

ORDINANCE _____
BOARD OF SUPERVISORS, COUNTY OF CALAVERAS
STATE OF CALIFORNIA
July 24, 2012

**AMENDMENT TO TITLE 9 PUBLIC PEACE, MORALS AND WELFARE OF THE
CALAVERAS COUNTY CODE
FOR THE INCLUSION OF CHAPTER 9.02 NOISE CONTROL**

PROJECT: 2012-022 Miscellaneous County Initiated Amendments to Title 9 Public Peace, Morals and Welfare related to the inclusion of Chapter 9.02 Noise Control.

THE BOARD OF SUPERVISORS OF THE COUNTY OF CALAVERAS DOES ORDAIN AS FOLLOWS:

SECTION I:

Adoption of this ordinance is exempt from the California Environmental Quality Act (Pub. Res. Code §21000, et. seq) under Title 14, C.C.R. §15061(b)(3) as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment based on the following findings:

1. Adoption of an ordinance regulating noise through the issuance of citations, fines and criminal remedies will not result in any direct or reasonably foreseeable indirect physical impact to the environment as the intent of the ordinance is to reduce the effects of noise beyond the property lines of the offending property.

SECTION II The Board of Supervisors finds:

1. The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or general welfare of the County.
2. Adoption of the ordinance will result in a reduction in noise impacts to properties adjacent to the offending property
3. Adoption of the ordinance will result in a decrease in the number of offending noise generators due to voluntary compliance with the ordinance.

Evidence: Citizens require protection from disturbing, excessive, offensive and loud noises from any and all sources in the unincorporated area of the county. Currently the county does not have any mechanism to enforce nuisance and noise complaints related to amplified sounds. The establishment of a noise ordinance that includes maximum permissible noise levels will provide thresholds that can be measured by a noise meter device. Having these thresholds will allow the designated enforcement person and/or agency the ability to impose a monetary citation in the event that someone is found to be in direct violation of this chapter.

SECTION III

Public Peace, Morals and Welfare, Title 9, of the Calaveras County Code is hereby amended to add the following:

Chapter 9.02 Noise Control

Section 9.02.010 Legislative Purpose and Intent

- A. Excessive noise is a serious hazard to the public health, welfare and safety of the people of the unincorporated area of the County of Calaveras and is contrary to the public interest by interfering with restful sleep, communication, relaxation and the full use of one's property; and
- B. Inadequately controlled excessive noise is a persistent danger to the health and welfare of the residents of the unincorporated area of the County of Calaveras, and the level and frequency of disturbing, excessive, offensive or unusually loud noise within the jurisdictional limits of the County of Calaveras threatens to increase unless reasonably controlled; and
- C. The creation, making, causing, or continuation of such excessive noise that is prolonged or unusual in time, place and use will detrimentally affect the public health, comfort, convenience, safety, welfare and quality of life of the residents of the unincorporated area of the County of Calaveras; and
- D. It is the intent of this chapter to prevent excessive noise that may jeopardize the health, welfare, or safety of the citizens of the unincorporated area of the County of Calaveras or degrade the quality of their lives, and thereby to promote and secure the protection of the public health, comfort, convenience, safety, welfare, peace and quiet of the unincorporated area of the County of Calaveras and its people from excessive levels of noise.

Section 9.02.020 Definitions

The following definitions apply to this Chapter:

- A. "Ambient sound level" means the total sound pressure in the area of interest including the noise source of interest.
- B. "A-weighting" means the electronic filtering in sound level meters that models human hearing frequency sensitivity.
- C. "Construction" means any site preparation, assembly, construction, erection, repair, enlargement, alteration, conversion or similar action, or demolition of any building, structure or land.
- D. "C"-weighting" means the standard C-weighted frequency response of a sound level meter, which de-emphasizes high frequencies of sound in a manner similar to the human ear for relatively loud sounds.
- E. "dBA" means the A-weighted unit of sound pressure level.

