

## Madison County Noise Ordinance

### 1.0 Purpose

In order to ensure the citizens of Madison County have the right and expectation to have a reasonable enjoyment of their property for themselves and their family and are not being subjected to unnecessary and disturbing noises which unreasonable interfere with the enjoyment of their property, Madison County does hereby adopt the following ordinance pursuant to N.C.G.S. 153A-133.

(Ord. adopted July 14, 2003; Am Ord. adopted April 11, 2023; Ord Amended August 8, 2023)

### 2.0 Administration

Regulations governing the administration and enforcement of this ordinance shall be provided by the Madison County Board of Commissioners who shall administer, interpret, and enforce the provisions of this chapter by and through the County Zoning Office, Zoning Officer's designee(s), and other representatives employed within the Zoning Office as well as the Madison County Sheriff's Office or any other county employee the board deems necessary.

### 3.0 Definitions

**Bona Fide Farm Operations** – Work or activities that meet the definition of “Agriculture” as provided in NC General Statute 106-581.1. The definition of a Bona Fide Farm does not include “agritourism” as that term is used in NC General Statute 160D-903 and associated case law interpreting that statute and its previous codifications.

**Commercial District** – A group of commercial facilities and the abutting public spaces.

**Commercial Facility/Business/Industry** – Any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- a. Banking and other financial institutions;
- b. Dining establishments;
- c. Establishments providing retail services;
- d. Establishments providing wholesale services;
- e. Establishments for recreation and entertainment;
- f. Landscaping Operations;
- g. Office buildings;
- h. Transportation facilities;
- i. Warehouses

**Construction** – Any grading site preparation, assembly, erection, repair, alteration or similar action to a structure or property, but excluding demolition of buildings or structures.

**Daytime** – The period of time occurring between the hours of 7:00 AM and 10:00 PM, local time.

**Decibel (dB) and Frequency** – The practical unit of measurement for sound pressure level, the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micro pascals); abbreviated “DB.” Frequency is the number of sound pressure oscillations per second expressed in hertz; abbreviated “Hz.”

**Demolition** – Any dismantling, intentional destruction, or removal of building or structures

Disturbing - Noise that is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.

Dwelling -- Any residential unit housed in a building or structure used for residential purposes.

Emergency Work - Any work or action necessary to deliver essential services including, but not limited to repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.

Farming Operation (bona fide) -- bona fide farm purposes include the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in G.S. 106-581.1.

Industrial District -- Any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods.

Land Management -- Any construction or other activity which changes the use or appearance of land or a structure or the intensity of the land or a structure. Land use activity shall include, but is not limited to; new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, etc.

Nighttime -- The period of time occurring between the hours of 10:00 PM and 6:00 AM, local time.

Noise -- 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 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.

Noise Disturbance -- Any sound that:

- a. endangers the safety or health of any person, or
- b. disturbs a reasonable person of normal sensitivities, or
- c. tends to annoy, disturb, or frighten citizens, or
- d. endangers personal or real property
- e. impairs reasonable use of property

Person -- Any individual, corporation, company, association, society, group, firm, partnership, joint-stock company, the County or any political subdivision, agency or instrumentality of the County or Municipality.

Public Right-of-Way -- Any street, avenue, boulevard, road, highway, sidewalk, alley, that is leased, owned or controlled by a governmental entity.

Public Space - Any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

Residential District -- Any area with the following zoning designation: R-A Residential Agricultural, R-1, R-2.

Residential Property -- Any property used for human habitation, including but not limited to:

- a. Private property used for human habitation;

- b. Commercial living accommodations and commercial property used for human habitation;
- c. Recreational and entertainment property used for human habitation;
- d. Community service property used for human habitation;
- e. Hospitals, nursing homes, and retirement homes and other areas where there is human habitation

Sound – Any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by reasonable persons of normal sensitivity.

Sound Amplifying Device – any electronically powered, operated, or assisted device that amplifies sound. A sound amplification device includes, but is not limited to, any system of public address, bullhorns, boom box, music or voice amplifiers, megaphones, or any combination thereof.

Sound Level – The sound pressure level measured in decibels with a sound level meter set for a weighting expressed in “dBA.”

Sound Level Meter – An instrument used to measure sound level and conforms to Type 1 or Type 2 standards as specified by ANSI specification S1.4-1971.

Special Event Facility – A facility used to accommodate functions including, but not limited to, banquets, weddings, celebrations, dinners, festivals, concerts, or other group events.

Structure – Anything that is constructed, built, or erected on property or attached to something located on the property.

Unnecessary - Any excessive or unusually loud sound or any sound which is of such character, intensity and duration as to disturb the peace and quiet of any neighborhood or which disturbs, injures or endangers the comfort, repose, health, peace or safety of any person and being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.

Unreasonably Loud - Any noise which a reasonably prudent person would consider or find substantially incompatible with the time and location where created to the extent that such noise creates an actual or imminent interference with the peace, dignity or good order in the immediate area where created.

