

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. "Background sound level" means the total sound pressure level in the area of interest excluding the noise source of interest.
- D. "Construction" means any site preparation, assembly, construction, erection, repair, enlargement, alteration, conversion or similar action, or demolition of any building, structure or land.
- E. "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.
- F. "dBA" means the A-weighted unit of sound pressure level.
- G. "dBC" means the C-weighted unit of sound pressure level.
- H. "Decibel" or "dB" means the unit of measurement for sound pressure level at a specified location.
- I. "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.
- J. "Ldn" means the day/night average sound level during a twenty-four (24) hour day.
- K. "Lmax" means the maximum noise level recorded during a single event.
- L. "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.

- M. "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.
- N. "Noise disturbance" means any sound that:
 - a. Endangers the safety or health of any person;
 - b. Disturbs a reasonable person of normal sensitivities;
 - c. Endangers personal or real property; or
 - d. Violates the quantitative standards set forth in this chapter.
- O. "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 as the noise control officer of the County of Calaveras.
- P. "Person" means any individual, corporation, company, association, society, firm, partnership, or joint stock company, but shall not include the County of Calaveras.
- Q. "Pleasure motor boat" means any boat which is powered by an in-board, out-board or in-board/out-board motor and is used for recreational purposes, including boats that are or may be used commercially to support recreational use. This includes, but is not limited to, commercial fishing and sightseeing. A vessel competing in a regatta, boat race, or trial runs pursuant to the terms of a duly authorized government permit shall not be considered a "pleasure motor boat" for purposes of this article.
- R. "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.
- S. "Public space" means any real property or structures thereon that is owned, leased, or controlled by a government entity.
- T. "Pure tone" means any sound that can be judged as a single pitch or set of single pitches by the NCO.

- U. "Real property line" means the imaginary line, including its vertical extension, which separates one parcel of real property from another.
- V. "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.
- W. "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.
- 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, suffer, 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 on property or any public space or public right-of-way in such a manner as to create a sound level that exceeds the background sound level by at least 10 dBA during daytime hours (seven a.m. to ten p.m.) and by at least 5 dBA during nighttime hours (ten p.m. to seven a.m.) when measured at or within the real property line of the receiving property, which shall constitute a noise disturbance, provided, however, that if the background sound level cannot be determined, the absolute sound level limits set forth in Table 1, Maximum Permissible Sound Levels, provided the if the sound source in question is a pure tone, the limits of Table 1 shall be reduced by 5 dBA.

Table 1

Maximum Permissible Sound Levels

If Residential Property	If Other Than Residential Property
65 dBA or 75 dBA Lmax	70 dBA or 80 dBA Lmax

Table 1
SOUND LEVEL STANDARDS (On-site)

Sound Level Descriptor	Daytime (7 am to 10 pm)	Nighttime (10 pm to 7 am)
Hourly Leq, dB	55	45
Maximum level, (Lmax) dB	70	65

Each of the sound level standards specified in Table 1 shall be reduced by five dB for simple tone noises, consisting of speech and music. However, in no case shall the sound level standard be lower than the ambient sound level plus five dB.

- B. If the intruding sound source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient sound level can be measured, the sound level measured while the source is in operation shall be compared directly to the sound level standards of Table 1.

Still under review:

Pleasure Motor Boat Noise.

1. *The following measurements shall be conducted only by an enforcement officer or by persons qualified by training to perform these measurements, acting in the presence of an enforcement officer. Operating manuals or other literature provided by the sound level meter manufacturer should be consulted for both recommended operation of the instrument, and precautions to be observed. A field calibration of the sound level meter shall be performed immediately before and after each test sequence.*

3. *Pleasure motor boat engines manufactured before January 1, 2002 shall not exceed a sound level of 90 dBA Leq as measured adjacent to the exhaust outlets by a sound level meter*

utilizing a water-based measurement testing procedure consistent with the Society of Automotive Engineers (SAE) International Marine Technical Committee testing procedures SAE J2005 and SAE J1970 or successor procedures which are recognized by the American National Standards Institute. Pleasure motor boat engines manufactured on or after January 1, 2002 shall not exceed a level of 88 dBA Leq as measured adjacent to the exhaust outlets by a sound level meter utilizing a testing procedure consistent with the Society of Automotive Engineers (SAE) International Marine Technical Committee testing procedures SAE J2005 and SAE J1970 or successor procedures which are recognized by the American National Standards Institute. Specific testing procedures shall be as prescribed by duly adopted policies and procedures of the environmental health department.

