receptor premises* means the premises (residential, commercial, industrial, or public) as listed in Table A receiving noise emitted from the source premises after crossing one (1) or more property lines.
- (21) *Residential premises* means all premises containing dwelling unit(s), primary schools, churches, nursing homes, and similar institutional facilities and includes any commercial premises where the use of more than fifty (50) percent of the gross floor area meets this definition of residential premises.
- (22) *Sound* means an oscillation in pressure, stress, particle displacement and particle velocity that induces auditory sensation.
- (23) *Sound level meter* means an apparatus or instrument that includes a microphone, amplifier, attenuator, output meter, and frequency weighting networks for the measurement of sound levels. The sound level meter must be of a design and have the characteristics of a Type 2 or better instrument as established by the American National Standards Institute, publication S1.4-1971 entitled Specification for Sound Level Meters.
- (24) *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 (dB).
- (25) *Source premises* means the premises (residential, commercial, industrial, or public) as listed in Table A that is emitting noise that is crossing one (1) or more property lines and impacting the receptor premises.
- (26) *Snow removal equipment* means any equipment used for removing snow from land or building surfaces including, without limitation, snow plows, blowers, sweepers, and shovels whether operated by mechanical, electrical, or manual means.
- (27) *Tree maintenance equipment* means any equipment used or designed to be used in trimming or removing trees only, including, without limitation, chainsaws, chippers and stump removers.
- (28) *Vehicle auxiliary equipment* means any manual, mechanical, and electrical device powered by the engine of the motor vehicle to which it is mounted, attached, or utilized from or by a separate engine or motor, that enables the motor vehicle or such devices to function, and includes, without limitation, trimmers, saws, blades, tools, refrigeration units, compressors, compactors, chippers, backhoes, drill rigs, grinders, power lifts, mixers, pumps, blowers, and power-take-offs.
- (29) *Waste stream activities* includes trash compaction, collection, recycling (such as sand and aggregate) street sweeping, street vacuums, and street blowers.
- (30) *Weekday* means the time beginning on Monday at 7:00 a.m. and ending on the following Friday at 9:00 p.m.
- (31) *Weekend* means the time beginning on Friday at 9:00 p.m. and ending on the following Monday at 7:00 a.m.
- (Code 1950, § 717.2; Ord. No. 400-86, §§ 1--3, 6-30-86; Ord. No. 237-99, § 2, 3-29-99; Ord. No. 313-08, § 2, 6-16-08)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 36-3. Sound pressure level measurement instrumentation.

- (a) Any sound pressure level that is measured must be taken with a sound level meter and at an A-weighting network.

(b) If the noise from the source premises interferes with the measurement of the background sound level at the receptor premises, then measurements to determine the background sound level may be taken at another location in the vicinity or at another time or both; provided that the conditions at the alternative location or the alternative time or both are similar to the conditions at the receptor premises at the time of the noise measurement.

(Code 1950, § 717.3; Ord. No. 237-99, § 3, 3-29-99; Ord. No. 313-08, § 3, 6-16-08)

Sec. 36-4. Inspections.

(a) For the purpose of determining compliance with the provisions of this chapter, the manager of environmental health and the chief of police or their authorized representatives are hereby authorized to make inspections of all noise sources and to take measurements and tests whenever necessary to determine the quantity and character of noise. If any person refuses or restricts entry and free access to any part of a premises, or refuses inspection, testing or sound level measurement of any activity, device, facility, motor vehicle, or process where inspection is sought, the manager or the chief of police or their authorized representatives may seek from the county court a warrant for inspection requiring that such person permit entry and free access without interference, restriction or obstruction, at a reasonable time, for the purpose of inspecting, testing or measuring sound levels. The county court shall have power, jurisdiction and authority to enforce all orders issued under the provisions of this chapter.

(b) It shall be unlawful for any person to refuse to allow or permit the manager of environmental health or the chief of police free access to any premises when they or their authorized representative is acting in compliance with a warrant for inspection and order issued by the county court.

(c) It shall be unlawful for any person to violate the provisions of any warrant or court order requiring inspection, testing or measurement of sound levels and the possible sources thereof.

(d) No person shall hinder, obstruct, delay, resist, prevent in any way, interfere, or attempt to interfere with any authorized person while in the performance of their duties under this chapter.

(Code 1950, § 717.4; Ord. No. 1110-96, § 1, 12-16-96; Ord. No. 313-08, § 4, 6-16-08)

Sec. 36-5. Misrepresentation to avoid compliance.

It shall be unlawful for any person to misrepresent or give any false or inaccurate information or in any way attempt to deceive the manager of environmental health or the chief of police in order to avoid compliance with the provisions of this chapter.

(Code 1950, § 717.5-2; Ord. No. 1110-96, § 1, 12-16-96)

Sec. 36-6. Restrictions and measurements of noise between source and receiving premises (Table A).

(a) It shall be 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 the public premises in excess of the limits established in Table A.

- (1) 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.
- (2) 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.