#### **4.0 Loud, Disturbing, and Unnecessary Noise**

It shall be unlawful for any person to cause to emit or to allow to be emitted any sound from a property that the person owns, has ownership interest in, or controls, which goes beyond the boundaries of the property if that sound level would result in a noise disturbance. Both property owners and/or any respective lessee are jointly and separately liable.

#### **5.0 General Regulation**

- (1) No person shall make, continue, cause, or wrongfully permit to be made or continued any noise disturbance originating from a residential district unless otherwise permitted by the County.
- (2) No person shall make, continue, cause, or wrongfully permit to be made or continued, any noise disturbance originating from a right-of-way, road, or other public space.
- (3) Daytime hours shall be considered from 7:00 AM to 10:00 PM.

- (4) Nighttime hours shall be considered from 10:00 PM to 7:00 AM.
- (5) No amplified sound shall be emanated during nighttime hours.

**6.0 Sound Measurement**

- (1) In determining whether a sound is considered a noise disturbance, a hand-held acoustic meter measuring the sound level may be used and considered in conjunction with the other factors listed in Section 6.0(2). When a hand-held acoustic sound meter is used, sound levels will be measured by sound equivalent of a one (1) minute interval at the property boundary.
- (2) The following factors shall also be considered when determining whether a sound constitutes a noise disturbance: sounds that originate during nighttime hours; proximity to onsite and adjacent residential structures; frequency and duration-whether the noise is recurrent, intermittent or constant and the length of time that the sound emanates from the bounds of the property where it is created; the volume and intensity of the sound; whether the noise has been enhanced in volume or range by any sound amplifying device; the nature and zoning of the area (with lower dBA expected from residential districts); whether the noise is related to the normal operation of a commercial activity or is the result of some use for individual purposes; whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.
- (3) Unless otherwise specified in this Ordinance, no person shall cause or allow the emission of any sound originating from a district which, when measured pursuant to Table 1 exceeds the maximum decibel limits as specified.

**Table 1. Sound Level Limits**

Decibel (dBA)		Zoning District		
		Residential	Commercial	Industrial
Daytime	7:00 AM to 10:00 PM	55 dBA	65 dBA	70 dBA
Nighttime	10:00 PM to 7:00 AM	50 dBA	60 dBA	70 dBA

- (4) Sound originating from a special event facility shall not exceed 45dBA as measured from any property line.

**Section 7.0 Loud, Disturbing, and Unnecessary Noise**

The following is a list of per se loud, disturbing, and unnecessary noises in violation of this ordinance, but it is not an exclusive enumeration of such violations:

- (1) Blowing horns: The sounding of any horn, whistle or signal device on any automobile, motorcycle, bus or other vehicle or railroad train, except as a danger signal or as required by law, so as to create any unreasonable, loud or harsh sound or the sound of such device for any unnecessary and unreasonable period of time.
- (2) Amplified sound, radio, stereo systems of any form, etc.: The playing of any radio, television set, digital music systems, stereo systems, musical instrument, or sound produced from amplifying device in such a

manner or with such volume, as to annoy or disturb the quiet, comfort or repose of any person of normal sensibilities in any dwelling, motel, hotel or other type of residence.

- (3) Use of Vehicles: The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or operated in such a manner as to create loud or unnecessary grinding, rattling, screeching of tires or other noises.
- (4) Discharging Firearms: The discharge of any firearm must be in accordance with N.C.G.S 130.01 (b)(1).
- (5) Noises in proximity to Community Institutions: The creation of any noise disturbance on any street adjacent to any school, institution of learning, library, medical facility, sanitarium, or court while the same is in session, or adjacent to any hospital, or any church during services, which unreasonably interferes with the operations of such institution.
- (6) Bells and Gongs: The sounding of any bell or gong attached to any building or premises other than a church or religious institution, which disturbs the quiet or repose of persons in the vicinity, thereof.
- (7) Hawking, Peddling or Soliciting: The shouting and crying of peddlers, hawkers, vendors, who disturb the quiet and peace of the neighborhood.
- (8) Sounds emanating from a special event facility that exceed 45 dBA as measured from any property line.

#### **8.0 Exemptions**

The following shall be exempt from the application of this Ordinance:

- (1) Governmental emergency vehicles or public transit used in the performance of official duties;
- (2) Construction activity performed by an agency of governmental or utilities regulated by the State of North Carolina Utilities Commissioners provided that all equipment is operated in accordance with manufacturer's specifications and is equipped with noise-reducing equipment in proper condition;
- (3) Sound emanating from refuse collection;
- (4) Unamplified sound from barking dogs or other noise caused by wild or domestic animals as regulated in the Madison County Animal Ordinance and enforced by Madison County Animal Control;
- (5) Sound emanating from safety signals, warning devices, and church bells or religious institutions as defined by N.C.G.S 131 F-2 (17);
- (6) Sound emanating from any event for which special permit(s) have been issued by the County including but not limited to; events with amplified sound, fireworks, and outdoor events. If the County's zoning official determines that the event is causing sound in excess of the standards specified in the permit, the zoning official may modify or revoke the permit based on the case of urgent necessity;
- (7) Sound emanated from aircraft operated in accordance with applicable federal rules and regulations;
- (8) Sound emanating from railroad operations regulated by the Federal Railroad Administration;

