



Interoffice Memorandum

January 15, 2025

To: Jennifer Lara-Klimetz, Assistant Manager
Comptroller Clerk's Office

Through: Cheryl Gillespie, Agenda Development Supervisor
Agenda Development

From: Renée H. Parker, LEP, Manager
Environmental Protection Division
(407) 836-1420

**Staff Person: Renée H. Parker, Manager
Environmental Protection Division
(407) 836-1420**

Subject: Request for Public Hearing on February 25, at 2:00 p.m., to Consider Adoption of an Ordinance Amending Article V, chapter 15, Orange County code of ordinances; modifying provisions pertaining to definitions, sound level limits, standards for measuring sound, exemptions, variances, and methods of enforcement; and providing an effective date.

Type of Hearing: Amending Chapter 15, Article V, Noise Pollution Control Ordinance

Hearing required by
Florida Statute # or Code: Section 125.66, Florida Statutes

Advertising requirements: Publish once in a newspaper of general circulation in Orange County at least ten days prior to public hearing.

Advertising timeframes: At least ten days prior to public hearing.

Estimated time required
For public hearing: 45 minutes.

Hearing Controversial: No.

District #: All Districts.

January 15, 2025

Request for Public Hearing - to Consider Adoption of an Ordinance Amending Chapter 15, Article V, Noise Pollution Control Ordinance

Spanish contact person: Para más información en español acerca de estas reuniones públicas, favor de llamar a la División de Protección Ambiental, 407-836-1400.

Special Instructions to Clerk:

1. Ordinance Title for Advertisement:

AN ORDINANCE AMENDING CHAPTER 15, ARTICLE V OF THE ORANGE COUNTY CODE OF ORDINANCES, KNOWN AS THE “NOISE CONTROL ORDINANCE OF ORANGE COUNTY, FLORIDA”; AMENDING PROVISIONS PERTAINING TO DEFINITIONS, SOUND LEVEL LIMITS, STANDARDS FOR MEASURING SOUND, EXEMPTIONS, VARIANCES, AND METHODS OF ENFORCEMENT; AND PROVIDING AN EFFECTIVE DATE.

AND

AUTHORIZE STAFF TO CORRECT ANY NON-SUBSTANTIAL GRAMMATICAL OR SCRIVENER’S ERRORS WITHIN THE ORDINANCE.

2. Once the Board of County Commissioners makes a decision on the proposed revisions to Chapter 15, Article V, Noise Pollution Control Ordinance, please submit the decision letter to Renée H. Parker with EPD.

Materials being submitted as backup for public hearing request:

1. A copy of the draft proposed ordinance

RHP/AE: ae

Attachments

c: Jon V. Weiss, P.E., Deputy County Administrator
Tanya Wilson, Director, Planning, Environmental, and Development Services Dept.
Scott Skraban, Deputy Director, Planning, Environmental, and Development Services Dept.
Georgiana Holmes, Deputy County Attorney, Orange County Attorney’s Office
Joy Carmichael, Assistant County Attorney, Orange County Attorney’s Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 15, ARTICLE V OF THE ORANGE COUNTY CODE OF ORDINANCES, KNOWN AS THE “NOISE CONTROL ORDINANCE OF ORANGE COUNTY, FLORIDA”; AMENDING PROVISIONS PERTAINING TO DEFINITIONS, SOUND LEVEL LIMITS, STANDARDS FOR MEASURING SOUND, EXEMPTIONS, VARIANCES, AND METHODS OF ENFORCEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in October 1986, the Orange County Board of County Commissioners (the “Board”) enacted the Noise Control Ordinance of Orange County, Florida (the “Noise Control Ordinance”);

WHEREAS, the Board subsequently amended the Noise Control Ordinance in the years of 1995, 2008, and 2014; and

WHEREAS, the Board desires to further amend the Noise Control Ordinance to amend definitions, the maximum allowable sound level limits, and certain other provisions of the Noise Control Ordinance.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Amendments to the Noise Control Ordinance. Chapter 15, article V of the Orange County Code, consisting of sections 15-176 through 15-215, is hereby amended to read as follows, with additions being shown by underlines and deletions being shown by strike-throughs:

ARTICLE V. NOISE POLLUTION CONTROL

Sec. 15-176. Title.

This article shall be known and may be cited as the “Noise Control Ordinance of Orange County, Florida.”

Sec. 15-177. Authority.