- F. “dBC” means the C-weighted unit of sound pressure level.
- G. “Decibel” or “dB” means the unit of measurement for sound pressure level at a specified location.
- H. “Emergency work” means any work or action necessary to deliver essential services, including, but not limited to, repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.
- I. “Ldn” means the day/night average sound level during a twenty-four (24) hour day.
- J. “Lmax” means the maximum noise level recorded during a single event.
- K. “Measuring instrument” means an instrument such as a sound level meter, integrating sound level meter or dosimeter used to measure sound pressure levels conforming to Type 1 standards as specific in the latest version of American National Standard Institute S1.4-1983.
- L. “Noise” means any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the unincorporated area of the county or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.
- M. “Noise disturbance” means any sound that endangers the safety or health of any person; Disturbs a reasonable person of normal sensitivities; Endangers personal or real property; or Violates the quantitative standards set forth in this chapter.
- N. “Noise control officer” or “NCO” means the noise control officer of the County of Calaveras as designated from time to time by the Calaveras County Board of Supervisors, or a duly authorized designee. The Board of Supervisors designates the Calaveras County Sheriff and Code Compliance as the noise control officer of the County of Calaveras.
- O. “Person” means any individual, corporation, company, association, society, firm, partnership, or joint stock company, but shall not include the County of Calaveras.
- P. “Plainly audible” when describing a noise or sound means any amplified sound or noise that can be clearly heard by a person with normal hearing faculties such that a reasonable person would believe such sound or noise unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others in violation of this chapter. The term does not require the clear appreciation of specific words of speech or specific words of a song.
- Q. “Public right-of-way” means any street, avenue, boulevard, road, highway, sidewalk, or alley that is leased to or owned by a government entity, licensed to a government entity, or subject to an easement granted to a government entity either expressly or by implication.

- R. "Public space" means any real property or structures thereon that is owned, leased, or controlled by a government entity.
- S. "Pure tone" means any sound that can be judged as a single pitch or set of single pitches by the NCO.
- T. "Real property line" means the imaginary line, including its vertical extension, which separates one parcel of real property from another. This includes property lines that extend into and are covered by water.
- U. "Sound level" means the instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on slow integration speed, unless otherwise noted.
- V. "Sound pressure level" means twenty (20) multiplied by the logarithm, to the base 10, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.
- W. "Vessel" means any vessel which is subject to registration with the department of motor vehicles and which is manufactured or used for non-commercial purposes, or is leased, rented, or chartered to another for non-commercial use to transport persons or cargo on the water. A vessel shall also include any towed/non-towed floatable platform or non-motorized vessel.
- X. "Weekday" is any day, Monday through Friday that is not a legal holiday.

Section 9.02.030 Sound Level Limitations

- A. No person shall cause, allow, or permit the operation of any sound source on property or any public space or public right-of-way in such a manner as to create a sound level that exceeds the levels listed in Table 1. If all provisions of Section 9.02.070 E. are complied with, this section shall not apply to construction equipment used in connection with construction operations.

**Table 1
EXTERIOR NOISE LEVEL STANDARDS**

Land Use Type*	Sound Level (A-Weighted) Decibels	
	7:00 am – 10:00 pm	10:00 pm – 7:00 am
Residential	55	45
Commercial	60	50
Industrial (Industry)	70	55

*As defined in Title 17 of the Calaveras County Code.

Each of the sound level standards specified in Table 1 shall be reduced by five dBA for

pure tone noises. However, in no case shall the exterior noise level standard be lower than the ambient sound level plus 5 dBA.

Section 9.02.040 Sound Measurement Procedures

Whenever portions of the chapter prohibit sound over a certain decibel limit, measurements shall be made with a Type 1 utilizing the A-weighting scale and the slow meter response as specified by the American National Standards Institute (A.N.S.I.). Measurements recorded shall be taken so as to provide a proper representation of the sound being measured, following the standard operating procedures, as set forth below. The measurement shall be performed by the Noise Control Officer trained in use of the sound level meter.

