



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 4, 2022**

**AGENDA TITLE**

Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8531 amending Sections 5-9-6, “Unreasonable Noise Prohibited Between the Hours of 11 P.M. Through 7 A.M.,” and 5-3-11, “Nuisance Party Prohibited,” B.R.C. 1981, to prohibit unreasonable amplified noise during the daytime as well as nighttime hours; and setting forth related details

**PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
Teresa Tate, City Attorney  
Sandra Llanes, Deputy City Attorney  
Laurel Witt, Assistant City Attorney I  
Maris Herold, Police Chief  
Stephen Redfern, Deputy Police Chief  
Brad Mueller, Planning & Development Services Director  
Jonathan Bergelin, Planning & Development Services Code Compliance Supervisor  
Brenda Ritenour, Neighborhood Engagement and Services Manager

**EXECUTIVE SUMMARY**

The purpose of this agenda item is to amend the city’s nighttime unreasonable amplified noise regulations to include daytime hours for residential areas. Proposed Ordinance 8531 (**Attachment A**) is one of several efforts underway to reduce the level of nuisance behaviors and improve the quality of life in neighborhoods, particularly as it relates to the University Hill neighborhood (the “Hill”). Proposed Ordinance 8531 is part of a larger holistic work plan intended to address these issues. For information on the bigger city

work plan please see the June 7, 2022, Information Packet Memorandum titled, “Update on University Hill Quality of Life Improvement and Citywide Nuisance Initiatives.”  
<https://boulder.novusagenda.com/agendapublic/CoverSheet.aspx?ItemID=4668&MeetingID=716>

Proposed Ordinance 8531 seeks to prohibit unreasonable amplified noise from 7am – 11pm that can be heard from 200 or more feet away (approximately one city block) in a residential neighborhood. An average city block is between 250 and 300 feet. It also adds daytime unreasonable amplified noise to the list of violations that can form the basis for the violation of Nuisance Party. If the social gathering is deemed to be a Nuisance Party violation by a police officer, participants shall cease the social gathering and disperse immediately upon the order of a police officer. Refusal to obey and abide by such order is also a violation.

### STAFF RECOMMENDATION

#### Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to introduce and order published by title only Ordinance 8531 amending Sections 5-9-6, “Unreasonable Noise Prohibited Between the Hours of 11 P.M. Through 7 A.M.,” and 5-3-11, “Nuisance Party Prohibited,” B.R.C. 1981, to prohibit unreasonable amplified noise during the daytime as well as nighttime hours; and setting forth related details

### COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – None.
- **Environmental** – Limitations of noise will assist in the reduction of overall noise pollution that stems from electronically amplified sound in the city.
- **Social** – Residential neighborhoods are intended to be spaces for residents to enjoy at home. Loud electronically amplified noise during the day has negatively affected residents on the Hill, among other neighborhoods, for many years. Limitations of unreasonable electronically amplified sound will have a positive social impact.

### OTHER IMPACTS

- **Fiscal** – All work for drafting will be performed within existing department budgets. The final ordinance may require additional funding to implement/enforce.

- **Staff time** – Enforcement of Proposed Ordinance 8531 will require additional police staff time.

## **BOARD AND COMMISSION FEEDBACK**

None.

## **PUBLIC FEEDBACK**

In addition to the robust engagement of the stakeholders on the Hill Revitalization Working Group (the “HRWG”), which includes student residents of the Hill neighborhood, staff had conversations with members of the Goss-Grove Neighborhood Association, and the Community Connectors in Residence (“Connectors”). Staff also activated a page on [Be Heard Boulder](#) to gather thoughts from the general public. The page will stay live to continue gathering feedback to inform the staff presentation for second reading of Proposed Ordinance 8531.

Goss-Grove neighbors were for the most part in favor of the change, seeing a benefit to their neighborhood. Some residents who participated on the Be Heard Boulder page had concerns about the ability to enjoy daytime opportunities to play music with friends.

Connectors raised concerns about the potential for increased calls for police service based on bias that could result from the changes. For example, informal cultural gatherings hosted during the daytime could lead to calls for police intervention. The Connectors were concerned that more options for violations could lead to an increase in “us against them” mentality between students and longtime residents on the Hill, as well as between neighbors elsewhere. Connectors have already experienced an over-use of complaints about noise in neighborhoods where even benign and supportive police presence can be stressful for community members. Connectors encouraged consideration of a pilot test of the ordinance only on the Hill to understand its effectiveness before applying the changes to the whole city.

