

ORDINANCE NO. C.S. 1070

**AN ORDINANCE RELATING TO THE REGULATION OF NUISANCE NOISE.**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA ORDAINS AS FOLLOWS:

**Section 1.** Chapter 10.46 of the Stanislaus County Code is hereby repealed.

**Section 2.** Chapter 10.46 of the Stanislaus County Code (the Noise Control Ordinance), attached hereto as Attachment A and incorporated herein by reference, is added to the Stanislaus County Code and replaces the prior Chapter repealed in Section 1 of this ordinance.

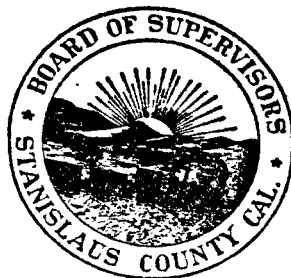
**Section 3.** This ordinance shall take effect 30 days from and after the date of its passage and before the expiration of 15 days after its passage it shall be published once, with the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor O'Brien seconded by Supervisor Chiesa, the foregoing Ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 2nd day of February, 2010, by the following-called vote:

AYES: Supervisors: O'Brien, Chiesa, Monteith, DeMartini, and Chairman Grover

NOES: Supervisors: None

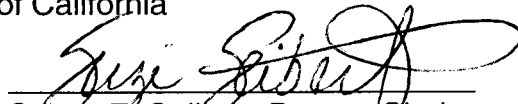
ABSENT: Supervisors: None



Jeff Grover, Chairman  
of the Board of Supervisors of the  
County of Stanislaus, State of California

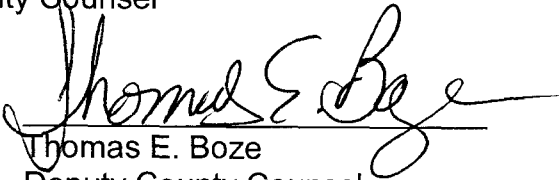
ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk of the Board of Supervisors of the County of Stanislaus, State of California

By   
Susan E. Seibert, Deputy Clerk

APPROVED AS TO FORM:

JOHN P. DOERING  
County Counsel

By   
Thomas E. Boze  
Deputy County Counsel

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## Chapter 10.46

### Sections:

10.46.010	Title
10.46.020	Findings and Policy
10.46.030	Definitions
10.46.040	Sound Level Measurement
10.46.050	Exterior Noise Level Standards
10.46.060	Specific Noise Source Standards
10.46.070	Vibration
10.46.080	Exemptions
10.46.090	Waiver
10.46.100	Enforcement
10.46.110	Duty to Cooperate
10.46.120	Violations and Penalties

### Section 10.46.010 Title

The ordinance codified in this chapter may be cited as the "Stanislaus County Noise Control Ordinance."

### Section 10.46.020 Findings and Policy

The Stanislaus County Board of Supervisors hereby finds that every person is entitled to an environment in which the noise is not detrimental to his or her life, health, and enjoyment or property; that the peace, health, safety, and welfare of its citizens require protection from disturbing, excessive, offensive and loud noises from any and all sources in the unincorporated areas of the county; and the establishment of maximum permissible noise levels will further the public health, safety, welfare and peace and quite of county inhabitants.

In order to control unnecessary, excessive and annoying noise in the county, it is hereby declared to be the policy of the county to prohibit such noise generated from or by all sources as specified in this chapter. It shall be the policy of the county to maintain quiet in areas that exhibit low noise levels and to implement programs aimed to reduce noise in those areas within the county where noise levels are above acceptable values.

It is determined that certain noise levels are detrimental to the public health, welfare and safety, and are contrary to public interest. Therefore, the Board of Supervisors declares that creating, maintaining, causing or allowing to be created, caused or maintained, any noise in a manner prohibited by or not in conformity with the provisions of this chapter, is a public nuisance and shall be punishable as such. (Ref. California Noise Control Act of 1973, Division 28, sections 46000 *et. seq.*, of the California Health and Safety Code.)