This article is enacted pursuant to Article II, § 7, Florida Constitution, which provides that adequate provision shall be made

42 by law for the abatement of excessive and unnecessary noise, and
44 under the home rule power of Orange County, Florida, specifically,
F.S. § 125.01(1), and the County Charter.

46 **Sec. 15-178. Scope.**

48 This article shall be effective throughout the unincorporated
area of the county.

50 **Sec. 15-179. Purpose; intent; authority and responsibility of**
52 **environmental protection officer and investigating officer.**

54 (a) The purpose of this article is to prevent, prohibit, and
56 also provide for the abatement of, excessive and unnecessary noise,
known as noise disturbance, in order to protect the health, safety,
and general welfare of people of the county.

58 (b) It is the intent of this article to clearly define and describe
60 the respective authority and responsibility under this article for the
environmental protection officer and the investigating officer
62 relating to noise disturbance investigation and enforcement, unless
the noise disturbance is otherwise exempt under this article.

64 (c) Nothing in this article is intended to deter individuals
66 from lawfully exercising the individual right of freedom of speech,
68 or any other rights guaranteed under the Constitution of the United
States of America or the Constitution of the State of Florida, or to
unreasonably limit or restrain commercial or industrial enterprises.

70 (ed) The environmental protection officer shall have the
72 authority pursuant to this article to investigate and, if applicable,
74 issue a notice of violation or civil citation as provided in this article
in any case involving a noise disturbance emanating from residential
76 property under construction or a nonresidential property that
exceeds the allowable limits set forth in section 15-182 of this
article.

78 (de) The investigating officer shall have the authority
80 pursuant to this article to investigate and, if applicable, issue a civil
82 or criminal citation for a violation of the plainly audible standard, as
established in section 15-183(b), and noise disturbance complaints
84 which may involve the consumption of alcohol or any suspected
illegal activities and noise disturbance complaints involving “breach
86 of the peace” as defined in F.S. § 877.03.

Sec. 15-180. Terminology, standards, and definitions.

(a) *Terminology and standards.* All technical acoustical terminology and standards used in this article that are not defined in subsection (b) shall be read or construed in conformance with the American National Standards Institute, Inc., (“ANSI”) publication entitled “Acoustical Terminology,” designated as ANSI standard 1.1-1994.

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

- (1) *A-weighted sound pressure level* shall mean the sound pressure level, in decibels, as measured on a sound level meter using the A-weighting network. The level so read shall be designated as dB (A-wt).
- (2) *ANSI* shall mean the American National Standards Institute, Inc.
- (3) *Background noise level* shall mean the sound pressure level of the all-encompassing noise emanating from a given environment, usually being a composite of sounds from many sources.
- (4) *Breach of the peace* shall mean as defined in F.S. § 877.03.
- (5) *Construction* shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action, for or on public or private thoroughfares, structures, utilities or similar property.
- (6) *Decibel* or *dB* shall mean a unit for describing the amplitude of sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micronewtons per square meter.
- (7) *Development permit* shall have the meaning as described in F.S. § 163.3164.

132 (8) *Demolition* shall mean any dismantling, destructing or
134 razing of structures, utilities, public or private
thoroughfares, or similar property.

136 (9) *Distance measuring device* shall mean an electronic
138 device that utilizes global positioning software (GPS) or
140 a similar software application, such as Google Maps or
Google Earth; a measuring wheel; counting paces; a
speed measurement device, such as a device used by law
enforcement agencies; or other means or methods
utilized to reasonably estimate distances.

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144 (10) *Emergency* shall mean any occurrence or circumstance
146 involving actual or imminent physical death or trauma,
environmental harm, or property damage, demanding
immediate emergency work or service.

148 (11) *Emergency work or emergency service* shall mean
150 any labor performed for the purpose of preventing or
alleviating, or attempting to prevent or alleviate, physical
152 trauma or property damage threatened or caused by an
emergency, or work by private or public utilities when
restoring utility service.

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156 (12) *Environmental protection officer* shall mean the
county environmental protection officer, as defined in
this chapter, or his/her designee.

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160 (13) *Equivalent sound pressure level (Leq)* shall mean a
sound level descriptor based on the average acoustic
162 intensity over time. Leq is intended as a single number
indicator to describe the mean energy or intensity level
over a specified period of time during which the sound
164 level fluctuated, Leq is measured in dB and must be A-
weighted.

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168 (14) *Impulsive sound* shall mean a sound of short
duration, usually less than one (1) second and of high
170 intensity, with an abrupt onset and rapid decay.
Examples of sources of impulsive sound include
explosions, or pile driver impacts.

