

OURAY COUNTY, COLORADO**ORDINANCE NO. 92-1**

AN UNINCORPORATED COUNTY-WIDE ORDINANCE SETTING FORTH OURAY COUNTY POLICIES AND PROCEDURES FOR REGULATION OF NOISE ON PUBLIC AND PRIVATE PROPERTY, INCLUDING PENALTY PROVISIONS AND ENFORCEMENT FOR VIOLATION OF THE ORDINANCE.

WHEREAS, pursuant to Colorado Revised Statutes 30-15-401, as amended, the Board of County Commissioners of Ouray County has the power to adopt ordinances for control of those matters of purely local concern; and

WHEREAS, pursuant to Colorado Revised Statutes 30-15-401, as amended, matters of purely local concern include the regulation of noise on public and private property, with certain enumerated exceptions; and

WHEREAS, it has come to the attention of the Board of County Commissioners of Ouray County that unregulated noise creates health hazards and is detrimental to the public good; and

WHEREAS, it is the opinion of the Board of County Commissioners of Ouray County that, in order to preserve the public peace, health, safety and welfare of the citizens of Ouray County, the Board should take the following action.

NOW, THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of Ouray County as follows:

A. NOISE REGULATIONS:

1. It is unlawful for any person to make, continue, or cause or permit to be made or continued any unreasonably excessive, unnecessary or unusually loud noise or any noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.

2. Unreasonable noise is hereby declared to be a nuisance which may be abated pursuant to law.

B. PROHIBITED NOISES:

The following noises shall be prima facie a violation of this Section:

1. The operation or use of any musical instrument, radio, tape recorder, phonograph, or similar device between the hours of eleven p.m. and seven a.m., in such a manner as to be plainly audible at a distance of fifty feet from

the building, structure or vehicle in which it is located.

2. The use of loudspeakers, amplifiers or other devices for amplification of sound which is broadcast over public property for the purpose of commercial advertising or attracting the attention of the public to any building or structure, or to a performance, show or sale.

3. Any animal or bird which makes unreasonably frequent, loud or continuous noises audible off the premises upon which it is kept.

4. Unmuffled or improperly muffled engine exhaust noise or blower noises.

C. FACTORS:

Factors which may be considered in determining whether a noise is unreasonable include the following:

1. The volume of the noise;
2. The intensity of the noise;
3. Whether the nature of the noise is usual or unusual;
4. Whether the origin of the noise is natural or unnatural;
5. The volume and intensity of the background noise, if any;
6. The proximity of the noise to residential sleeping facilities;
7. The nature and zoning of the area within which the noise emanates;
8. The density of inhabitation of the area within which the noise emanates;
9. The duration of the noise;
10. The time of the day or night the noise occurs;
11. Whether the noise is recurrent, intermittent or constant;
12. Whether the noise is produced by a commercial or noncommercial activity.

D. AFFIRMATIVE DEFENSES:

It shall be an affirmative defense that the noise was emitted under the following circumstances:

1. As a safety or warning signal or from emergency pressure relief valves;
2. From any authorized emergency vehicle, when responding to any emergency call or acting in time of emergency;
3. From activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the County pursuant to Subsection (E), below.

E. SPECIAL NOISE PERMITS:

The Board of County Commissioners of Ouray County or their duly authorized representatives may grant a special noise permit specifying all appropriate terms, limits and conditions in the following circumstances:

1. Additional time is necessary for the permittee to alter or modify his activity or operation to comply with this Section; or
2. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with this section; or
3. No other reasonable alternative is available to the permittee.

F. PENALTY and ENFORCEMENT:

Violation of any provision of this Ordinance shall be a Class II Petty Offense and, upon conviction thereof, any person committing such violation shall be punished by a fine of not more than \$300.00 for each separate violation. The penalty assessment procedures provided in Section 16-2-201, C.R.S., shall be followed by the Ouray County Sheriff's Department in enforcing the provisions of this Ordinance. The penalty assessments for the first violation shall be \$25.00, for the second violation \$50.00, and for all subsequent violations \$300.00.

G. RESPONSIBILITY for ENFORCEMENT:

The provisions of this Ordinance shall be enforced by the Ouray County Sheriff's Department.

H. DISPOSITION of FINES:

All fines imposed and collected for the violation of this Ordinance shall be paid into the General Fund of Ouray County.

I. SEVERABILITY:

If any of the various provisions of this Ordinance are determined by a court of law to be invalid, such determination shall not affect the remaining provisions of this Ordinance.

J. EMERGENCY CLAUSE:

The Board of County Commissioners hereby finds that enactment and

enforcement of this Ordinance is necessary to the immediate preservation of the public health or safety due to the current existence of noises within the County which are in violation of the terms of the Ordinance. The Ordinance shall therefore take effect immediately upon adoption.

INTRODUCED, READ AND ORDERED PUBLISHED on the 8th day of September, 1992.

PUBLISHED on the 24th day of September, 1992.

7th ADOPTED, APPROVED AND ORDERED PUBLISHED AS ADOPTED the day of October, 1992.

Board of County Commissioners of
Ouray County, Colorado

By: Don A. Caddy
Howard B. Williams, Chairman
Don A. Caddy, Vice Chairman

Clerk's Certification:

I, Addie A. Sim, Clerk & Recorder of Ouray County, Colorado, do hereby attest and certify the Ordinance set forth above was introduced, read, and ordered published at a regular meeting of the Board of County Commissioners of Ouray County, Colorado, on the 8th day of September, 1992. The Ordinance was then published in the Ouray County Plaindealer on the 24th day of September, 1992. It was thereafter passed at a regular meeting of the Board of County Commissioners of Ouray County, Colorado, on the 7th day of October, 1992, and published in the Ouray County Plaindealer, by title only, but setting forth the full text of any amendments, on the 22nd day of October, 1992.

Addie A. Sim
Addie A. Sim
Clerk to the Board of County
Commissioners

(County Seal)

AUTHENTICATION

We, Howard B. Williams, Chairman of the Board of County Commissioners of the County of Ouray and Addie A. Sim, Clerk and Recorder of Ouray County, hereby certify as follows:

Ordinance No. 92-1 adopting an UNINCORPORATED COUNTY-WIDE ORDINANCE SETTING FORTH OURAY COUNTY POLICIES AND PROCEDURES FOR REGULATION OF NOISE ON PUBLIC AND PRIVATE PROPERTY, introduced on first reading on September 8, 1992. The ordinance was published in the Ouray County Plaindealer on September 24, 1992. The ordinance was then passed on second reading on October 8, 1992. The ordinance was re-published, by title only, on October 22, 1992.

The attached copy of the Ordinance is hereby certified to be a true copy of such Ordinance, as it has been adopted by the Board of County Commissioners of Ouray County, Colorado.

THE BOARD OF COUNTY
COMMISSIONERS OF OURAY COUNTY,
COLORADO:

By: Howard B. Williams
Howard B. Williams, Chairman.
(Don A. Paddy, Vice Chairman)

Addie A. Sim
Addie A. Sim, Clerk and Recorder