

**Montgomery County
Board of Commissioners
Regular Session**

**Signed Montgomery
County Noise Ordinance**

December 17, 2013

AN ORDINANCE PROVIDING FOR NOISE CONTROL IN MONTGOMERY COUNTY

BE IT ORDAINED by the Board of Commissioners of Montgomery County, North Carolina:

Sec. 1. Purpose

It is recognized that excessive and unnecessary noise endangers the physical and emotional health and welfare of the people, and interferes with legitimate business and recreational activity, increases construction costs, depresses property values, offends the senses, creates public nuisances, and in other respects, reduces the quality of life.

It is further recognized that a substantial body of science and technology exists by which excessive sound may be measured and substantially abated. Because of the regulation of excessive and unnecessary noise that may jeopardize human health or welfare or substantially degrade the quality of life is well within the pur-view of this governing body's police powers, it is declared to be the purpose of this section to prevent, prohibit, and provide for the regulation and abatement of excessive and unnecessary noise which may injure the physical and emotional health or welfare of its citizens or degrade the quality of life.

This noise ordinance applies only to unincorporated areas in Montgomery County. Municipalities are responsible for their own ordinance creation and enforcement inside town limits and extra territorial jurisdictions (ETJ's).

Sec. 2. Certain noises and sounds prohibited

It shall be unlawful, except as expressly permitted herein, to make, cause, or allow the making of any noise or sound which exceeds the limits set forth in Section 3 through 7.

Sec. 3. Definitions

- a. Terminology and Standards. All terminology used in the provisions of this ordinance not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.
- b. A-Weighted Sound Level. The sound pressure level in decibels as measured on a sound meter using the A-Weighting network. The level so read is designated dB (A).
- c. Decibel (dB). A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.
- d. Sound Pressure Level. 20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference of 20 micronewtons per square meter.
- e. Sound Level Meter. A calibrated instrument for the purpose of measuring sound levels.
- f. Sound Level. The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American

National Standards Institute specifications for sound level meters (ANSI Si.4-1971), or the latest approved version thereof.

- g. Person. Any individual, association, partnership, or corporation and includes any officer, employee, department, agency or instrumentality of the United States.
- h. Emergency Work. Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.
- i. Classification of Use Occupancies. For the purpose of defining the “Use Occupancy” all premises containing habitually occupied sleeping quarters shall be considered in residential use. All premises containing transient commercial sleeping quarters shall be considered tourist/residential use. All premises containing businesses where sales, professional, or other commercial use is legally permitted shall be considered commercial use. All premises where industry is legally permitted shall be considered industrial use. In case of multiple use, the more restrictive use category shall prevail. Hospitals, nursing homes, schools, libraries, and church uses shall be considered residential uses. Any area not otherwise classified shall conform to commercial standards.
- j. Weekend. For purposes of this ordinance, a weekend shall be defined as that period of time between 12 o’clock midnight on Friday to 12 o’clock midnight on Sunday.
- k. Measurement of Sound. Standards, instrumentation, personnel, measurement procedures, and reporting procedures to be used in the measurement of sound as provided for herein shall be made with a sound level meter using the “A” weighting scale, in accordance with the standards promulgated by American National Standards Institute or other reasonable standards adopted or tested by the Montgomery County.

Sec. 4. Maximum permissible sound levels by Use Occupancy

No person shall operate or cause to be operated any source of sound from any occupancy or property in such a manner as to create a sound level which exceeds the limits set forth for the use occupancy category in Table 1. Measurements will be taken at the public right-of-way or ten feet inside the complainant’s property line, as deemed practical by the Enforcement Officer.

Measurements will be taken for at least 10 minutes. During the testing period, the average sound recording during one (1) minute intervals may not exceed the limits herein set forth.