- A. Calibration of the measurement equipment utilizing an acoustical calibrator meeting ANSI Type 1 standard shall be performed prior to recording any sound data. Calibration equipment shall be certified annually.
- B. Measurement of sound shall be taken from the property line of the nonresidential property or residential property where the sound is received towards the source of the sound.
- C. If the measurement location is on a boundary between two different land uses (i.e. residential and commercial), the noise level limit applicable to the lower noise zone shall apply.
- D. The measuring instrument shall be placed at a minimum height of three feet above the ground. The microphone shall be held at arm's length, pointed at the source of the noise, and at the angle recommended by the measuring instrument's manufacturer.
- E. The monitoring session should last for a period of time sufficient to ensure the sound levels measured are typical of the source of noise in question.
- F. The report for each measurement session shall include:
 - 1. Type of noise source
 - 2. Location of noise source relative to complainant's property or when the complaint is anonymous, relative to the adjacent property(ies) most impacted by the location of the noise source.
 - 3. Time period during which noise source is considered by complainant to be intrusive
 - 4. Total duration of noise proposed by noise source
 - 5. Date and time of noise measurement copy
 - 6. The ambient sound level in dBA with the sources in question operating
 - 7. The ambient sound level in dBA without the sources in question operating

Section 9.02.050 Specific Noise Regulations

The following activities are specifically prohibited:

- A. Vessel or Motor Vehicle Sound Systems. No person shall operate a vessel or motor vehicle sound system, whether affixed or not, between the hours of 10:00 pm and 7:00 am, such that the sound system is plainly audible inside any inhabited dwelling. No

person shall operate a vessel or motor vehicle sound system, whether affixed or not, at any other time such that the sound system is plainly audible at a distance greater than fifty feet from the vessel or vehicle.

- B. Audio Equipment. No person shall operate any audio equipment, whether portable or not, between the hours of 10:00 pm and 7:00 am such that the equipment is plainly audible inside an inhabited dwelling other than a dwelling in which the equipment may be located. No person shall operate any audio equipment, whether portable or not, at any other time such that the noise from the equipment exceeds the dBA standards, as specified in Table 1, when measured at the property line.
- C. Sound-Amplifying Equipment and Live Music. No person shall install, use or operate sound-amplifying equipment, or perform, or allow to be performed, live music unless the sound emanating from the sound-amplifying equipment or live music shall not exceed the dBA standards, as specified in Table 1, when measured at the property line. To the extent these requirements conflict with any conditions of approval attached to an underlying land use permit, the conditions on the land use permit prevail.
- D. Except as provided for in subsection 9.02.070B below, using or operating any loudspeaker, public address system, or similar device between 10:00 p.m. and 7:00 a.m. the following day is prohibited.
- E. Any noise, commotion or sound resulting from a party between the hours of 10:00 p.m. and 7:00 a.m. of the following day which creates sound in violation of Section 9.02.030 of this chapter. For purposes of this section, "party" means a gathering for social or entertainment purposes at a private residence or other location but does not include sound generated by a valid commercial use such as a bar or restaurant that is in compliance with all other applicable requirements of local, state and federal laws and regulations.

Section 9.02.060 Exemptions

The following are exempt from this Chapter:

- A. Sound from school athletic and school entertainment events.
- B. Sound from emergency signaling devices or for the purpose of alerting persons to the existence of an emergency or generated in the performance of emergency work or involving the execution of the duties of duly authorized governmental personnel and others providing emergency response to the general public, including but not limited to sworn peace officers, emergency personnel, utility personnel, and the operation of emergency response vehicles and equipment;
- C. Sound from an exterior burglar or septic alarm of any building provided such burglar alarm shall terminate its operation within five minutes of its activation.
- D. Sound from church bells and chimes when a part of a religious observance or service.
- E. Sound from construction activity, provided that all construction in or adjacent to residential areas shall be limited to the daytime hours between seven a.m. and six p.m.,

unless otherwise subject to conditions in a valid discretionary land use permit that addresses construction noise associated with the project.

