

BEAVER CREEK RESORT COMPANY OF COLORADO

NOISE REGULATION

Adopted April 10, 1992

Revised March 3, 1998

Revised 10-20-2005

1. Title. This regulation shall be known as "Noise Regulation".
2. Purpose and Applicability. A primary function of the Beaver Creek Resort Company of Colorado (the "Resort Company") is to enhance the overall quality of the experience accorded the guests and visitors to the Beaver Creek Subdivision, Eagle County, Colorado (the "Resort"). To this end, the Resort Company has promulgated the following rules and regulations which shall apply to all land within Beaver Creek, but which shall not apply to any land within the Mountain Facility as these Terms are more particularly described in the Amended and Restated General Declaration for Beaver Creek, Eagle County, Colorado, as recorded with the Clerk and Recorder of Eagle County Colorado on December 27, 1979 in Book 296 at Page 446, as amended from time to time.

The Resort Company has the power to amend these rules and regulations from time to time, without notice, to ensure adequate coverage of the topics discussed herein or other topics which may arise through the growth of the area.

3. Noise Prohibited.
 - 3.1 The making, creating or allowing of an excessive or an unusually loud noise at any location within the Beaver Creek heard and measured in a manner hereinafter set forth shall be prohibited except when made under and in compliance with a permit issued pursuant to Subsection 3.6 hereof.
 - 3.2 An excessive or unusually loud noise shall be defined as follows:
 - a. Noise of any duration which exceeds the allowable noise limit for the zone in which the noise source is located by 15 decibels.
 - b. A noise, one minute or more in duration out of any ten-minute period, which exceeds the allowable noise limit for the zone in which the noise source is located by 10 decibels.
 - c. A noise of five minutes in duration and a total of five minutes out of any ten-minute period, which exceeds the allowable noise limit for the zone in which the noise source is located by 5 decibels.
 - 3.3 For the purpose of determining and classifying any noise as excessive or unusually loud as declared to be prohibited by this section, the noise shall be measured on a decibel or sound level meter of standard design and quality operated on the A Weighting Scale.
 - a. If the noise source is located on private property, the noise shall be measured at or beyond the property line of the property on which the noise source is located.

- b. If the noise source is located on public property, the noise shall be measured no closer than ten feet from the noise source.

3.4 Except as set forth in Section 3.5 below, the following shall be the allowable noise limits for the time periods and zones specified:

Zoning or Other Designation of the Property on which the <u>Source at the Noise is located</u>	Maximum Number of Decibels permitted from <u>7 a.m. to 11 p.m.</u>	Maximum Number of Decibels permitted from <u>11 p.m. to 7 a.m.</u>
1. Resort Commercial	65*	60*
2. Residential High Density	65	60
3. Residential Low Density	55	50
4. Resort Services	80	75
5. Open Space Recreation	65	60
6. Public Right of Way	90	90

(*The Resort Commercial Zone shall be allowed 65 Decibels for the time period of 7:00 a.m. to 12:00 midnight)

3.5 The Resort Commercial Zone shall be allowed 70 decibels during the hours of 7:00 a.m. to 12:00 midnight on the date of the following holidays and events each year:

- St. Patrick's Day;
- Independence Day;
- Halloween;
- New Year's Eve; and
- The Last Day of Each Ski Season.

3.6 Applications for a special permit to exceed noise level designations or time periods in this section may be made to the President of the Resort Company or his duly authorized representative. The President or his duly authorized representative may grant the relief as applied for if he or she finds one of the following:

- a. That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this regulation.
- b. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that will comply with Subsection 3.1.
- c. That no other reasonable alternative is available to the applicant.
- d. That the permit is necessary for the community's cultural, historical or social benefit. The President or his duly authorized representative may prescribe any conditions or requirements he or she deems necessary to minimize adverse effects

upon the community or the surrounding neighborhood, including but not limited to, specific times or functions of the noise or location of the noise source. Any permit granted by the President or his duly authorized representative under this section shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective.

