

Draft Final Solano County Noise Ordinance

County Code

Chapter 28.1

Chapter 28.1 Noise Ordinance

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Article I. General Provisions

Section 28.1-10 Definitions

Agricultural operation. Any use defined as agriculture, agricultural education, agricultural homestay, agricultural processing, agricultural recycling or composting, agricultural research, agricultural trucking, agricultural warehousing or winery in Chapter 28, Zoning Regulations, of this code.

Agricultural zone or area. The A-40, A-80, A-20, A-160, A-SM-80, A-SM-160, A-SV-20, W, or MP zoning district or any area or parcel within such zoning district.

Ambient sound level. The sound level of the all-encompassing sound associated with a given environment, being usually a composite of sound from many sources and excluding the specific sound under investigation. For measurement purposes, the ambient sound level is equal to the A-weighted sound pressure level exceeded 90 percent of the time for 60 minutes (L₉₀).

A-weighted sound level (L_a, dB(A), dBA). The sound pressure level in decibels as measured on a sound level meter using the A-weighting network as specified in American National Standards Institute documents for sound level meters. The level so read is postscripted dB(A) or dBA.

Commercial zone or area. The C-H, C-N, C-R, C-R-L, C-S, ATC, or ATC-NC zoning district or any area or parcel within such zoning district.

Construction. Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or within private rights-of-way, structures, utilities, or similar property.

Cumulative period. An additive period of time composed of individual time segments which are either continuous or interrupted.

Decibel. A unit measure of sound (noise) level used to express the relative intensity of sounds on a scale from zero for the average least perceptible sound to about 130 for the average pain level; also a unit for expressing the ratio of two amounts of electric or acoustic signal power equal to 10 times the common logarithm of this ratio.

Development. The uses to which the land shall be put, the buildings to be constructed on it, and all alterations of the land and construction incident thereto.

Domestic animals. Includes dogs, cats, birds excepting fowl, and other animals kept primarily for the purpose of personal enjoyment.

Industrial zone or area. The M-G-1/2, M-G-3, M-L, I-WD, or I-AS zoning district or any area or parcel within such zoning district.

Intrusive noise. A sound which has a variance in character such as audibility, dissonance, duration, loudness, tonality, pitch, or timbre and is perceived adversely compared to the character of the environment in the absence of that sound.

Noise control officer. The Director of the Department of Resource Management or his or her designee.

Noise-sensitive uses. Receiving premises used for nonresidential purposes that are sensitive to noise, such as hospitals, hotels, churches, community care facilities, and schools.

Off-road vehicle. Any motorized track or wheeled vehicle such as, but not limited to, racing motorcycles, trail bikes, minibikes, dune buggies, or all-terrain vehicles, designed or used for ground travel over private or public natural terrain.

Residential zone or area. The RR-2-1/2, RR-5, RR-10, R-TC-1AC, R-TC-20, R-TC-15, R-TC-10, R-TC-6, R-TC-5, R-TC-D-4, R-TC-D-6, R-TC-MF, or R-TC-MU zoning district or any area or parcel within such zoning district.

Sound-amplifying equipment. Any machine or device used for the amplification of the human voice, music, or any other sound. Shall not include standard automobile radios when used and

heard only by the occupants of the vehicle in which the automobile radio is installed. Sound-amplifying equipment, as used in this chapter, shall also not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

Supplementary definitions of technical terms. Definitions of technical terms not defined herein shall be obtained from the American National Standards Institute's Acoustical Terminology S1-1-1971, or any revision thereof.

Article II. Noise Restrictions

Section 28.1-20 General Noise Restrictions

- (a) It is unlawful for any person to willfully or negligently make or continue, or cause to be made or continued, any noise or sound which exceeds the allowed decibel level identified in this chapter or which is offensive to persons of normal sensitivities.
 - (1) Noise shall be deemed to be offensive to persons of normal sensitivities if it does any of the following:
 - a. Causes, or tends to cause, an adverse effect on the public health and welfare.
 - b. Endangers or injures people.
 - c. Endangers or injures personal or real property.
 - (2) Noise may be determined to be offensive to persons of normal sensitivities based on a consideration of the following factors:
 - a. Sound level of noise.
 - b. Sound level of ambient noise.
 - c. Whether the nature of the noise is usual or unusual.
 - d. Proximity and timing in relation to any noise-sensitive uses or sleeping areas within occupied dwellings.
 - e. Nature, use, and zoning of the land from which the noise emanates, and the nature, use, and zoning of the land affected.
 - f. Number of persons affected by the noise source.
 - g. Time of day or night.
 - h. Duration and tonal content.
 - i. Whether noise is continuous, recurrent, or intermittent.
- (3) Notwithstanding subsection (a) and as established in Section 2.2-30 of this code, noise caused by agricultural operations conducted or maintained for commercial purposes in

agricultural zones or areas and in a manner consistent with proper and accepted customs and standards shall not be subject to the noise limits established in this section.