### **Section 10.46.030 Definitions**

- A. "Ambient noise level" means the all encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.
- B. "'A' weighted sound level" means the total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of 20 micropascals using the 'A' weighted network (scale) at slow response. The unit of measurement shall be defined as dB(A).
- C. "Construction equipment" means any machine used in the construction, erection, enlargements, alteration, conversion or movement of any building, structures or land together with any scientific surveys associated therewith.
- D. "Decibel (dB)" means a unit for measuring the amplitude of sounds, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals.
- E. "Dwelling unit" means a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.
- F. "Impulsive Noise" means a noise of short duration with an abrupt onset and rapid decay.
- G. "Lmax" means the maximum A-weighted sound level recorded during a noise event.
- H. "Person" means a person, firm, association, partnership, joint venture, corporation or any entity, public or private in nature.
- I. "Pure Tone Noise" means any noise that is distinctly audible as a single pitch (frequency) or set of pitches. A pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies of between 160 and 400 Hz and 15 dB for center frequencies less than or equal to 125 Hz.
- J. "Sound level meter" means an instrument used for measurement of sound levels, which at a minimum meets the American National Standards Institute (ANSI) Standard S1.4-1983 (R2006) or S1.4a-1985 (R2006)

"Specifications for Sound Level Meters", Type 2, or most recent version thereof.

- K. "Sound level" in decibels, means 20 times the logarithm to the base ten of the ratio of the pressure of the sound to a reference pressure that is 20 micropascals.

**Section 10.46.040 Sound Level Measurement**

- A. Sound level measurements may be made anywhere within the boundaries of a property. Where practical, the point of measurement should be positioned three to five feet above the ground and away from reflective surfaces. The actual location of a sound level measurement shall be at the discretion of the enforcement official.
- B. Sound level measurements shall be made with a sound level meter which has been certified as meeting the standards of the American National Standards Institute within the last 12 months and the measurement shall be performed by an enforcement official trained in the use of the sound level meter.

**Section 10.46.050 Exterior Noise Level Standards**

- A. It is unlawful for any person at any location within the unincorporated area of the county to create any noise or to allow the creation of any noise which causes the exterior noise level when measured at any property situated in either the incorporated or unincorporated area of the county to exceed the noise level standards as set forth below:
  - 1. Unless otherwise provided herein, the following exterior noise level standards shall apply to all properties within the designated noise zone:

**TABLE A  
EXTERIOR NOISE LEVEL STANDARDS**

DESIGNATED NOISE ZONE	MAXIMUM A-WEIGHTED SOUND LEVEL AS MEASURED ON A SOUND LEVEL METER (L <sub>MAX</sub> )	
	7:00am – 9:59 pm	10:00pm- 6:59am
Noise Sensitive	45	45
Residential	50	45
Commercial	60	55
Industrial	75	75

2. Exterior noise levels shall not exceed the following cumulative duration allowance standards:

**TABLE B  
CUMULATIVE DURATION ALLOWANCE STANDARDS**

Cumulative Duration	Allowance Decibels
Equal to or greater than 30 minutes per hour	Table A plus 0dB
Equal to or greater than 15 minutes per hour	Table A plus 5dB
Equal to or greater than 5 minutes per hour	Table A plus 10dB
Equal to or greater than 1 minute per hour	Table A plus 15dB
Less than 1 minute per hour	Table A plus 20 dB

3. Pure Tone Noise, Speech and Music. The exterior noise level standards set forth in Table A shall be reduced by 5 dB(A) for pure tone noises, noises consisting primarily of speech or music, or reoccurring impulsive noise.
4. In the event the measured ambient noise level exceeds the applicable noise level standard above, the ambient noise level shall become the applicable exterior noise level standard.

**B. Noise Zones Defined.**

1. Noise Sensitive. Any public or private school, hospital, church, convalescent home, cemetery, sensitive wildlife habitat, or public library regardless of its location within any land use zoning district.
2. Residential. All parcels located within a residential land use zoning district.
3. Commercial. All parcels located within a Commercial or Highway Frontage land use zoning district.
4. Industrial. All parcels located within an Industrial land use zoning district.
5. The noise zone definition of any parcel not located within a Residential, Commercial, Highway Frontage, or Industrial land use zoning district shall be determined by the Director of Stanislaus County Planning and Community Development Department, or designee, based on the permitted uses of the land use zoning district in which the parcel is located.