There were 557 total visits to the Be Heard Boulder page; 97 of those visitors were intrigued enough to click on something offered on the page and 50 participated in the feedback form. Out of the 50 feedback participants, there are 20 participants who see no negative impacts from this ordinance and expressed support; the other 30 participants have some hesitancy or concern, including some respondents who live on the Hill. Seventeen also identified bigger issues with noise ranging from mufflers and vehicle noises to airplanes and leaf blowers. Responses came from 24 different neighborhoods across the city from Gunbarrel to Martin Acres to Melody Catalpa and Goss-Grove. Concerns include over-reach, creating unnecessary laws that could lead to harassment, and limiting people’s ability to enjoy themselves and gather with music. On the flip side, supporters cited that the ordinance would ensure peaceful enjoyment of their home, allow for sleep before 11pm, more peaceful and welcoming to everyone, provide a standard and expectation of neighbors, and perhaps improve relations between neighbors and students.

## **BACKGROUND AND ANALYSIS**

In early March 2021, Boulder Police Code Enforcement and Boulder Police Department officers responded to a disturbance on the Hill, which included several parties, amid the public health emergency order that was then in place. The officers were met with growing crowds and an escalating situation. Boulder SWAT and eventually countywide SWAT were activated to respond to the escalating situation. Attendees surrounded armored rescue vehicles and began pelting officers with rocks and glass bottles. Once the disturbance reached between 500-800 attendees, officers pulled out of the area and observed the ongoing situation. Those in attendance caused property damage in addition to attacks on police officers.

After this disturbance, long-term Hill residents sent an open letter proposing potential changes to address the ongoing issues on the Hill. Through a “Nod of Five” on March 16, 2021, City Council directed city staff to begin researching ideas that could prevent such a disturbance from happening again and to address the ongoing quality of life issues present on the Hill.

City staff, with the help of a consultant, began to coordinate with an already active HRWG to discuss ongoing changes to the Hill and how to restore balance between the long-term residents of the Hill and the student population. The HRWG consists of members representing city staff (Neighborhood Services, Boulder Police Department, City Attorney’s Office, Municipal Court, and Planning and Development Services), University of Colorado staff (Student Affairs, Office of Off-Campus Housing and Neighborhood Relations, Sorority and Fraternity Life, Restorative Justice, Community and Local Government Affairs); the Boulder Area Rental Housing Association; University Hill Neighborhood Association and student leaders. The HRWG and subcommittees meet at least monthly to identify systemic gaps in addressing quality of life issues and brainstorm collaborative solutions. Additionally, an internal group made up of city and university staff convenes regularly to work on the project.

The primary nuisance behaviors in the University Hill Neighborhood have been identified through multiple surveys, observations, data systems, and reports. Unreasonable noise was one of the top issues. The proposed ordinance updates one of the noise regulations to address disruptive behavior on the Hill and elsewhere. This suggestion came from the open letter authored by Hill residents after the March 2021 disturbance. Proposed Ordinance 8531 seeks to expand the prohibition of unreasonable amplified noise in residential areas during the day as well as during the night. It prohibits unreasonable amplified noise from 7am – 11pm that can be heard from 200 feet away (approximately one city block) in a residential neighborhood.

Also, Proposed Ordinance 8531 adds daytime unreasonable amplified noise to the list of violations that define when a social gathering becomes a public nuisance which in turn forms the basis for a Nuisance Party violation. If the social gathering is deemed to be a Nuisance Party violation by a police officer, participants are required to cease the social

gathering and disperse immediately upon the order of a police officer. Refusal to obey and abide by such order is also a violation.

There are several affirmative defenses or exceptions to the rule including, but not limited to, sound coming from a vehicle's horn as a danger warning signal; sound made by a police alarm device, fire alarm device, car alarm; and sound coming from an event within the terms of a city manager issued permit.

### **NEXT STEPS**

If council approves of Proposed Ordinance 8531 on first reading, second reading and public hearing will be brought forward as an emergency measure on September 1, 2022, and will be effective immediately should it be adopted. It is necessary to bring the ordinance forward by emergency to accommodate the university's school start date. The police department, in collaboration with the university, will be ready to provide education about the new regulations as the students return to school in mid-August.