4. Sound limits and measurements.

a. Pleasure motor boat engines shall not exceed a sound level of 75 dBA as measured by a sound level meter utilizing a shoreline-based measurement testing procedure consistent with the Society of Automotive Engineers (SAE) International Marine Technical Committee testing procedures SAE J2005 and SAE J1970 or successor procedures which are recognized by the American National Standards Institute. Specific testing procedures shall be as prescribed by duly adopted policies and procedures of the county.

b. Measurement of a sound level that meets the criterion set in subdivision A does not preclude the conducting of a test of sound level to determine compliance with subsection (a) (3), of this section.

Section 9.02.040 Sound Measurement procedures.

A. Compliance with this article shall be determined using methodology described in this section. Sound measurement, except as otherwise provided in this article, shall be made with a sound level meter using the A-weighting network at slow meter response, except that fast meter response shall be used for impulsive type sounds.

B. Calibration of the measurement equipment utilizing an acoustical calibrator meeting American National Standards

Institute (ANSI) Type 1 standard shall be performed immediately prior to recording any sound data. Calibration equipment shall be certified annually.

C. Exterior sound levels shall be measured at the property line or at any location within the property of the affected sensitive receptor. Sound measurements shall be taken in such a manner and location so that it can be determined whether sound level standards are exceeded at the property line. Where practical, the microphone of the sound level meter shall be positioned three to five feet above the ground and away from reflective surfaces. The actual location of the sound measurements shall be at the discretion of the enforcement officer.

Alternative:

A. As far as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions. If not practicable, sound will be measured under other conditions, including but not limited to design, maximum, and fluctuating rates.

B. All sound tests shall be conducted in accordance with the following procedure:

- i. If practicable, all sources contributing to the sound to the point of measurement shall be identified.
- ii. Measurements shall be taken at or within the real property line of the affected person.
- iii. The measuring instrument must be calibrated using a calibrator recommended by the measuring instrument manufacturer before and after each series of readings.
- iv. The measuring instrument must be recertified and the calibrator must be recalibrated at least once each year by the manufacturer or by a person that has been approved by the manufacturer. A copy of written documentation of such recertification and recalibration shall be kept with the equipment to which it refers.
- v. No outdoor measurements shall be taken:
 1. During periods when wind speeds (including gusts) exceed fifteen (15) mph;
 2. Without a windscreen, recommended by the

measuring instrument manufacturer, properly attached to the measuring instrument;

3. Under any conditions that allows the measuring instrument to become wet (e.g. rain, snow, or condensation); or
4. When the ambient temperature is out of the range of the tolerance of the measuring instrument.

- C. The report for each measurement session shall include:
 - a. The date, day of the week, and times at which measurements are taken;
 - b. The times of calibration;
 - c. The weather conditions;
 - d. The identification of all monitoring equipment by manufacturer, model number, and serial number;
 - e. The normal operating cycle of the sources in question with a description of the sources;
 - f. The ambient sound level, in dBA, with the sources in question operating;
 - g. The background sound level, in dBA, without the sources in question operating; and
 - h. A sketch of the measurement site, including measurement locations and relevant distances, containing sufficient information for another investigator to repeat the measurements under similar conditions.
- D. Prior to taking sound measurements the investigator shall explore the vicinity of the source in question to identify any other sound sources that could affect measurements, to establish the approximate location and character of the principal sound source, and to select suitable locations from which to measure the sound from the source in question.
- E. When measuring continuous sound, or sound that is sustained for more than one second at a time, the measuring instrument shall be set for A-weighting, slow response, and the Rand (if the measuring is designed to read levels over different ranges) shall be set to that range in which the meter reads closest to the middle of the scale. The minimum and maximum readings shall be recorded to indicate the range of monitored values along with the central tendency average most often displayed.
- F. The measuring instrument shall be placed at a minimum height of three feet above the ground or from any

reflective surface. When handheld, the microphone shall be held at arm's length and pointed at the source at the angle recommended by the measuring instrument's manufacturer.