Section 28.1-30 Interior Noise Standards

- (a) The interior noise standards for residential dwelling units within residential zones or areas for noise generated by sources outside the dwelling unit are presented in Table 28.1-30.

Table 28.1-30: Interior Noise Standards

| Land Use | Time Interval | Allowable Interior Noise Level (dBA) |
|-------------|-----------------|--------------------------------------|
| Residential | 7 p.m. – 7 a.m. | 45 |
| | 7 a.m. – 7 p.m. | 55 |

- (b) Noise from any source on a property within a residential zone or area shall not cause the noise level measured inside a dwelling unit on a neighboring property to exceed the noise standard specified in Table 28.1-30 for a cumulative period of more than 5 minutes in any hour.

Section 28.1-40 Exterior Noise Standards

- (a) The maximum permissible sound levels by receiving land use shall apply:
- (1) The exterior noise standards for residential and agricultural zones or areas are presented in Table 28.1-40.

Table 28.1-40: Noise Level Permissible by Receiving Land Use

| Zone | Noise Level (dBA) | |
|--------------|-------------------|-----------------|
| | 7 a.m. – 7 p.m. | 7 p.m. – 7 a.m. |
| Agricultural | 55 | 50 |
| Residential | 55 | 50 |

- (2) If the measured ambient noise level at the time of a complaint investigation exceeds the identified permissible noise level for that zone, the allowable noise standard shall be the ambient noise level.
- (3) Except as provided in subsection (b) of Section 28.1-30, noise from any source shall not cause the noise level measured on a property in an agricultural or residential zone or area to exceed the exterior noise levels specified in Table 28.1-40 or in subsection (2), whichever is greater, for a period of more than 5 minutes in any hour.

Section 28.1-50 Specific Noise Regulations

In addition to the standards established in Sections 28.1-30 and 28.1-40, noise created by specific activities shall be subject to the following additional regulations.

(a) Construction or Demolition

- (1) Construction and demolition activities within a residential district or within a radius of 500 feet are allowed only during the times specified in Table 28.1-50.
- (2) Except as set forth in subsection (4) of this section, the noise created by construction activity shall not cause:
 - a. The noise level to exceed the noise standards specified in Table 28.1-40 of this chapter, for the land use where the measurement is taken, plus 20 dBA, for a period of more than 2 minutes; or
 - b. A maximum noise at the receiving property line of more than 90 dBA at any time.
- (3) Any construction that exceeds noise levels established in Sections 28.1-30 or 28.1-40 shall occur between the hours of 9 a.m. and 4 p.m., Monday through Friday.
- (4) Construction or demolition activity during the times otherwise prohibited by this section may be allowed as described in this subsection if it is found to be in the public interest.
 - a. A request for such allowance shall be in writing and shall set forth in detail facts showing that the public interest will be served by the grant of such allowance.
 - b. If the allowance is being requested in connection with construction or demolition activities to be undertaken in connection with a land division, use permit, or other discretionary entitlement, the request shall be submitted as part of the application for such entitlement and shall be acted upon by the official or decision-making body taking action on such application, after considering the recommendation of the noise control officer.
 - c. If the allowance is being requested in connection with a building permit, demolition permit, or grading permit and is not in connection with a discretionary entitlement, the request shall be considered and acted on by the noise control officer before the construction or demolition permit has been issued.

Table 28.1-50: Time Limits for Noise Associated with Commercial Construction Activities

| Day of Week | Time Frame |
|------------------|-----------------|
| Monday–Friday | 7 a.m. – 6 p.m. |
| Saturday | 8 a.m. – 5 p.m. |
| Sunday | Not allowed |
| Federal Holidays | Not allowed |

(b) Home Repair and Maintenance

Time restrictions on construction and demolition activities do not include the use of home power tools or yard maintenance equipment used by the owner or a resident of the premises if used between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, and 8:00 a.m. and 6:00 p.m. Saturday and Sunday.

(c) Loudspeakers, Amplified Sound

- (1) Using or operating for any purpose any loudspeaker, loudspeaker system, or similar device, such that the sound creates a noise disturbance, or at any time violates the provisions of Sections 28.1-30 and 28.1-40, is prohibited.
- (2) Special event facilities authorized pursuant to Chapter 28 of this code shall comply with the provisions of Section 28.1-40 unless a higher noise standard is approved as part of the use permit for the facility, provided the maximum noise limit on a receiving property line shall not exceed 70 dB [daytime] and 60 dB [nighttime].
- (3) Private gatherings shall meet the provisions of Section 28.1-40.