### **ATTACHMENT**

A – Proposed Ordinance 8531

ORDINANCE 8531

AN ORDINANCE AMENDING SECTIONS 5-9-6, "UNREASONABLE NOISE PROHIBITED BETWEEN THE HOURS OF 11 P.M. THROUGH 7 A.M., AND 5-3-11, "NUISANCE PARTY PROHIBITED," B.R.C. 1981, TO PROHIBIT UNREASONABLE AMPLIFIED NOISE DURING THE DAYTIME AS WELL AS NIGHTTIME HOURS; AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 5-9-6, "Unreasonable Noise Prohibited Between the Hours of 11 P.M. Through 7 A.M.," B.R.C. 1981, is amended to read as follows:

**5-9-6. - Unreasonable Noise Prohibited, ~~Between the Hours of 11 P.M. Through 7 A.M.~~**

~~Between the hours of 11 p.m. through 7 a.m., no person shall:~~

(a) Unreasonable Amplified Noise~~Sound~~:

(1) Nighttime Hours: Between the hours of 11 p.m. through 7 a.m., 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:

~~(1)(A)~~ (A) One hundred or more feet beyond the property line of the property upon which the loudspeakers are located where they are located in a residential district.

~~(2)(B)~~ (B) One hundred fifty or more feet beyond the property line of the property upon which the loudspeakers are located where they are located in a commercial or industrial district.

(2) Daytime Hours: Between the hours of 7 a.m. through 11 p.m., 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 two hundred or more feet beyond the property line of the property upon which the loudspeakers are located where they are located in a residential district.

(3) Each resident or person in control of an activity or event in or on the premises of a dwelling unit who is present within that dwelling unit or upon the premises of that dwelling unit when sound in violation of this section is amplified or generated upon the premises shall be responsible for the generation of that sound or noise.

- 1 (4) Each owner, manager, or person in control of an activity or event in or on the premises  
2 of a commercial or industrial property upon which sound in violation of this subsection  
3 is generated shall be responsible for the generation of that sound or noise.
- 4 (5) It shall be an affirmative defense to a charge of violating this subsection that:
- 5 (A) The sound was made by an authorized emergency vehicle when responding to an  
6 emergency call or acting in time of emergency or by an emergency warning  
7 device operated by a government;
- 8 (B) The sound was made by the sounding of the horn of any vehicle as a danger  
9 warning signal or by the sounding of any warning device as required by law;
- 10 (C) The sound was made within the terms of a city manager issued permit ~~parade or  
11 temporary street closure permit issued by the city manager~~;
- 12 (D) The sound was made on property belonging to or leased or managed by a federal,  
13 state, or county governmental body other than the city and made by an activity of  
14 the governmental body or by others pursuant to a contract, lease, or permit  
15 granted by such governmental body;
- 16 (E) The sound was made by a police alarm device if the police alarm shuts off  
17 automatically after no longer than ten minutes, by a fire alarm, or by an alarm  
18 system installed in a motor vehicle, if the car alarm shuts off automatically after  
19 no longer than five minutes;
- 20 (F) For a charge of violation based on Paragraph (a)(3) or (a)(4) of this section, the  
21 defendant did all that a reasonable person could have done under the  
22 circumstances of the creation of the noise to prevent the offense and, if requested  
23 to do so, cooperated with law enforcement officers to identify accurately the  
24 offender or offenders; or
- 25 (G) For a charge of violation based on Paragraph (a)(4) of this section, the sound was  
made by a trespasser.
- (b) Unreasonable Unamplified-Sound Noise:
- (1) Between the hours of 11 p.m. and 7 a.m., while on public property within a residential  
district, no person shall yell, scream, shout, cheer, sing, or otherwise make noise with  
the human voice louder than that which is reasonably necessary for normal  
conversational speech.
- (2) It shall be an affirmative defense to a charge of violating this subsection that the ~~sound~~  
noise was reasonably necessary to gain assistance to prevent a crime, catch a criminal,  
warn of fire or other danger, or to seek assistance for a health problem or injury or for  
assistance in dealing with an accident.
- (c) Trash Pickup: Between the hours of 11 p.m. and 7 a.m., ~~No~~ person shall make any trash  
pickup with a truck which has a compactor or the capacity to raise and dump dumpsters in  
any residential or commercial district, 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

1 trash truck shall be prima facie evidence that the trash truck was owned by or was under the  
2 control of the employer so identified.