- F. Sound from gunfire occurring while hunting or target shooting consistent with all state laws on private property.
- G. Sound from situations within the jurisdiction of the Federal Occupational Safety and Health Administration.
- H. Sound from situations within the jurisdiction of the Federal Aviation Administration.
- I. Sound from any land use for which a valid discretionary land use permit, such as a conditional use permit or an administrative use permit, has been issued by the county which regulates sound impacts specific to the use and which are separate and independent of this chapter.
- J. Sound from existing legal non-conforming uses, or existing permitted commercial, industrial or mining uses that are in compliance with all applicable laws, rules and regulations and which do not significantly change in existing on-site activities, or result in a change in the number of days or daily hours of operation;
- K. Sound generated from any county-sponsored or county-approved events or celebrations.
- L. Sound from any agricultural operations subject to Chapter 14.02 of this code.
- M. Sound from any mining operation in conformance with its SMARA provisions.
- N. Sound from any activities subject to Chapter 6.10 of this code.

Section 9.02.070 Violation-Enforcement

- A. The first and second conviction within a two year period of a violation of any provision of this chapter is an infraction.
- B. A third or subsequent conviction of a violation of this chapter by any person within twenty four (24) months from a conviction for violating any provision of this chapter or that forfeits bail in connection with a prior violation of this chapter is a misdemeanor.
- C. All violations of this chapter constitute a public nuisance, which, in addition to or in lieu of any other remedies in this section, may be abated in any manner set forth in Chapter 8.06 of this code, including but not limited to, abatement or issuance of administrative citations.

Section 9.020.080 Amount of Fines

- A. The fine for a code violation imposed pursuant to this section shall be one hundred and fifty dollars (\$150.00) for the first conviction within a twenty four (24) month period, and two hundred and fifty dollars (\$250.00) for the second conviction within a twenty four

(24) month period. The fine amounts shall be cumulative where multiple citations are issued.

- B. A misdemeanor conviction shall be punishable by fine of not more than one thousand dollars, or by imprisonment not to exceed one year, or by both such fine and imprisonment.
- C. A late payment charge shall be paid to the county in the amount of ten percent (10%) of the total fine imposed, if the fine has not been paid in full to the county on the date on which it is due.
- D. The fine shall be paid to the county within thirty (30) days from the date of the administrative citation in accordance with the payment instructions printed on the citation form.
- E. Payment of a fine under this section shall not excuse or discharge any continuation or repeated occurrence of the code violation that is the subject of the administrative citation.

Section 9.02.090 Recovery of Administrative Costs

- A. The NCO the provisions of this chapter shall maintain records of all administrative costs associated with enforcement and enforcement proceedings and shall recover such costs from the property owner or person in control of the property from which the sound source originates, as provided herein.
- B. The hourly rate charged for staff time shall be the weighted hourly rate.
- C. Administrative costs shall be defined as all staff time expended which is reasonably related to enforcement and shall include but not be limited to investigation, site inspection, monitoring, preparation of summaries, reports, correspondence, telephone contacts and meetings with affected parties.
- D. If it is determined by the NCO that a violation of the provisions of this chapter exists, the NCO shall give notice to the owner of record or any person in control of the property from which the sound source is originating. The notices shall state the existence of the violation, the County's intent to charge the property owner for all administrative costs associated with enforcement, and the owner's right to object to the imposition of such costs. The notices shall be in substantially the following form:

NOTICE OF VIOLATION

To: Name or Record Owner or Person in Control
Address

The Noise Control Officer determined that conditions exist at the property located at (specify address) that violate the provisions of Chapter 9.02 of the Calaveras County Code, "Noise Control". You must correct or remove such violation or violations no later than (specify date). Failure to correct or remove the violation by the date specified above will result in all cumulative administrative costs being charged against you in accordance with the provisions of Calaveras County Code Section 9.02.090. If the violation is corrected or removed by the date specified, no administrative costs will be assessed.

FINAL NOTICE

To: Name or Record Owner or Person in Control
Address

You were notified on (specify date) that a violation or violations of the provisions of Chapter 9.02 of the Calaveras County Code, "Noise Control", exists on property located at (specify address). You failed to correct or remove the violation within the time allotted in the prior notice given to you. You are hereby notified that as a part of the resolution of this matter, you will be required to pay an amount equal to all cumulative administrative costs incurred in the enforcement proceeding. Written notice of the charges will be given. You have the right to contest the amount charged. To contest the amount due, you must file a Notice of Contest with the Noise Control Officer by (specify date).

