

COUNCIL BILL NO. 09-013  
ORDINANCE NO. 4164

AN ORDINANCE AMENDING SECTION 38-62 OF ARTICLE II, NOISE CONTROL,  
OF CHAPTER 38, ENVIRONMENT, PERTAINING TO MOTORCYCLE NOISE

WHEREAS, the City of Arvada is a political subdivision of the State of Colorado organized and existing as a home rule municipality pursuant to Section 6 of Article XX of the Colorado Constitution and the home rule charter of the City; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-15-401, the City possesses the authority to prevent and suppress noise and otherwise adopt regulations in furtherance of the public health, safety, and welfare; and

WHEREAS, the City Council finds that certain motorcycles that are not equipped with an exhaust muffler bearing a label required by the Environmental Protection Agency (“EPA”) create or emit noise that is unusually loud, excessive, and detrimental to the public health, safety, and welfare; and

WHEREAS, the Council therefore desires to amend Article II, Noise Control, of Chapter 38, Environment, of the Arvada City Code by the addition of a new subsection 38-62(12) to prohibit the operation within the City of any motorcycle not bearing a required EPA noise label, all in furtherance of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. Subsection 38-62(12), Motorcycles, of section 38-62, Same-specific, of Division 2, Noises Regulated, of Article II, Noise Control, of Chapter 38, Environment, of the Arvada City Code is hereby added to read as follows:

- (12) *Motorcycles.* 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 Environmental Protection Agency required labeling applicable to the motorcycle’s model year, as set out in the Code of Federal Regulations, Title 40, Volume 24, Part 205, Subpart D and Subpart E, as may be from time to time amended. Said label shall be affixed to the exhaust muffler in such a manner as to be readily visible.
  - a. For purposes of enforcement of subsection (12), police officers may establish or determine reasonable suspicion to stop a motorcycle based on any relevant facts and circumstances concerning the unusually loud or excessive nature of the noise created or emitted by the motorcycle. This determination may be

based upon, but need not be limited to, a consideration of the following factors:

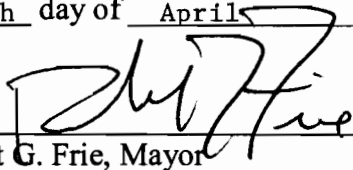
- (i) The time of day;
  - (ii) The proximity of the motorcycle creating or emitting the noise to any residential area, assisted living facility, nursing or care home, hospital, or public or private school;
  - (iii) Any unusual quality associated with the noise such as, but not limited to, a loud grating, grinding, rattling, or whining sound; or
  - (iv) Any other factors tending to show the magnitude or disruptive effect of the noise.
- b. Notwithstanding the language of subsection (12)a, a peace officer may enforce subsection (12) when an accident involving a motorcycle occurs, following any lawful traffic stop or contact, or during any traffic investigation.
- c. Testimony of the failure by any owner or operator of a motorcycle to immediately demonstrate the presence of an EPA noise label as required in subsection (12), when requested to do so by a peace officer, shall constitute prima facie evidence, at a trial concerning a violation charged under subsection (12), that the owner or operator of the motorcycle violated subsection (12).

Section 2. Severability. If any 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 City Council declares that it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. This ordinance shall take effect five days after publication following passage.

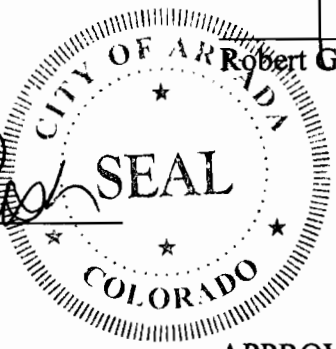
INTRODUCED, READ, AND ORDERED PUBLISHED this 6th day of April, 2009.

PASSED, ADOPTED, AND APPROVED this 20th day of April, 2009.

  
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Robert G. Frie, Mayor

ATTEST:

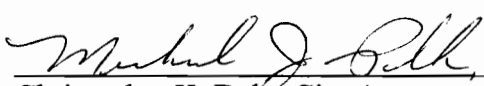


  
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City Clerk

*Deputy*

APPROVED AS TO FORM:

  
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for Christopher K. Daly, City Attorney

Publication Dates: April 9, 2009  
April 23, 2009





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**City of Arvada**  
**8101 Ralston Road**  
**P.O. Box 8101**  
**Arvada, CO 80001-8101**  
**Phone: 720-898-7000**



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## Current Legal Notices

### This Week's Legal Notices:

- 3 Sons, 14805 West 64 Avenue liquor license
- Binkers, 9575 West 57 Avenue liquor license
- CB09-011 Executive, City Manager and City Attorney Retirement Plans
- CB09-012 City of Arvada Deferred Compensation Plan
- 4/6/09 CB09-013 Amend Section 38-62 Motorcycle Noise
- CB09-014 Sales and Use Tax Revenue Refunding Bonds
- CB09-015 United Power Franchise
- Land Development variances A-06 Muzychenko 5370 Carr Street, A-07 Aspen Point Apartments 5921 Pierce Street
- Ordinances passed April 6 (4160 and 4161)
- R09-007 D. Long annexation petition 5945 Ward Road republication
- Vacate CB09-009 United Power franchise

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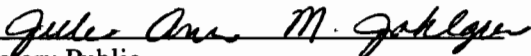
CITY OF ARVADA, COLORADO  
PUBLISHER'S AFFIDAVIT  
[www.arvada.org](http://www.arvada.org)

CITY OF ARVADA  
COUNTY OF JEFFERSON, SS.

Jarl Anderson, being of lawful age and being responsible for the City of Arvada, Colorado's official website, [www.arvada.org](http://www.arvada.org), published in the City of Arvada, County of Jefferson and State of Colorado, does hereby certify that the legal notice, a copy of which is attached hereto, was published on Arvada's official website for 24 hours on 4-10-09.

  
\_\_\_\_\_  
Signature

Subscribed and sworn to before me this 10 day of April, 2009.

  
\_\_\_\_\_  
Notary Public

My Commission expires 5-10-12.



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\_\_\_\_\_  
Robert G. Frie, Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher K. Daly, City Attorney

Publication Dates: April 9, 2009  
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