(d) Motorized Off-Highway Vehicles Operating Off Public Right-of-Way

Operating or causing to be operated any motorized off-highway vehicle outside of a public right-of-way in a manner such that the sound levels emitted will violate the provisions specified in Sections 28.1-30 and 28.1-40 is prohibited. This section will apply to all motorized off-highway vehicles, whether or not duly licensed and registered, including but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, amphibious craft, campers, dune buggies, and motorboats.

(e) Radios, Television Sets, Musical Instruments, Etc.

Operating, playing, or permitting the operation or playing of any radio, television set, music-playing device or instrument, or similar device which produces or reproduces sound in such a manner as to at any time violate the provisions of Sections 28.1-30 or 28.1-40, is prohibited.

Section 28.1-60 Exemptions

- (a) The following activities and noise sources are exempt from the provisions of this chapter:
- (1) Emergency sirens.
 - (2) Any operation or action required to respond to an emergency.
 - (3) Emergency construction or maintenance work conducted by public agencies or their contractors which is necessary to maintain the health and safety of the public.
 - (4) Agricultural activities.
 - (5) Those commercial and industrial operations in existence prior to the date of adoption of the ordinance codified in this chapter, if in compliance with local zoning statutes, shall be granted a five-year period from the date of adoption within which to comply with the provisions of this chapter. If, at the end of the five-year period, it can be shown that compliance with the provisions in this chapter constitutes a hardship in terms of technical and economic feasibility, a waiver may be requested following procedures established in Section 28.1-80 of this code until such time as compliance may be effected.
 - (6) Any activity which regulation thereof has been preempted by state or federal law.

Article III. Administration

Section 28.1-70 Measurement Procedures

- (a) Upon receipt of a complaint, the noise control officer or the sheriff may investigate and assess whether the alleged noise levels exceed the noise standards set forth in this chapter. The investigation may consist of a measurement and the gathering of data required to comply with such code section, and a deadline date for such compliance, and shall warn that if a subsequent inspection or sound level measurement discloses the continued existence of such violation, further action will be taken to adequately define the noise problem, and shall include the following:
- (1) Type of noise source.
 - (2) Location of noise source.
 - (3) Time period during which the noise source was reported as being in violation of County standards.
 - (4) Duration of noise produced by noise source.
 - (5) Date, time, and precise location of the noise measurement survey.
- (b) Utilizing the A-weighting scale of the sound level meter and the "slow" meter response, the noise control officer shall measure the noise level at a position(s) at the complainant's

property line. In general, the microphone shall be located 4 to 5 feet above the ground and 10 feet or more from the nearest reflective surface, where possible. However, in cases where another elevation is appropriate, the latter shall be utilized.

- (c) Interior noise measurements shall be made within the affected residential unit. The measurements shall be made at a point at least 4 feet from the wall, ceiling, or floor nearest the noise source, with windows in the normal seasonal configuration.

Section 28.1-80 Waiver Procedure

- (a) The noise control officer is authorized to grant a waiver for a period of not more than five years from any provision of this chapter for any activity or noise source in existence and lawfully operating on (**ordinance effective date**), subject to limitations as to area, noise levels, time limits, and other terms and conditions as the noise control officer determines are appropriate to protect the public health, safety, and welfare from the noise disturbance. A waiver shall not be issued for a period exceeding five years.
- (b) Any person seeking a waiver pursuant to this chapter shall file an application with the noise control officer.
- (c) An application for waiver shall include all of the following:
 - (1) Information which demonstrates that bringing the source of the sound or activity for which the waiver is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, the community, or other persons.
 - (2) Payment of the application fee established by resolution of the Board of Supervisors.
 - (3) Such additional information as the noise control officer may require.
 - (4) In addition to the required information and fee, the applicant may support the application with an assessment of the technical and financial feasibility of reducing the noise source to the standards of otherwise required by this chapter. The assessment shall be prepared by an acoustical engineer.
- (d) A separate application shall be filed for each parcel on which a fixed noise source(s) is in existence.
- (e) The noise control officer may summarily deny an application for a waiver that is not supported with a technical and financial feasibility assessment. If the noise control officer does not summarily deny the application, the application shall be set for public hearing.
 - (1) Notice of a public hearing on an application for waiver shall be mailed to the owners of all real property located within 300 feet of the parcel on which the noise source is located at least 15 days prior to the hearing.