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174 (15) *Intermittent sound* shall mean a sound of greater than
one (1) second duration and less than fifteen (15)
minutes. Examples of sources of intermittent sound are

air compressors, heating and air conditioning units and PA speakers.

(1516) *Investigating officer* shall mean the Orange County Sheriff or duly authorized Orange County Deputy Sheriff.

(1617) *Motor vehicle* shall mean any vehicle defined as “motor vehicle” by F.S. § 320.01(1).

(1718) *Noise or noise disturbance*, for purposes of this article, shall mean any sound produced in such quantity and for such duration that it annoys, disturbs or injures a reasonable individual of normal sensitivities, and exceeds the sound level limits set forth in this article or is plainly audible. Further, noise or noise disturbance includes, but is not limited to, low frequency sounds caused by amplified bass music that can induce vibration in building structures or human beings.

(1819) *Noise compliance and compatibility study* shall mean a study prepared by a qualified professional that through modeling and/or field study demonstrates that under the most adverse conditions expected the proposed project, including any proposed noise abatement plan, will comply with the noise regulations in Article V, Chapter 15 of the County Code, and provides a comparison to background noise levels, durations, and characteristics (e.g., continuous, intermittent, impulsive, and tone/frequency) within surrounding properties, and also other properties within the same zoning category or the same class of any transect or special zone.

(1920) *Noise-sensitive zone* shall mean a quiet zone where serenity and quiet are of extraordinary significance, which is open or in session. Noise-sensitive zones include schools, public libraries, churches, hospitals, nursing homes, and other areas defined as such pursuant to a resolution adopted by the board of county commissioners.

(2021) *Person* shall mean an individual, association, partnership, or corporation, including any officer, employee, department, agency or instrumentality of the

United States, the state or any political subdivision thereof.

(2122) *Plainly audible* shall mean any ~~noise or noise disturbance~~sound produced by any source, or reproduced by a radio, tape player, television, CD player, electronic audio equipment, musical instrument, sound amplifier or other mechanical or electronic sound making deviceany source that can be clearly heard by a person using his/her normal hearing faculties, at a distance as defined in subsection 15-183(b)(1) from the property line or right-of-way line of the source of the ~~noise disturbance~~sound. When the particular sound or noise involves words or phrases, sound or noise may be deemed as “clearly heard” even though the investigating officer cannot determine the specific words or phrases being uttered or produced. The detection of a rhythmic bass ~~reverberating vibrating component of music or type of noise~~ disturbance is sufficient to constitute a plainly audible sound or noise.

(2223) *Property line* shall mean an imaginary line along the surface of land or water, and its vertical plane extension, which separates the real property owned, rented or leased by a person from the real property owned, rented or leased by another person. Where the real property owned, rented or leased by a person abuts a waterbody, the term “property line” shall mean the established normal high water elevation of the waterbody.

(2324) *Public right-of-way* shall mean any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by the state, county, or municipality.

(2425) *Residential area* shall mean an area of unincorporated Orange County that predominantly includes residential properties, i.e., single-family and multifamily dwellings, townhouses or timeshare condominiums.

(2526) *Sound* shall mean an oscillation in pressure, stress, particle displacement, particle velocity or other physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

(2627) *Sound level* shall mean the weighted sound pressure level obtained by the use of a metering characteristic and weighting A as specified in American National Standards Institute specifications for sound level meters (ANSI standard 1.4-1983). If the weighting employed is not indicated, the A-weighting shall apply.

(2728) *Sound level meter* shall mean an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting network used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated. The sound level meter shall be of Type 2 or better, as specified in the American National Standards Institute publication entitled "Specifications for Integrating-Averaging Sound Level Meters" designated as ANSI standard S1.43-1997 (R2007) and any subsequent revision thereof.

(2829) *Sound pressure* shall mean the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of sound energy.

(30) *Sound pressure level* shall mean a twenty (20) times the logarithm to the base ten (10) of the ratio of the root mean square sound pressure to the reference pressure of twenty (20) micronewtons per meter squared. The sound pressure level is denoted L_p (or SPL) and is expressed in decibels.

(31) *Special event* shall mean an event for which the County has issued a special event permit, as defined in chapter 38 of the Orange County Code, as it may be amended, renumbered or replaced, that is subject to certain requirements and conditions, including conditions for limitations on the hours and sound produced by the event, such as an Outdoor Public Assembly Permit, Block Party Permit, Special Outdoor Event Permit and similar special event permits.