- 3.7 The maximum permissible noise limits for the times and zones specified in Subsection 3.4 and 3.5 above shall not apply to sound emitted from the following:
- a. Any emergency alarm;
 - b. Any authorized emergency vehicle when responding to an emergency call or acting in time of an emergency;
 - c. Activities of a temporary duration permitted by law and for which a permit therefor has been granted by the Resort Company, including but not limited to parades and fireworks displays;
 - d. Any construction equipment operated upon a Site during the days and time periods and within the zones as established by Section 6.02 of the Beaver Creek Resort Company's Construction Activity and Compliance Deposit Regulation; provided, however, that the operation of the construction equipment during such hours shall not exceed ninety decibels;
 - e. Any snow making, snow grooming or snow removal equipment, or any other activity on or within the Mountain Facility as the term is defined within Section II of this regulation or any other activity on or within the Mountain Facility as the term is defined within Section II of this regulation; and
 - f. The sounds of any permitted bells or chimes or the amplified reproductions of the sounds of any bells or chimes played between the hours of eight a.m. to seven p.m., provided that said sounds not exceed eighty decibels.
- 3.8. Amplified sounds. No person other than the personnel of Beaver Creek Security, law enforcement or governmental agencies shall install use, or operate within the Resort a loud speaker or sound amplifying equipment in a fixed or moveable position or mounted upon any sound truck for the purposes of giving instructions, directions, talks, addresses, lectures, or transmits or projects music to any persons or assemblage of persons in or upon any street, sidewalk, park or place or property, except when installed, used or operated in compliance with the following provisions:
- a. In all Residential Zones, no sound amplifying equipment shall be installed, operated or used for commercial purposes at any time.
 - b. Upon that portion of Beaver Creek Mountain within Beaver Creek, as the term is defined in Section II of this regulation, located south of Tract A, Block 1, Beaver Creek Subdivision, the operation or use of sound amplifying equipment for commercial purposes is prohibited between the hours of 12:00 midnight and 8:00 a.m. of the following day.

- c. In the Resort Commercial Zone, the operation or use of sound amplifying equipment for commercial purposes is prohibited between the hours of 9:00 p.m. and 9:00 a.m. of the following day.

The sound emanating from sound amplifying equipment shall be limited in volume and intensity (a) for the time such sound is permitted under this Subsection 3.8 and, (b) at the decibels levels set forth in Subsection 3.4 of this regulation. In no event, shall the sound be loud and raucous or unreasonably jarring, disturbing, annoying, or a nuisance to reasonable persons of normal sensitivity within the area of audibility.

- 3.9. Violation - Penalty. Upon the first occurrence of a violation hereunder, the violator will be notified of the violation and warned that further violations are subject to, among other things, fines. Thereafter, violators of the provisions of this regulation are punishable in any one calendar year by fines of \$250.00 for the second offense, \$500.00 for the third offense, and \$1,000.00 for each further offense. The Owner of any Site from which a noise source in violation of this regulation occurs, and any Lessee of such Site, shall be jointly and severally liable for any fine levied hereunder. In addition, The Resort Company shall be entitled to obtain an injunction prohibiting the violation of this regulation against any Owner or Lessee of a Site on which excessive or unusually loud noise is created more than three times in any 12-month period. The Resort Company shall be entitled to recover all reasonable costs and expenses (including but not limited to reasonable attorneys' fees) incurred by it in connection with any action to obtain such an injunction. The Resort Company may treat each violation of this regulation as a separate violation. Notwithstanding any of the foregoing to the contrary, a violator of the provision of this regulation that concerns noise emitted from a public right of way is subject to a fine upon commission of the first offense, and without warning, in the amount of \$200. Thereafter, a violator of such provision is punishable by fines of \$500.00 for the second offense, \$1,000.00 for the third offense, \$2,500.00 for the fourth offense, and \$5,000.00 for each subsequent offense. In addition, any violation of such provision after the fifth offense, and any failure to pay any fine imposed for violation of such provision within thirty days of its imposition, may result in the loss of access privileges to Beaver Creek.
- 4. It is the intent of the Resort Company that each of the enforcement mechanisms and penalties described in this Noise Regulation shall be in addition to and not in lieu of any other enforcement mechanisms and penalties that may be available to the Resort Company. Without limitation of the foregoing, the Resort Company may seek an injunction to restrain a person from any further violation of this regulation, such remedy being in addition to all other remedies available at law, equity or otherwise.