## **Section 10.46.060 Specific Noise Source Standards**

The following sound sources are subject to the following additional standards. The failure to comply with these additional standards constitutes a separate violation of this chapter:

- A. **Motor-Vehicle Sound Systems.** No person shall operate a motor vehicle sound system, whether affixed to the vehicle or not, between the hours of ten p.m. and seven a.m., such that the sound system is audible to the human ear inside any inhabited dwelling. No person shall operate a motor vehicle sound system, whether affixed to the vehicle or not, at any other time such that the sound system is audible to the human ear at a distance greater than 50 feet from the vehicle. (Ref. California Vehicle Code section 27007).
- B. **Power Tools and Equipment.** No person shall operate any power tools or equipment between the hours of ten p.m. and seven a.m. such that the power tools or equipment are audible to the human ear inside an inhabited dwelling other than a dwelling in which the power tools or equipment may be located. No person shall operate any power tools or equipment at any other time such that the power tools or equipment are audible to the human ear at a distance greater than 100 feet from the power tools or equipment.
- C. **Audio Equipment.** No person shall operate any audio equipment, whether portable or not, between the hours of ten p.m. and seven a.m. such that the equipment is audible to the human ear 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 equipment is audible to the human ear at a distance greater than 50 feet from the equipment.
- D. **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 be audible to the human ear at a distance greater than 200 feet. To the extent that these requirements conflict with any conditions of approval attached to an underlying land use permit, these requirements shall control.
- E. **Construction Equipment.** No person shall operate any construction equipment so as to cause at or beyond the property line of any property upon which a dwelling unit is located an average sound level greater than 75 decibels between the hours of seven p.m. and seven a.m.

- F. Burglar Alarms. Any building burglar alarm must have an automatic cutoff, capable of terminating its operation within 15 minutes of the time it is activated. Notwithstanding the requirements of this provision, any member of the Sheriff's Department shall have the right to take such steps as may be reasonable and necessary to disconnect any such alarm during the period of its activation. Any structure upon which a burglar alarm has been installed shall prominently display the telephone number at which communication maybe made with the owner of such structure.
  
- G. Vehicle Alarms. No owner of a motor vehicle shall have in operation an audible burglar alarm therein unless such burglar alarm shall be capable of terminating its operation within 15 minutes of the time it is activated. Notwithstanding the requirements of this provision, any member of the Sheriff's Department of Stanislaus County shall have the right to take such steps as may be reasonable and necessary to disconnect any such alarm installed on a motor vehicle at any time during the period of its activation. (Ref. California Vehicle Code section 22651.5)

#### **Section 10.46.070 Vibration**

Operating or permitting the operation of any device that creates vibration that is above the vibration perception threshold of any individual at or beyond the property boundary of the source if on private property, or at 150 feet from the source if on a public space or public right-of-way is prohibited. For the purpose of this section, "vibration perception threshold" means the minimum ground-borne or structure-borne vibration motion necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects, or a measured motion velocity of 0.01 in/sec over the range of 1 to 100 Hertz.

#### **Section 10.46.080 Exemptions**

The following sources are exempt from the provisions of this chapter:

- A. Sounds for the purpose of alerting persons to the existence of an emergency;
  
- B. Radios, sirens, horns, and bells on police, fire, and other emergency response vehicles;
  
- C. Parades, fireworks displays, and other special events for which a permit has been obtained from the county are exempted provided there is compliance with all conditions that have been noted in writing on the permit. Noise produced as a result of noncompliance with any condition specified on the permit is not exempted from the requirements of this chapter;