(32) *Unamplified human voice* shall mean a human voice that is not enhanced or intensified in volume, effect, or force, through the use of an amplifier, such as electronic or mechanical equipment.

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Sec. 15-179. Purpose; intent; authority and responsibility of environmental protection officer and investigating officer.

(a) The purpose of this article is to prevent, prohibit, and also provide for the abatement of, excessive and unnecessary noise, known as noise disturbance, in order to protect the health, safety, and general welfare of people of the county.

(b) It is the intent of this article to clearly define and describe the respective authority and responsibility under this article for the environmental protection officer and the investigating officer relating to noise disturbance investigation and enforcement, unless the noise disturbance is otherwise exempt under this article.

(c) Nothing in this article is intended to deter individuals from lawfully exercising the individual right of freedom of speech, or any other rights guaranteed under the Constitution of the United States of America or the Constitution of the State of Florida, or to unreasonably limit or restrain commercial or industrial enterprises.

~~(e)~~ The environmental protection officer shall have the authority pursuant to this article to investigate and, if applicable, issue a notice of violation or civil citation as provided in this article in any case involving a noise disturbance emanating from residential property under construction or a nonresidential property that exceeds the allowable limits set forth in section 15-182 of this article.

~~(d)~~ The investigating officer shall have the authority pursuant to this article to investigate and, if applicable, issue a civil or criminal citation for a violation of the plainly audible standard, as established in section 15-183(b), and noise disturbance complaints which may involve the consumption of alcohol or any suspected illegal activities and noise disturbance complaints involving “breach of the peace” as defined in F.S. § 877.03.

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(2324) *Public right-of-way* shall mean any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by the state, county, or municipality.

(2425) *Residential area* shall mean an area of unincorporated Orange County that predominantly includes residential properties, i.e., single-family and multifamily dwellings, townhouses or timeshare condominiums.

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(2627) *Sound level* shall mean the weighted sound pressure level obtained by the use of a metering characteristic and weighting A as specified in American National Standards Institute specifications for sound level meters (ANSI standard 1.4-1983). If the weighting employed is not indicated, the A-weighting shall apply.

(2728) *Sound level meter* shall mean an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting network used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated. The sound level meter shall be of Type 2 or better, as specified in the American National Standards Institute publication entitled "Specifications for Integrating-Averaging Sound Level Meters" designated as ANSI standard S1.43-1997 (R2007) and any subsequent revision thereof.

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(31) *Special event* shall mean an event for which the County has issued a special event permit, as defined in chapter 38 of the Orange County Code, as it may be amended, renumbered or replaced, that is subject to certain requirements and conditions, including conditions for limitations on the hours and sound produced by the event, such as an Outdoor Public Assembly Permit, Block Party Permit, Special Outdoor Event Permit and similar special event permits.

(32) *Unamplified human voice* shall mean a human voice that is not enhanced or intensified in volume, effect, or force, through the use of an amplifier, such as electronic or mechanical equipment.

(33) Vehicle shall mean any means in or by which someone travels or something is carried or conveyed, including, but not limited to, cars, trucks, trailers, and motorcycles.

Sec. 15-181. Findings of fact.

(a) Excessive and unnecessary noise interferes with the quality of life and can interfere with the health, safety and general welfare of the public.

(b) In particular, excessive and unnecessary noise can cause adverse psychological and physiological effects on humans.

(c) A substantial body of science and technology exists by which noise may be measured and substantially abated.

(d) The provisions and prohibitions contained in this article are enacted in pursuance of and for the purpose of securing and promoting the public health, safety, welfare and quality of life in the county for its inhabitants.

Sec. 15-182. Maximum permissible sound levels; land use categories; times; and measurement descriptors.

TABLE 1
MAXIMUM ALLOWABLE SOUND LEVEL LIMITS
(measured with sound level meter)

<i>Land Use Category</i>	<i>Measurement</i>	<i>Time of Day</i>	<i>Sound Level Limit (dBA)</i>
Noise Sensitive Zone	Time Averaged (LEQLeq)	Any time	55 dB <u>dBA</u>
	Impulsive	7:00 a.m.—10:00 p.m.	60 dB <u>dBA</u>
	Impulsive	10:01 p.m.—6:59 a.m.	Not allowed
Residential Area	Time Averaged (LEQLeq)	7:00 a.m.—10:00 p.m.	60 dB <u>dBA</u>
	Time Averaged (LEQLeq)	10:01 p.m.—6:59 a.m.	55 dB <u>dBA</u>
	Impulsive	7:00 a.m.—10:00 p.m.	65 dB <u>dBA</u>
	Impulsive	10:01 p.m.—6:59 a.m.	Not allowed

Sec. 15-183. Measurement or assessment of noise.