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

| | Receptor Premises | | | | | | | |
|-----------------|-------------------|-----------|------------|-----------|------------|-----------|-----------|-----------|
| | Residential | | Commercial | | Industrial | | Public | |
| Source Premises | 7am--10pm | 10pm--7am | 7am--10pm | 10pm--7am | 7am--10pm | 10pm--7am | 7am--10pm | 10pm--7am |
| Residential | 55 | 50 | 65 | 60 | 80 | 75 | 75 | 70 |
| Commercial | 55 | 50 | 65 | 60 | 80 | 75 | 75 | 70 |
| | [60] | [60] | | | | | | |
| Industrial | 55 | 50 | 65 | 60 | 80 | 75 | 75 | 70 |
| | [65] | [65] | | | | | | |
| Public | 55 | 50 | 65 | 60 | 80 | 75 | 75 | 70 |
| | [60] | [60] | | | | | | |

[60] The numbers in brackets are the allowable limits that comply with exemption 14.

(b) Table A exemptions: The maximum permissible sound pressure levels as specified in subsection (a) and Table A shall not apply to sounds emitted from:

- (1) Any bell or chime from any building clock, school or church, between 7:00 a.m. and 10:00 p.m., not including any amplified bell or chime sounds emitted from loudspeakers.
- (2) 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.
- (4) Any ground-based aircraft activity, including testing or engine run-up, provided, however, that emission of noise resulting from such activities in excess of a sound pressure level of sixty (60) dB(A) when measured upon an inhabited residential premises shall be deemed an unlawful nuisance.
- (5) Any motor vehicles designed for and operated on public streets, alleys, highways or freeways that are regulated by Table B.
- (6) Any tree maintenance, landscaping, or lawn care equipment operated upon a residential, commercial, industrial, or public premises between 7:00 a.m. and 9:00 p.m. 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.

(7) Any construction equipment or activities; delivery and delivery activities; and waste stream equipment and activities at times other than those prohibited as set forth in section 36-7(3) of this chapter.

(8) Any domestic power equipment operated by the owner and or occupant of the property upon any residential, commercial, industrial or public premises between 7:00 a.m. and 10:00 p.m. provided that such equipment does not exceed a sound pressure level of eighty (80) dB(A) when measured twenty-five (25) feet from the noise source or the complainant's property line, whichever is greater. 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.

(9) Any commercial power equipment operated upon any residential, commercial, industrial, or public premises between 7:00 a.m. and 9:00 p.m., provided, however, that such equipment does not exceed a sound pressure level of eighty-eight (88) dB(A) when measured twenty-five (25) feet from the noise source or the complainant's property line, whichever is greater. 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.

(10) The musical instruments of any school marching band while performing at any sporting event or marching band competition, and the musical instruments of any school marching band practicing on school grounds between the hours of 7:00 a.m. and 9:00 p.m. that do not exceed sixty-five (65) dB(A) when measured at the property line of any residential receptor premises.

(11) Snow removal equipment operated on any residential, commercial, or industrial premises, including adjoining sidewalks, between the hours of 5:00 a.m. and 11:00 p.m. during any snowfall or during a declared snow emergency under the Rules and Regulations of the Manager of the Department of Public Works regarding Snow and Ice Removal from Sidewalks; snow removal equipment operated during the time periods after the end of snowfall and after the end of a declared snow emergency as set forth in those rules; and snow removal equipment operated by or on behalf of the City.

(12) Any emergency power generator providing emergency electrical power at any hospital, health clinic, nursing home or similar facilities where the loss of electrical power poses an immediate risk to the health, safety or welfare of any person, or at any premises where such equipment is required by the Denver Fire Department. Additionally, the sound pressure level emitted during the routine testing of emergency electrical power generators shall 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. or as otherwise approved.

(13) Any industrial, commercial, or public 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 an industrial receptor premises.

(14) Any industrial, commercial, or public premises causing the standards of Table A to be exceeded at a residential receptor premises when such industrial, commercial, or public premises and their emitted sound pressure levels were in existence prior to the existence of the residential receptor premises, provided, however, that the existing industrial premises does not exceed sixty-five (65) dB(A) and the commercial premises do not exceed sixty (60) dB(A) when measured at the residential receptor premises.

(15) Any noise-causing activity or equipment in existence prior to April 2, 1999 that had previously been determined to be in violation of the sound pressure standards of Table A of chapter 36 and was brought into and remains in compliance. A change in previously complained of business-licensed activity at a premises or a replacement of sound-emitting equipment cause the provisions of this chapter to apply.

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

(17) Festivals and associated activities between the hours of 8:00 a.m. and 10 p.m., on the condition that production, reproduction, or amplification of sound may not exceed a sound pressure level of eighty (80) dB(A) when measured from the nearest residential receptor premises.

(Code 1950, § 717.6; Ord. No. 15-90, § 1, 1-8-90; Ord. No. 237-99, § 4, 3-29-99; Ord. No. 313-08, § 5, 6-16-08)

Sec. 36-7. Prohibited noise activities.

