

ORDINANCE NO. 2011-005

AN ORDINANCE AMENDING ORDINANCE NO. 2006-12 (AN ORDINANCE AMENDING ORDINANCE NO. 2003-005 AN ORDINANCE IDENTIFYING, MAKING ILLEGAL, AND ABATING CERTAIN NUISANCES IN THE TOWN OF CRESTONE, COLORADO) AND FURTHER IDENTIFYING "NOISE" IN THE TOWN OF CRESTONE, COLORADO

WHEREAS, the Town of Crestone Adopted Ordinance No. 2003-005, An Ordinance Identifying, Making Illegal, and Abating Certain Nuisances in the Town of Crestone, Colorado, on June 9, 2003; and

WHEREAS, the Town of Crestone adopted Ordinance 2006-12 Amending Ordinance 2003-005 on June 12, 2006 by further defining "noise" in said ordinance; and

WHEREAS, the Board of Trustees of the Town of Crestone has determined that additional provisions should be added to Section IV (M) Noise, in said Ordinances.

NOW THEREFORE, be it hereby ordained by the Board of Trustees of the Town of Crestone, that Ordinance 2006-12 and 2003-005 are hereby amended as follows:

Section IV (M) (Nuisances Declared) is amended to read as follows:

1. No person shall within the Town of Crestone:
 - a. Operate any type of vehicle, machine, or device;
 - b. Carry on any activity; or
 - c. Promote or facilitate the carrying on of any activity, which makes sound in excess of the level specified in this section.
2. 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:
 - a. The sound limits prescribed by this section are set forth in the following categories of the zoning districts as described in Regulation IV of the Zoning Regulations of the Town of Crestone.

Zoning District of the Property on Which the Sound is Received	Maximum Number of Decibels Permitted from 7:00 a.m. until 10:00 p.m. of the Same Day	Maximum Number of Decibels Permitted from 10:00 p.m. until 7:00 a.m. of the Following Day
Residential (Rural Residential; Residential Low Density; Residential Medium Density; Residential High Density; Mobile Home)	55 dBA	50 dBA
Commercial (C District; Community Services & Recreational District)	65 dBA	60 dBA

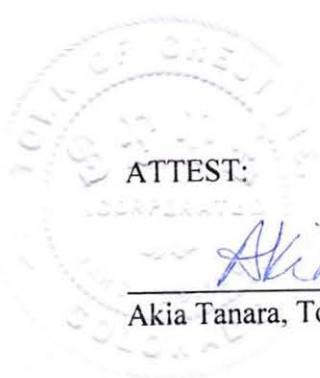
- b. Sound from construction work for which a building permit has been issued:
 - i. During the hours of 7:00 a.m. until 9:00 p.m., sound from light construction work received in a residential zone shall be deemed received in a commercial zoning district;
 - ii. Under no circumstances shall amplified 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;
 - b. Sound from a source on public property may be measured on that receiving 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 receiving property other than the public property on which the sound source is located;
 - c. For the purposes of this paragraph, a leasehold shall be deemed a property of the lessee, and its boundary, other than a boundary with adjacent property owned by the lessee, shall be deemed a property line.
- 4. All sound measurements shall be made on a sound level meter that meets ANSI specification S1.4-974 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.
- 5. It shall be a defense to a charge of violating this section that:
 - a. The sound was made by an authorized emergency vehicle when responding to an emergency or as otherwise authorized by law or acting in time of emergency or by an emergency warning device operated by a government;
 - b. 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;
 - c. The sound was made within the terms of a fireworks display or temporary street closure permit issued by the Town Administrator, or was made by the rendering of military honors at a funeral by a military funeral honors detail;
 - d. The sound was made by a wild animal;
 - e. The sound was made within the terms and conditions of a sound level variance granted by the Town Administrator;
 - f. The sound was made on property belonging to or leased or managed by a federal, state, or county governmental body other than the Town and made by an activity of the governmental body or by others pursuant to a contract, lease, or permit granted by such governmental body;
 - g. The sound was made by a police alarm device, if the police alarm shuts off automatically after no longer than ten minutes, by a fire alarm, or by an alarm system installed in a motor vehicle, if the car alarm shuts off automatically after no longer than five minutes;
 - h. The sound was made by snow removal equipment equipped with a standard muffling system in good repair while removing snow; or
 - i. The sound was made between the hours of 7:00 a.m. and 9:00 p.m. by a lawn mower or gardening equipment equipped with a standard muffling system in good repair.
- 6. 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.

Penalty. Any person in the Town who is responsible for creating or maintaining any nuisance as provided for in this Section shall, in addition to the civil penalties and costs provided herein be subject to a fine in an amount not exceeding one thousand dollars (\$1,000) and imprisonment not exceeding one year or by both such fine and imprisonment. Every person violating or contributing in any way to the violation of any provision of this Ordinance shall be deemed guilty of a separate offense for each day during which such violation continues and may be punished for each such violation as provided in this Section.

THE TOWN BOARD FINDS THAT THIS ORDINANCE IS NECESSARY TO THE IMMEDIATE PRESERVATION FO THE PUBLIC PEACE, HEALTH, AND SAFETY, AND SHALL TAKE EFFECT AND BE ENFORCED FROM AND AFTER PASSAGE OF THE SAME.

Introduced, read in full, adopted, approved, and signed this 13th day of June, 2011.

ATTEST:


Akia Tanara
Akia Tanara, Town Clerk

K. Abrams
Ralph Abrams, Mayor
Kairma Danforth, Mayor Pro-Tem

APPROVED AS TO FORM:

Eugene L. Farish
Eugene L. Farish, #2557
Crestone Town Attorney

CERTIFICATION

I HEREBY CERTIFY that the within Ordinance was introduced, read in full, approved and adopted at the regular meeting of the Board of Trustees of the Town of Crestone, Colorado on the 13th day of June, 2011 and published in full in The Crestone Eagle, a legal newspaper in the Town of Crestone on July 1, 2011.

Akia Tanara
Akia Tanara, Town Clerk