(a) *Measurement with a sound level meter.*

(1) Sound shall be measured with an integrating-averaging sound level meter satisfying at least the applicable requirements for a Type 2 meter or better, as specified in the American National Standard Institute publication entitled, "Specifications for Integrating-Averaging Sound Level Meters" designated as ANSI standard S1.43-19971-2013.

(2) Calibration of all instruments, components, and attachments shall conform to the latest ANSI standards.

(3) Measurements of sound under this subsection shall be made by individuals trained in a noise measurement program approved by the county.

(4) Sound shall be measured outdoors, no closer than the nearest noise sensitive zone or residential area property line.

(5) All sounds shall be measured for a period not less than fifteen (15) minutes in duration, except as provided in subsections (a)(6) and (a)(7).

(6) Intermittent sounds shall be measured within a sixty-minute period. A minimum five (5)-minute Leq of the sound shall be required to evaluate if a violation exists.

(7) Impulsive sounds shall be measured for only the duration of the sound.

(8) Except when site conditions are prohibitive, measurements shall be taken at approximately five (5) feet above the ground or water surface and at least five (5) feet away from any obstruction or reflecting surface.

(9) At sites with background noise levels which are at, or in excess of, the applicable allowable levels of Table 1, the maximum allowable noise level will be three (3)-dB above the allowable levels of Table 1, or one (1)-dB above background, whichever is greater.

____(b) *Assessment of noise without sound level meter.*

(1) No person shall create a sound that is plainly audible at the time and distance requirements set forth in the following Table 2:

TABLE 2
PLAINLY AUDIBLE STANDARD SOUND LIMITS

<i>Underlying Land Use Category (from which noise emanates)</i>	<i>Time of Day</i>	<i>Distance</i>
Residential Area	7:00 a.m.—10:00 p.m.	500 <u>100</u> feet or more
	10:01 p.m.—6:59 a.m.	450 <u>50</u> feet or more
Nonresidential Area	7:00 a.m.—10:00 p.m.	500 <u>200</u> feet or more
	10:01 p.m.—6:59 a.m.	300 <u>100</u> feet or more

(2) ~~Noise disturbances~~Sounds in violation of subsection 15-183(b)(1) shall be confirmed by the investigating officer. The investigating officer who hears a ~~noise disturbance~~sound that may be plainly audible shall assess the ~~noise disturbance~~sound by measuring the distance from the property line or right-of-way line of the source of the ~~noise disturbance~~ according to the following standards: sound to a distance that exceeds the distance requirement of the plainly audible standard sound limits in subsection 15-183(b)(1). The investigating officer shall measure such distance, according to the following standards, to determine whether the sound constitutes a noise disturbance:

a. The primary means of detection shall be the investigating officer's normal hearing faculties, provided the investigating officer's hearing is not enhanced by any mechanical or medical device, such as a hearing aid.

b. The investigating officer shall have a direct line of sight and hearing to the real property that is the source of the ~~noise disturbance~~sound so that the investigating officer can identify the offending source of such ~~noise disturbance~~sound and the distance involved.

c. The investigating officer shall use a distance measuring device to measure the distances defined in subsection 15-183(b)(1).

Sec. 15-184. Prohibited acts.

Subject to the provisions of sections 15-185 and 15-186, no person shall produce, cause to be produced, or allow to be produced, by any means, any noise disturbance on any private or public

property, including a right-of-way, when such noise is plainly audible or when such noise is measured pursuant to section 15-183 and, where applicable, exceeds the applicable sound level limits set forth in section 15-182.

Sec. 15-185. Exemptions.

The provisions of section 15-184 shall not apply to the following sounds:

(~~1a~~) Lawn maintenance activities, from 7:00 a.m. until ~~10:00~~9:00 p.m.;

(~~2b~~) Railway locomotives or cars activity conducted in accordance with federal laws and regulations;

(~~3c~~) Church or clock carillons, bells or chimes from 7:00 a.m. until 10:00 p.m.;

(~~4d~~) Aircraft and airport activity conducted in accordance with federal laws and regulations;

(~~5e~~) Law enforcement activities, including training;

(~~6f~~) Emergency signals during emergencies;

(~~7g~~) Emergency signal testing between 7:00 a.m. and 7:00 p.m.;

(~~8h~~) Emergency work or emergency service;