- D. Activities on or in publicly owned property and facilities, or by public employees while in the authorized discharge of their responsibilities, are exempt provided that such activities have been authorized by the owner of such property or facilities or its agent or by the employing authority;
- E. Religious worship activities, including but not limited to, bells, organs, singing, and preaching;
- F. Locomotives and other railroad equipment, and aircraft;
- G. The collection of solid waste is exempted to the extent that the noise of such collection is regulated by the Stanislaus County refuse ordinance (Chapters 9.02, 9.04, 9.08, 9.09, 9.10 and 9.12). Noise not covered by the Stanislaus County refuse ordinance is not exempted from the requirements of this chapter.
- H. Agricultural activity, as such term is defined in Section 9.32.010(B), and any operation, facility or appurtenances thereof, that are conducted or maintained on agricultural lands for commercial purposes in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations in Stanislaus County.
- I. Federal or State Preempted Activities. This chapter shall not apply to any activity to the extent regulation thereof has been preempted by state or federal law.
- J. Public Entity or Public Utility Activity. This chapter shall not apply to construction or maintenance activities performed by or at the direction of any public entity or public utility.
- K. Residential Maintenance Activity. Noise associated with the maintenance of residential property, including, but not limited to, the operation of lawnmowers, leaf blowers, etc., provided such activity occurs between the hours of seven a.m. and ten p.m.

**Section 10.46.090 Waiver**

- A. Application. The property owner may request a permit for a waiver from any provision of this chapter.
  - 1. The application for a waiver shall be filed with the Department of Planning and Community Development for presentation to the Planning Commission in writing, on a form prescribed by the Director and shall be signed by the owner or his authorized agent.

2. The application shall include the information deemed necessary by the Director, including, but not limited to:
  - a. The nature and location of the noise source for which such application is made;
  - b. The reason for which the waiver is requested, including the hardship that will result to the applicant, or the public if the permit of waiver is not granted;
  - c. The level of noise that will occur during the period of the waiver;
  - d. The section or sections of this chapter for which the waiver shall apply;
  - e. A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom; and
  - f. A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this chapter within a reasonable time.
- B. A filing fee, in such amount as may be fixed from time to time by resolution of the Board of Supervisors, shall be paid at the time the application is filed.
- C. Notice. The Director shall give notice of the request for waiver to all the surrounding properties that would be impacted by the exception, for example, those properties that would experience a noise level at their property line that exceeds the standards as set forth in this chapter.
- D. Standard for Issuance of Waiver. A permit to allow a waiver from the provisions contained in all or a portion of this chapter may be issued by the Planning Commission if the Commission determines that:
  1. Noise levels occurring during the period of the waiver will not constitute a *danger to public health*;
  2. Compliance with the ordinance would impose an unreasonable hardship on the applicant without equal or greater benefits to the public; and
  3. Strict compliance would be unreasonable due to the circumstances of the requested exception;

- E. Factors considered for all requests for waiver, other than construction or special events, shall include but not be limited to the following:
1. Conformance with the intent of this chapter and general plan policies;
  2. Uses of property and existence of sensitive receptors within the area affected by sound;
  3. The ability of the applicant to apply the best practical noise control measures;
  4. Age and useful life of the existing sound source;
  5. The time of the day or night the waiver or waivers will occur;
  6. The duration of the waiver; and
  7. The general public interest, welfare and safety.
- F. Within 30 days of receipt of a completed application, the Director shall refer the request directly to the Planning Commission for action at the next available board meeting. The Planning Commission may impose reasonable conditions that minimize the public detriment and may include, but are not limited to, restrictions on sound level, sound duration and operating hours, an approved method of achieving compliance and a time schedule for its implementation.
- G. Where a request for waiver is associated with a discretionary permit, the waiver shall be processed concurrently with the discretionary permit. In which case the Planning Commission shall be the approving authority for the exception. The Planning Commission must consider those factors identified above. The Planning Commission shall either (1) approve or conditionally approve such request in whole or in part, or (2) deny the request. The Planning Commission may impose reasonable conditions that minimize the public detriment and may include, but are not limited to, restrictions on sound level, sound duration and operating hours, an approved method of achieving compliance and a time schedule for its implementation.
- H. Where a waiver has been approved by the Planning Commission and verified complaints are received related to the waiver the Commission has the authority to amend, condition or revoke the waiver, as the Commission deems necessary so as to secure the purpose of this chapter.

- I. Any person aggrieved by the decision of the Planning Commission may appeal to the Board of Supervisors by filing written notice of appeal with the Director within 10 days of the decision. The Board of Supervisor's decision shall be final and shall be based upon the considerations set forth in this section. All appeals shall be accompanied by an appeal fee as established from time to time by resolution of the Board of Supervisors.