3 Section 2. Section 5-3-11, “Nuisance Party Prohibited,” B.R.C. 1981, is amended to read  
4 as follows:

5 . . .

6 (b) A social gathering shall be deemed to constitute a public nuisance when, by reason of the  
7 conduct of persons in attendance, it results in one or more of the following violations of this  
8 code and which violations occur at the site of the social gathering, or on neighboring public  
9 or private property:

10 Section 5-3-1, “Assault in the Third Degree,” B.R.C. 1981;

11 Section 5-3-2, “Brawling,” B.R.C. 1981;

12 Section 5-3-4, “Threatening Bodily Injury,” B.R.C. 1981;

13 Section 5-3-5, “Obstructing Public Streets, Places, or Buildings,” B.R.C. 1981;

14 Section 5-3-6, “Use of Fighting Words,” B.R.C. 1981;

15 Section 5-4-1, “Damaging Property of Another,” B.R.C. 1981;

16 Section 5-4-2, “Damaging Public Property,” B.R.C. 1981;

17 Section 5-4-3, “Trespass,” B.R.C. 1981;

18 Section 5-4-10, “Fires on Public Property,” B.R.C. 1981;

19 Section 5-4-13, “Littering,” B.R.C. 1981;

20 Section 5-4-14, “Graffiti Prohibited,” B.R.C. 1981;

21 Section 5-5-3, “Obstructing a Peace Officer or Firefighter,” B.R.C. 1981;

22 Section 5-5-10, “False Reports,” B.R.C. 1981;

23 Section 5-6-6, “Fireworks,” B.R.C. 1981;

24 Section 5-6-7, “Public Urination,” B.R.C. 1981;

25 Section 5-7-2, “Possession and Consumption of Alcoholic Beverages in Public  
Prohibited,” B.R.C. 1981;



- 1 Section 5-7-3, "Unlawful to Sell or Give to or Procure for Minors," B.R.C. 1981;
- 2 Section 5-7-4, "Possession and Sale by Minors Unlawful," B.R.C. 1981;
- 3 Section 5-9-3, "Exceeding Decibel Sound Levels Prohibited," B.R.C. 1981;
- 4 Section 5-9-5, "Disrupting Quiet Enjoyment of Home," B.R.C. 1981;
- 5 Section 5-9-6, "Unreasonable Noise Prohibited ~~Between the Hours of 11 P.M. Through 7~~
- 6 ~~A.M.,"~~ B.R.C. 1981;
- 7 A violation of any provision in Chapter 6-3, "Trash, Recyclables, and Compostables,"
- 8 B.R.C. 1981, relating to the unlawful deposit of trash;
- 9 Section 7-4-61, "Obstructing Traffic Prohibited," B.R.C. 1981;
- 10 Paragraph 10-8-2(b)(12), B.R.C. 1981, concerning open burning.

11 ...

12 Section 3. The City Council finds this ordinance is necessary for the immediate  
13 preservation of public peace, health, safety, and property justifying the adoption of this ordinance  
14 as an emergency measure.

15 Section 4. This ordinance is necessary to protect the public health, safety, and welfare of  
16 the residents of the city and covers matters of local concern.

17 Section 5. The City Council deems it appropriate that this Ordinance be published by title  
18 only and orders that copies of this Ordinance be made available in the office of the city clerk for  
19 public inspection and acquisition.  
20

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
2 TITLE ONLY this 4th day of August 2022.

3  
4  
5 \_\_\_\_\_  
Aaron Brockett,  
Mayor

6 Attest:

7  
8  
9 \_\_\_\_\_  
City Clerk

10 READ ON SECOND READING, PASSED AND ADOPTED AS AN EMERGENCY  
11 MEASURE BY TWO-THIRDS COUNCIL MEMBERS PRESENT this 1st day of September  
12 2022.

13  
14  
15 \_\_\_\_\_  
Aaron Brockett,  
Mayor

16 Attest:

17  
18  
19 \_\_\_\_\_  
City Clerk