The following activities are prohibited notwithstanding the sound pressure levels permitted pursuant to sections 36-6 and 36-8:

(1) *Vehicle horns.* No person shall, at any time, sound any horn or other audible signal device of a motor vehicle unless it is necessary as a warning to prevent or avoid a traffic accident or reasonably inform or warn of a vehicle presence.

(2) *Alarms.* It is an unlawful nuisance for any alarm that is audible outside the premises or vehicle in which it is installed or that it is intended to protect and for which there is not a valid alarm user permit issued pursuant to section 42-106 of this Code, to be activated: a) for a period exceeding fifteen (15) minutes; or b) three or more times within a seven (7) day period when no emergency is found to exist by the city. Violation of (a) or (b) or both constitutes separate offenses.

(3) *Delivery and delivery activities.* No person or persons shall make deliveries nor conduct delivery activities between the hours of 10:00 p.m. and 7:00 a.m. that exceeds the sound pressure limits of Table A. This prohibition excludes construction site deliveries, which are governed by subsection 36-7(5) of this chapter.

(4) *Waste stream equipment and activities.* No person shall operate any waste stream equipment nor conduct any waste stream activities on any premises adjoining to or across the street or alley from a residential receptor premises between 10:00 p.m. and 7:00 a.m.

(5) *Construction equipment and activities.*

a. No person shall operate, or cause to be operated, any construction equipment nor conduct any construction activities, including, without limitation, preparation activities, job site deliveries, and job site pick-ups, on weekdays between the hours of 9:00 p.m. and 7:00 a.m. in a manner that exceeds the sound pressure limits of Table A.

b. No person shall operate, or cause to be operated, any construction equipment nor conduct any construction activities, including, without limitation, preparation activity,

job-site deliveries, and job-site pick-ups, on weekends between the hours of 5:00 p.m. and 8:00 a.m. in a manner that exceeds the sound pressure limits of Table A.

c. Construction equipment must be properly maintained, used for the manufacturer's intended purpose, and operated in compliance with any required license. The board of environmental health, in accordance with chapter 24, article I, may grant variances from the construction restrictions if it can be demonstrated that a construction project will interfere with traffic or jeopardize public safety if completed during daytime.

(Code 1950, § 717.7; Ord. No. 237-99, § 5, 3-29-99; Ord. No. 313-08, § 6, 6-16-08)

Sec. 36-8. Motor vehicle noise.

(a) 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 (a), 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 section 36-6 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

TABLE INSET:

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

(b) It shall be unlawful for any person to operate, or for the owner of any motor vehicle to permit the operation of any motor vehicle or combination of motor vehicles at any time, that is not equipped with any exhaust muffler approved by this chapter.

(c) It is unlawful for any person or for any owner to allow any person to modify, tamper with, alter, or change any motor vehicle in any manner that causes the sound emitted from the motor vehicle to exceed the corresponding sound pressure level in Table B.

(d) No person shall, nor shall the owner allow any person to, operate a motorcycle manufactured after December 31, 1982 that is not equipped with an exhaust muffler bearing the Federal EPA required labeling applicable to the motorcycle's model year, as set out in Code of Federal Regulations Title 40, Volume 24, Part 205, Subpart D and Subpart E; or a muffler or muffler system in compliance with Table B.

(Code 1950, § 717.8; Ord. No. 237-99, § 6, 3-29-99; Ord. No. 249-07, § 1, 6-4-07)

Cross references: Traffic regulation, Ch. 54.

State law references: Noise restrictions on the sale of new vehicles, C.R.S. 1973, 25-12-106.

Sec. 36-9. City contracts to require chapter compliance.

Any written agreement, purchase order or contract whereby the city is committed to an expenditure of funds in return for work, labor, services, supplies, equipment, materials or any combination thereof, shall not be entered into unless such agreement, purchase order or instrument contains provisions that any equipment or activities which are subject to the provisions of this chapter will be operated, constructed, conducted or manufactured without violating the provisions of this chapter.

(Code 1950, § 717.9)

Cross references: Contracts, purchases and conveyances generally, § 20-51 et seq.

Sec. 36-10. Other applicable provisions.

(a) Loud, persistent, or habitual dog barking, howling or yelping shall be controlled and enforced as provided in Chapter 8, Article II, Division 3, provided however that dog barking noise emitted from licensed commercial dog kennels shall also be subject to the provisions of section 36-6.

(b) Loud or disturbing noise emitted by human voices shall be enforced pursuant to the provisions of Chapter 38, Article IV of this Code.

(c) Off-road recreational vehicles operated on any public premises shall be enforced under chapters 39 and 54 of this Code.

(d) Alarms for which a user permit has been issued pursuant to section 42-106 shall be enforced under Chapter 42.

(Code 1950, § 717.10; Ord. No. 237-99, § 7, 3-29-99; Ord. No. 313-08, § 7, 6-16-08)