- (2) The public hearing shall be conducted by the noise control officer. At the hearing, any person who would be adversely affected by the granting of the requested waiver may object orally or in writing and provide any information to support said objection.
- (f) In determining whether to grant or deny the application, the noise control officer shall balance the hardship on the applicant, the community, and other persons of not granting the waiver against the adverse impact on the health, safety, and welfare of persons affected by the noise disturbance, as well as any other adverse impacts that may result if the waiver is granted. If a technical and financial feasibility assessment has not been submitted by the applicant, the noise control officer may continue the hearing to allow the applicant to submit such an assessment prior to the noise control officer rendering a decision.
- (g) If the waiver is granted, it shall be conditioned in such a way as to protect the public health, safety, and welfare from the noise source. In determining the conditions to be imposed, the noise control officer shall, at a minimum, consider the magnitude of the nuisance that is or will be caused by the offensive noise; the uses of the property within the area that will be affected by the noise; operations carried on under existing nonconforming rights or previously approved conditional use permits or zoning variances; and the economic factors related to the age and useful life of the equipment that is creating the noise or will create the noise.
- (h) A waiver shall not be granted unless all conditions proposed by the noise control officer are agreed to by the applicant. All waivers granted shall provide that noncompliance with any condition of the waiver shall be grounds for permit revocation in accordance with Section 28.1-90.
- (i) In any case where the conditions of a waiver have not been or are not being substantially complied with, or where the noise source has been abandoned, the noise compliance officer may initiate proceedings to revoke the waiver.
 - (1) Notice of noise control officer's intention to revoke the waiver shall be given to the owner or the noise source or the property at least 15 days prior to the noise control officer's revocation hearing.
 - (2) Formal rules of evidence shall not apply to revocation proceedings.
 - (3) After conclusion of the hearing, the noise control officer may revoke the waiver if it is found that the terms and conditions of the waiver have not been substantially complied with or that the noise source has been abandoned, or may modify the waiver by imposing new or modified conditions to address the previous noncompliance.
- (j) The applicant shall be notified by certified mail within 10 working days of the action taken on the application for waiver and of any conditions imposed.
- (k) Any appeal of a decision of the noise control officer shall be made to the Planning Commission pursuant to Section 28.112(B) of this code.

Section 28.1-90 Enforcement

- (a) The provisions of this chapter shall be enforced by the noise control officer and/or the sheriff or his or her designee unless otherwise expressly provided.
- (b) For the purpose of administering and enforcing this chapter, the noise control officer shall have, in addition to any other authority, the power to:
 - (1) Conduct or cause to be conducted studies, monitoring, and inspections related to noise, including cooperative investigation with private or public agencies, and the application for and acceptance of grants.
 - (2) Conduct programs of public education regarding the cause, effect, and methods of abatement and control of noise, as well as the actions prohibited by this chapter and the procedures for reporting violations.
 - (3) Train field inspectors and other technical personnel concerned with noise abatement.
 - (4) Coordinate and cooperate with other local, state, and federal departments and agencies regarding noise-control activities.
 - (5) Conduct public and private project review and sound analysis on projects which are likely to cause noise in violation of this chapter and which are subject to mandatory review or approval by other departments.
 - (6) Inspect private property or place upon presentation of proper credentials and at any time when granted permission by the owner, or by some person with apparent authority to act for the owner. When permission is refused or cannot be obtained, an inspection warrant may be obtained from a court of competent jurisdiction upon showing of reasonable belief to believe that a violation of this chapter may exist. Such inspection authority may include the conduct of any necessary tests.
 - (7) Prior to any zoning change, review the potential noise impact of the zoning change by identifying existing and projected noise sources and the associated noise levels, and recommend the imposition of adequate control measures on noise sources identified.
- (c) Violations of this chapter are deemed to be a public nuisance and may be enforced administratively, civilly or criminally at the sole option of the noise control officer or sheriff.
- (d) If the noise control officer or the sheriff has reason to believe that any provision of this chapter has been violated, the noise control officer or sheriff may cause written notice to be served upon the alleged violator, if known, as well as the property owner by U.S. postal mail or personal service. Such notice shall specify the provision(s) of this chapter alleged to have been violated and the facts alleged to constitute a violation, including dBA readings, and may include a corrective action to be taken within a specified time.
 - (1) Penalties for any such violation will be a fine of \$250 for the first violation, with an additional \$250 for each additional day the violation continues. Each day such violation

is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

- (e) Notwithstanding any other provision of this code, any person creating or causing to create such a disturbance so as to be in violation of this code shall be guilty of an infraction upon conviction thereof in a criminal court of law. A person who violates the provisions of this subsection shall be deemed to be guilty of a separate offense for each day, or portion thereof, during which the violation continues or is repeated.