

PALMER LAKE, COLORADO

ORDINANCE NO. 07-2020

AN ORDINANCE AMENDING TITLE 9, CHAPTER 9.48, OF THE TOWN OF PALMER LAKE MUNICIPAL CODE CREATING TWO NEW SECTIONS REGARDING EXCESSIVE NOISE

WHEREAS, the Board of Trustees of the Town of Palmer Lake, Colorado, pursuant to Colorado statute and the Town of Palmer Lake Municipal Code, is vested with the authority of administering the affairs of the Town of Palmer Lake, Colorado;

WHEREAS, noise within the Town of Palmer Lake is currently regulated by the following provisions of the Palmer Lake Municipal Code:

8.05.100 Noise Making Devices to Attract Children. The use of bells, whistles, sirens, music horns, or any other noise making devices for the purpose of attracting children or minors to any vehicle upon the streets, highways, rights-of-way, alleys, or public ways of the Town for the purpose of selling, distributing, or giving away any product whatsoever, to such minors, is hereby declared to be a public nuisance and hazard, and is expressly prohibited and shall be unlawful, excepting such activities carried on as a part of duly authorized public parades or processions.

9.48.020 Disturbing assemblies. No person shall disturb any lawful assembly by making any unnecessary noise or by rude or indecent behavior, or by profane language or otherwise, in the Town of Palmer Lake. (Ord. 8, §4, 1889).

9.48.040 Disturbing the peace. No person shall make, countenance or assist in making any unnecessary noise, disturbance, or improper diversion, or commit any breach of the peace or any acts tending to a breach of the peace, or any disorderly act within the town of Palmer Lake. (Ord. 8, §7, 1889).

WHEREAS, the Board of Trustees has determined that it is in the public interest to further define and prohibit certain specific noise levels at certain times and within certain areas of the town in order to protect the peace and quiet of its residents and visitors.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, COLORADO, THAT:

Section 1.

Title 9, Chapter 9.48 of the Palmer Lake Municipal Code shall be amended to add two new sections, 9.48.050 and 9.48.060, to read in their entirety as follows:

9.48.050 Prohibition of noises disturbing the public peace.

(a) It shall be unlawful for any person to make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb of some person. In applying the provisions of this Section, the following noise levels shall create a presumption that the noise unreasonably disturbs the peace and quiet of persons in the vicinity thereof:

<u>Zone</u>	<u>7:00 a.m. to 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)

The noise shall be measured on the A weighing scale on a sound level meter of standard design and quality and having characteristics established by the American National Standards Institute.

For purposes of this section, measurements with sound level meters shall be made when wind velocity is not more than five miles per hour, or 25 miles per hour with a windscreen. Measurements shall be made at a distance of at least 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 the property line of the property on which the noise source is located.

9.48.060 Exemptions.

The following activities shall be exempted from the provisions of this chapter:

A. Any mechanical device, apparatus, machinery, equipment, portable generator or manpower related to or connected with an emergency response or emergency work as defined in Palmer Lake Municipal Code Section.

B. A stationary generator which is installed and used during emergencies or utility power, or for routine testing and maintenance.

C. The sounding of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device for emergency purposes or for their testing.

D. Devices used in conjunction with places of religious worship, such as bells, carillons, chimes and the like.

E. Noise sources exceeding the prescribed standards that are associated with construction, repair, remodeling, demolition, or paving of any real property, including noise from vehicles and equipment associated with these activities, occurring during the following time periods, except as otherwise provided in this chapter:

Monday – Friday (excluding holidays)	7:00 a.m. to 6:00 p.m.
Saturday (excluding holidays)	7:00 a.m. to 5:00 p.m.
Sunday/holidays	No exemption from prescribed standards

1. This exemption is granted on the condition that all powered construction equipment is equipped with intake and exhaust mufflers recommended by the manufacturers thereof; pavement breakers and jackhammers shall also be equipped with acoustical attenuating shields or shrouds recommended by the manufacturers thereof.

2. In lieu of or in the absence of manufacturers' recommendations, the Town Administrator or his/her designee shall have the authority to prescribe such means of accomplishing maximum noise attenuation as deemed necessary in the public interest, considering the available technology and economic feasibility.

3. The Town Administrator or his/her designee may grant exceptions to the time limitations for work performed on private property for:

a. Resolution of unforeseen or unavoidable conditions occurring during a construction project and the nature of the project necessitates that work in progress be continued until a specific phase is completed.

b. Work that the Planning Commission, Town Board or Town Administrator have determined should occur during certain hours because of special considerations, including, but not limited to, the existence of public safety concerns if the work was performed during daytime hours.

c. When sufficient cause has been demonstrated to the Town Administrator, for reasons other than those listed above.

4. The Town Administrator or his/her designee may grant exceptions to the time limitations for work performed on public facilities and/or within the public right-of-way for:

a. Construction projects of Town, County, State, other public agency, or other public utility.

b. When sufficient cause has been demonstrated to the Town Administrator, for reasons other than those listed above.

5. Requests for an exception permit from the time limitations as established in this chapter are subject to the following requirements and procedures:

a. Payment of a fee in the amount set by resolution of the Town Board. This fee may be waived for emergency work.

b. A written description of the request. The written description shall include, but not necessarily be limited to:

i. Applicant's name;

ii. Property owner's name (if different);

iii. Location of proposed work;

iv. Type of work proposed, and reason for the exception request;

v. A description of all equipment and manpower required to perform such work.

c. Any additional documents as determined necessary, such as:

i. Site plan with work location identified;

ii. Reports by consulting professionals that provide factual information to support the need for an exception permit;

iii. Application for building permit(s), if proposed work is not associated with a previously issued permit;

iv. Application for encroachment permit for any work, staging or storage of materials in the public right-of-way, if proposed work is not associated with a previously issued permit.

d. Upon receipt of all required information, to the satisfaction of the Town Administrator, a determination for approval or denial shall be issued in writing. If approved, the Town Administrator may include conditions as determined necessary to protect the health, safety and welfare of residents and/or the general public, including requiring the applicant to provide notice to all properties within three hundred feet of the subject site/location no less than three days prior to beginning work. However, a longer noticing time period may be

required by the Town administrator if warranted by the scope of work and specific request.

Section 2.

Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Board hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

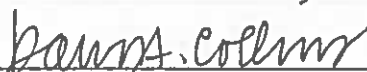
Section 3.

Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

INTRODUCED, READ AND PASSED AT A FIRST READING AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 27TH DAY OF AUGUST, 2020.

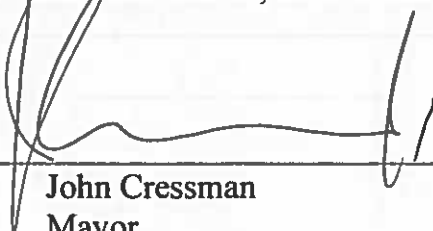
ATTEST:

TOWN OF PALMER LAKE, COLORADO



Dawn A. Collins
Town Clerk/Deputy Administrator

BY:



John Cressman
Mayor