- (9) Sound emanating from permitted parades or military ceremonies;
- (10) Sound emanating from regularly scheduled events held at County owned parks, fields, or fairgrounds; events held at public or private schools except where a permit is otherwise required by the Madison County Ordinance;
- (11) Sound emanating from bona fide farm operations, as that term is defined in the Ordinance. This exemption does not apply to 'agritourism' as the term is used in NC General Statute 160D-903 and associated case law interpreting that statute and its previous codifications. Additionally, this exemption does not apply to sounds emanating from special event facilities.
- (12) Sound resulting within the normal operations of any governmental facility;
- (13) Construction and land management activities performed pursuant to a permit issued by the County's chief building official or their designee. Construction equipment must be operated in accordance with manufacturer's specifications with all standard sound-reducing equipment in place and in proper condition. If the chief building official determines that the construction activity is causing sound in excess of the standards specified, the chief building official may modify or revoke the permit based on the case of urgent necessity;
- (14) Building Operations which include the erection (including excavation), demolition, alteration, or repair of any building in a residential land use district between the hours of 7:00 AM and 10:00 PM of any day, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Building Inspector, which permit may be renewed for a period of three (3) days or less while the emergency continues;
- (15) Unamplified sound of human voice;
- (16) The sound of machinery when emanated from a resort located within the County and in operation in an R-2 Zoned Resort District when machinery is operated in accordance with manufacturer recommendations including muffling and maintained as recommended by the manufacturer.

#### **9.0 Enforcement**

The Madison County Sheriff's Office will investigate and document the source of the initial noise complaint. Documentation of the complaint will be reviewed by the Development Services Department with further action and administration as set forth in this ordinance in compliance with Section 10.0 Penalties and Remedies.

#### **10.0 Penalties and Remedies**

If an offense is deemed as a violation of this ordinance, each subsequent violation after the initial violation shall constitute a separate offense and violations of the provisions of this article by the same person for the same activity occurring within three years of the first such violation shall be subject to revocation of the issuance and or renewal of special use permitting as outlined in the Madison County Land Use Ordinance. Each violation of this ordinance is a separate offense, even if such offenses occur the same day. Additionally, offenses shall be subject to the following civil penalties:

First Offense -- Written Notice of Violation

Second Offense - \$250

Third Offense - \$500

Fourth Offense - \$1,000

Fifth Offense - \$2,500

Subsequent Offenses - \$5,000

Violations subject the offender to a civil penalty to be recovered by the County in a civil action in the nature of a debt if the offender does not pay the penalty within the prescribed period of time. Penalties are payable to the Madison County Zoning Office within thirty (30) days after the notice of violation is issued. Penalties not paid will be subject to civil action which can be levied against real property as provided in N.C. Gen Stat. § 153A-123.

Pursuant to N.C. Gen. Stat. § 153A-123 (d), this Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

Pursuant to N.C. Gen. Stat. § 153A-123 (e), this Ordinance may be enforced by injunction and order of abatement, with the General Court of Justice having jurisdiction to issue such an order.

**11.0 Appeal of Violation**

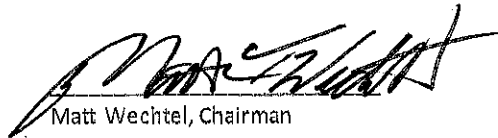
A request for an appeal of an issued penalty in conjunction with this Ordinance must be made in writing to the Madison County Zoning Office within 10 days of issuance of the penalty. The Board of Adjustment will have thirty (30) days to schedule the hearing. After due consideration of the appeal, the Board may direct that said citation(s) be withdrawn or enforced.

Additionally, a sound technician with technical knowledge and expertise in the production of sound, frequencies, and amplitudes of sound waves may be retained by the Board of Adjustment to provide testimony regarding the notice of violation. Such expert would be subject to cross-examination and other due process requirements.

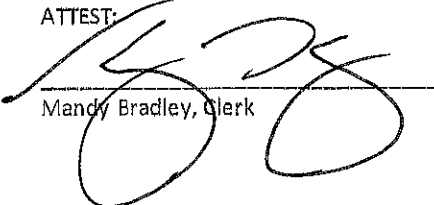
**12.0 Effective Date**

The rules and regulations shall be full and in force and effect from and after the 8 day of August, 2023.

MADISON COUNTY BOARD OF COMMISSIONERS

  
Matt Wechtel, Chairman

ATTEST:

  
Mandy Bradley, Clerk

## Appendix A: List of Amendments to the Madison County Noise Ordinance

### Amendments

#### August 2023

Section 3 to Include Bona Fide Farm Operations and Special Event Facility definitions

Section 6 (4) to adopt a decibel level limit for special event facilities

Section 7 (8) to establish that decibel level violations for special event facilities are per se violations of the noise ordinance

Section 8 (11) to clarify that agritourism and special event facilities are not exempt from the noise ordinance

Corrected Scriveners Error decibel measurement changed throughout ordinance to match sound level definition dBA