#### **Section 10.46.100 Enforcement**

Stanislaus County Sheriff officers shall have the primary responsibility for enforcement of this chapter. Violations may be prosecuted as described in Section 10.46.120 of this chapter, but nothing in this chapter shall prevent the Sheriff from engaging in efforts to obtain voluntary compliance by means of warnings, notices, educational programs or any other means.

#### **Section 10.46.110 Duty to Cooperate**

No person shall refuse to cooperate with, or obstruct, the enforcement officials identified herein when they are engaged in the process of enforcing the provisions of this chapter. This duty to cooperate may require a person to extinguish a sound source so that it can be determined whether sound emanating from the source violates the provisions of this chapter.

#### **Section 10.46.120 Violations and Penalties.**

- A. Any person violating provisions of this chapter is guilty of an infraction, and, upon conviction thereof, shall be punished as an infraction as set forth in Stanislaus County Code section 1.36.020. Every violation of any provision of this chapter shall be construed as a separate offense for each day during which such violation continues and shall be punishable as provided in this section.
- B. All violations of this chapter constitute a public nuisance which, in addition to or in lieu of the penalty provisions set forth above, may be abated in any manner set forth in the Stanislaus County Code, including Chapter 2.92, which may include, but is not limited to, abatement or issuance of administrative citations.

ORDINANCE C.S. 1070

Upon motion of Supervisor O'Brien, seconded by Supervisor Chiesa, Ordinance C.S. 1070, which repeals and replaces Chapter 10.46 relating to the regulation of nuisance noise, was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 2nd day of February 2010, by the following called vote:

AYES: SUPERVISORS: O'Brien, Chiesa, Monteith, DeMartini and Chairman Grover  
NOES: None  
ABSENT: None  
ABSTAINING: None

Ordinance C.S. 1070 repeals the interim nuisance noise ordinance and replaces it with a comprehensive ordinance that provides specific exterior noise level and noise source standards. A full copy of the ordinance is available for review at the Clerk of the Board's Office, 1010 10th Street, Suite 6700, Modesto, CA. For further information, contact Thomas Boze, Deputy County Counsel, at (209) 525-6376 at 1010 10th Street, Suite 6400, Modesto, CA 95354.

BY ORDER OF THE BOARD OF SUPERVISORS

DATED: February 2, 2010

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk  
of the Board of Supervisors  
of the County of Stanislaus,  
State of California



BY: \_\_\_\_\_  
Elizabeth A. King, Assistant Clerk of the Board

**DECLARATION OF PUBLICATION  
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS  
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of **THE MODESTO BEE**, printed in the City of **MODESTO**, County of **STANISLAUS**, State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of **STANISLAUS**, State of California, Under the date of **February 25, 1951, Action No. 46453**; that the notice of which the annexed is a printed copy, has been published in each issue there of on the following dates, to wit:

Feb 06, 2010

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I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at

**MODESTO, California** on

February 9th, 2010

(Signature)

Marie Hickman

**PUBLIC NOTICE**

**ORDINANCE C.S.1070**

Upon motion of Supervisor O'Brien, seconded by Supervisor Chiesa, Ordinance C.S. 1070, which repeals and replaces Chapter 10.46 relating to the regulation of nuisance noise, was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 2nd day of February 2010, by the following called vote: AYES: SUPERVISORS: O'Brien, Chiesa, Monteith, DeMartini and Chairman Grover; NOES: None; ABSENT: None; ABSTAINING: None. Ordinance C.S. 1070 repeals the interim nuisance noise ordinance and replaces it with a comprehensive ordinance that provides specific exterior noise level and noise source standards. A full copy of the ordinance is available for review at the Clerk of the Board's Office, 1010 10th Street, Suite 6700, Modesto, CA. For further information, contact Thomas Boze, Deputy County Counsel, at (209) 525-6376 at 1010 10th Street, Suite 6400, Modesto, CA 95354. BY ORDER OF THE BOARD OF SUPERVISORS. DATED: February 2, 2010. ATTEST: Christine Ferraro Tallman, Clerk of the Board of Supervisors of the County of Stanislaus, State of California. BY: Elizabeth A. King, Assistant Clerk of the Board.  
**Pub Dates Feb 6, 2010**