Table 1. Sound Levels By Use Occupancy Category

<u>Use Occupancy Category</u>	<u>Time</u>	<u>Sound Level Limit – dB(A)</u>
Residential or Public Space	7: 00 a.m. – 10:00 p.m.	60 dB(A)
	10:00 p.m. – 7:00 a.m.	55 dB(A)
Commercial or Business	7: 00 a.m. – 10:00 p.m.	75 dB(A)
	10:00 p.m. – 7:00 a.m.	60 dB(A)
Manufacturing, Industrial, or Agricultural	At All Times	80 dB(A)

Sec. 5. Exemptions

The following are exempt from the provisions of Table 1:

- a. Lawn mowers and agricultural equipment during daylight hours when operated with all the manufacturers' standard mufflers and noise reducing equipment in use and proper operating condition.
- b. Nonamplified crowd noises resulting from the activities such as those planned by student, governmental or community groups.
- c. Construction operations for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with manufacturers' specifications and with all standard equipment manufacturers' mufflers and noise reducing equipment in use and in proper operating condition.
- d. Noises of safety signals, warning devices, emergency pressure relief valves and bells and chimes of churches.
- e. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- f. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the County of Montgomery in accordance with the above. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above.
- g. All noises coming from the normal operations of aircraft (not including scale model aircraft) and all noises emanating from any airport located in Montgomery County.

Sec. 6. Special Permits

Applications for a permit for relief from the maximum allowable noise level limits designated in this ordinance may be made in writing to the Sheriff of Montgomery County or his duly authorized representative. Any permit granted by the Sheriff of Montgomery County hereunder must be in writing and shall contain all conditions upon which said permit shall be effective. The Sheriff of Montgomery County or his duly authorized representative may grant the relief as applied for under the following conditions:

- a. Permits for Entertainment. Permits may be granted for the purpose of entertainment under the following conditions:
 - 1. The function must be open to the public (admission may be charged).
 - 2. The function must take place on public property.
 - 3. The permit will be given for only four (4) hours in one twenty-four (24) hour day.
 - 4. The function must be staged between the hours of 9:00 a.m. and 12:00 midnight.
- b. Other. Special permits for non-entertainment special purposes may be issued to businesses under the following conditions:

1. If the special purpose related to the operation of a trade or business.
2. If the special purpose permit does not exceed four (4) times each calendar year.
3. That the special purpose be absolutely necessary to the operation of the applicant's trade or business.
4. Except in emergency situations, as determined by the Sheriff of Montgomery County, the special permit may be issued only for four (4) hours between 7:00 a.m. and 12:00 p.m. on weekdays; and
5. Special permits may be issued for no longer than fifteen (15) days, renewable by further application to the Sheriff of Montgomery County.

The Sheriff of Montgomery County may prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound attenuating devices in granting these permits.

Sec. 7. Appeal Process

- a. Anyone denied a special permit by the provisions of this section, shall have the right to appeal the decision of the Sheriff of Montgomery County to the Board of Commissioners of Montgomery County. The appeal shall be in writing and filed with the County Clerk within ten (10) days after the decision of the Sheriff of Montgomery County. Upon the receipt of the notice of appeal, the Board of Commissioners of Montgomery County shall grant a hearing to the appellant at the next Commissioners' meeting, provided said notice of appeal is received by 5:00 p.m. on the Thursday before the said meeting of the Commissioners.
- b. At the hearing before the Board of Commissioners of Montgomery County pursuant to an appeal as requested herein, the Board of Commissioners shall hold to the public health, safety and welfare of the community. If the Board of Commissioners determines that the issuance of the permit would not be detrimental to the public health, safety and welfare, the Board of Commissioners shall specifically authorize the Sheriff of Montgomery County to issue the permit to the applicant. If the Board of Commissioners determines that the issuance of the permit would be detrimental to the public health, safety, and welfare of the community, the Board of Commissioners shall so notify the applicant and the Sheriff of Montgomery County not to issue the permit.

Sec. 8. Enforcement Responsibility

The Sheriff of Montgomery County shall have primary enforcement responsibility for this ordinance.

Sec. 9. Penalties

If any person shall violate any provisions of this ordinance, he shall be guilty of a misdemeanor and punished by a fine not to exceed two hundred and fifty dollars (\$250), or imprisonment not exceeding thirty (30) days as prescribed in Section 203 Chapter 130 of the General Statutes of North Carolina.

Sec. 10. Severability

If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstance shall be held to be invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect independent from the invalid provision or application, and to this end the provisions of this ordinance are hereby declared to be severable.

This ordinance shall be in full force and effect from and after its adoption.

ADOPTED this 17th day of December, 2013



Jackie Morris, Chairman
Montgomery County Board of Commissioners

ATTEST:



Doshia F. Haywood, Clerk to the Board
Montgomery County Board of Commissioners

Certificate of Adoption

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the Montgomery County Board of Commissioners, held on the 17th day of **December, 2013.**



Doshia F. Haywood, Clerk to the Board
Montgomery County Board of Commissioners