- E. At the conclusion of the case, which shall occur upon termination of the enforcement action, the noise control officer shall send a written notice of charges to the property owner or person in control setting forth a summary of time and hourly charges. The notice of charges shall be in substantially the following form:

NOTICE OF CHARGES

To: Name or Record Owner or Person in Control
Address

The Noise Control Officer determined that the administrative costs incurred in the enforcement proceedings and actions taken in regard to the violation or violations of Chapter 9.02 of the Calaveras County Code existing on the property located at (specify address) are \$.

If you wish to contest these charges, you must file a Request for Hearing together with an appeal fee with the Noise Control Officer by (specify date).

IF YOU FAIL TO TIMELY FILE A REQUEST FOR HEARING, YOUR RIGHT TO CONTEST THE ABOVE CHARGES WILL BE DEEMED WAIVED AND YOU WILL BE LIABLE TO THE COUNTY FOR THESE CHARGES, WHICH MAY BE RECOVERED IN A CIVIL ACTION FILED BY THE COUNTY IN A COURT OF COMPETENT JURISDICTION.

Dated:

Noise Control Officer:

- F. If (a) no request for hearing is timely filed, or (b) after a hearing the noise control officer affirms the validity of the costs, the property owner or person in control and possession shall be liable to the county in the amount stated in the notice of charges or any lesser amount as determined by the noise control officer. These costs shall be recoverable in a civil action in the name of the county in any court of competent jurisdiction. Any property owner, or other person having possession and control thereof, receiving a notice of charges shall have the right to contest the amount of the charges in accordance with the following procedure:
 1. A request for hearing shall be filed with the noise control officer within ten (10) days of the date appearing on the notice of charges. The form for request for hearing may be obtained from the noise control officer. An appeal fee shall be charged by the noise control officer for filing the request for hearing.
 2. Within thirty (30) days of the filing of the request for hearing and payment of the appeal fee, and on ten (10) days written notice to the property owner or other person having possession and control thereof, the noise control officer shall hold a hearing

on the objections stated in the request for hearing, and determine the validity of the costs stated in the notice of charges and the objections thereto.

3. In determining the validity of the costs, the noise control officer shall consider whether the costs stated in the notice of charges are reasonable under the circumstances. Factors to be considered include, but are not limited to, the following: whether the present owner created the violation; whether there is a present ability to correct the violation; whether the owner moved promptly to correct the violation; the degree of cooperation provided by the owner; whether reasonable minds differ as to whether a violation exists.
4. The noise control officer's decision is final and there is no further appeal within the county. Any further review of the noise control officer's decision must be pursued in a court of law.

Section 9.02.100 Conflicts with other laws

The provisions of this chapter shall not be deemed to supersede or repeal other existing laws which are designed to control public nuisances or disturbances, such as noise.

Section 9.02.101 Severability

If any clause, provision, sentence or paragraph of this chapter or the application thereof, is deemed to be invalid as to any person, entity, establishment, or circumstance, such invalidity shall not affect the other provisions of this chapter which shall remain in effect, and to this end, it is hereby declared that the provisions of this chapter are severable.

SECTION IV:

This Ordinance shall take effect and be in force at the expiration of thirty (30) days after its passage, and it shall become effective on the 24th day of August 2012, and before the expiration of fifteen (15) days after its passage, it shall be published in the County of Calaveras.

PASSED AND ADOPTED by the Board of Supervisors of the County of Calaveras on a motion by Supervisor _____ and seconded by Supervisor _____ at a regular meeting held on the 24th day of July 2012, by the following vote of said Board:

AYES

NOES:

ABSENT:

ABSTAIN:

Chair, Board of Supervisors
County of Calaveras

ATTEST:

County Clerk and Ex-Officio Clerk of
the Board of Supervisors