- G. If extraneous sound sources, such as aircraft flyovers or barking dogs, which are unrelated to the measurement, increase the monitored sound levels, the measurements should be postponed until the extraneous sounds have become of such a level as not to increase the monitored sound levels of interest.
- H. The monitoring session should last for a period of time sufficient to ensure that the sound levels measured are typical of the source in question.
- I. The background sound levels shall be subtracted from the measured sound levels of the source of interest by using Table 2 below, to determine the sound levels from the source of interest alone. If the ambient sound level is less than 3 dBA higher than the background sound level, the source level cannot be derived and violation of this chapter cannot be substantiated.

Table 2

Correction for Background Levels

Difference Between Ambient and Background Sound Levels	Correction Factor to Be Subtracted from Ambient Level for Source Level
3	3
4-5	2
6-9	1
10 or more	0

Section 9.02.050 Specific Noise Regulations.

The following activities are specifically prohibited:

- A. Operating, playing, or permitting the operation or playing of any radio, television set, loudspeaker, stereo, drum, musical instrument, or similar device which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance for any person other than the operator of the device;
- B. Using or operating any loudspeaker, public address system, or similar device between 10:00 p.m. and 8:00 a.m. the following day, such that sound there from creates a noise disturbance across a residential real property line;
- C. Any noise, commotion or sound resulting from a party between the hours of 10:00 p.m. and 8:00 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 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 prior to the effective date of this ordinance, or which may be issued by the county after the effective date of this ordinance and included the imposition of conditions regulating sound impacts 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, 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. When the source being analyzed is a stereo system with low frequency signals as part of its output, the stereo shall not cause a C-weighted level of 10 dB or greater above the C-weighted ambient level at a distance of ten (10) feet from the source, or the complainant's real property line, which is greater.
- M. Sound from any agricultural operations subject to Chapter 14.20 of this code.
- N. Sound from any activities subject to Chapter 6.10 of this code.

Section 9.02.070 Violation-Enforcement.

(A) The first violation of any provision of this chapter is an infraction.

(B) Any subsequent violation of this chapter by any person within twelve (12) 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 citation, two hundred and fifty dollars (\$250.00) for the second citation, and five hundred dollars (\$500.00) for the third and any subsequent administrative citations. The fine amounts shall be cumulative where multiple citations are issued.
- B. 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.
- C. 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.
- D. 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 enforcement officer enforcing 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 two notices to the owner of record or any person in control of the property from which the sound source is originating, which notices shall state the existence of the violation, that the county intends to charge the property owner for all administrative costs associated with enforcement, and state 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:

- a. 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.
- b. 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.
- c. 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.

- d. 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 9.02.110 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 2:

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.
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.

4. Adoption of the ordinance will not result in additional law enforcement visits to offending properties beyond what is already occurring as the intent of the ordinance is to provide a remedy and it is likely that the number of law enforcement visits may be reduced due to voluntary compliance with the ordinance.

Section 3. Effective Date. This ordinance shall take effect thirty (30) days from the date of its passage and shall be published once within fifteen (15) days of its passage in a newspaper of general circulation printed and published in the County of Calaveras with the names of the supervisors voting for and against same.

Passed and adopted upon the _____ day of _____, 2010,
by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Chair, Board of Supervisors
Calaveras County, California

ATTEST:

County Clerk & Ex-Officio Clerk
of the Board of Supervisors of
the County of Calaveras, California