(~~9i~~) Generators used during or as a result of an emergency;

(~~j~~) Intermittent testing of generators and emergency equipment between 8:00 a.m. and 6:00 p.m., consisting of no more than two intermittent periods of 20 minutes each for testing within any consecutive two hour period of time, with the exception that temporary generators that are used to provide electrical power during an electrical power outage are exempt from such time limitations, provided that the generator or emergency equipment is operated in accordance with the manufacturer's specifications, with all standard equipment, and is in proper operating condition;

(~~10k~~) Motor vehicles operating on a public right-of-way subject to F.S. § 316.293 and applicable federal criteria;

(11) Refuse collection vehicles, including street sweepers, while in the process of performing their intended activities;

(12m) Construction or demolition activities, other than the placement of concrete as described in subsection (13n) below, for which the county has issued a development permit, provided such activity occurs between 7:00 a.m. and 10:00 p.m.;

(13n) Placement of concrete associated with nonresidential development activities, for which the county has issued a development permit, when conducted between 3:00 a.m. and 10:00 p.m. If placement of concrete is planned to occur prior to 7:00 a.m., notice shall be provided to surrounding residential areas or noise sensitive zones within a maximum period of no more than fourteen (14) calendar days and a minimum period of forty-eight (48) hours notice prior to commencement of the this activity scheduled date of the placement of concrete. No more than one alternative date for the scheduled date of the placement of concrete shall be provided in such notice. The notice, and any subsequent changes in the anticipated or alternative date for the placement of concrete, shall be provided to the Environmental Protection Division and shall be distributed in accordance with the policies and procedures established by the Environmental Protection Division. A copy of the notice and distribution list shall be provided to the environmental protection officer at least forty-eight (48) hours prior to commencement of this such concrete placement activity;

(14o) Construction activities related to city, county, state or federal roads, highways or freeways;

(15p) Scheduled organized activities at a publicly-owned or operated facility;

(16q) The supervised public display of fireworks by fair associations, amusement parks, and other organizations or groups of individuals under the authority of and in compliance with public assembly permits issued by the county and other applicable requirements of law or other lawful use of fireworks;

(17r) Unamplified human voices;

(18s) Any motor vehicle engaged in a professional or amateur sanctioned, competitive sports event for which admission or entry fee is charged, or practice or time trials for such event, at a facility being used for such purposes as of October 15, 1995; and

(19t) ~~Outdoor events for which the organizer has been issued a special outdoor event permit by Orange County, provided it is conducted in accordance with such permit. A special event, as defined in this article, upon the condition that the Sheriff's Office has provided written approval to exempt the special event from compliance with maximum sound level requirements or other requirements of the Noise Ordinance, and the special event is conducted in accordance with such written approval and other requirements and conditions of the special event permit.~~

Sec. 15-186. Variances.

(a) The environmental protection officer may grant a variance from any provision of section 15-182 or 15-184.

(b) Any request for a variance from the requirements of this article shall be considered by the environmental protection officer and granted only when it is found that hardship would result from strict compliance with the provision from which a variance is sought. The environmental protection officer shall grant approval of a variance upon the determination that (1) the hardship is not self-imposed; (2) the variance is necessary; and (3) the intent and purposes of this article are achieved in granting the variance.

(c) Any person seeking a variance shall submit an application to the environmental protection officer. At a minimum, the applicant shall provide the following information:

- (1) Identification of applicant;
- (2) Applicant's mailing address;
- (3) Legal description of property from which the sound will emanate;
- (4) Description of source of sound;
- (5) Description of sound;
- (6) Names and addresses of all abutting property owners;
~~and~~
- (7) Facts and reasons justifying a variance-; and
- (8) Noise compliance and compatibility study.

(d) The applicant for a variance shall tender an application fee in an amount determined by the board of county commissioners.

(e) The environmental protection officer shall schedule a hearing on the variance application. The environmental protection officer shall notify the applicant for a variance and all abutting property owners no less than ten (10) days before the hearing of the time, date, and place of the hearing. If the variance application stems from a complaint, then the environmental protection officer shall notify the complainant.

(f) At the hearing, the applicant may submit any relevant evidence or testimony. In deciding whether to grant or deny the application, the environmental protection officer shall consider the hardship which will result to the applicant, the community, and other persons if the variance is not granted, versus the adverse impact on the health, safety, and general welfare of persons if the variance is granted. The environmental protection officer shall grant or deny the variance application no later than ten (10) days after the date of the hearing. In granting or denying a variance application, the environmental protection officer shall state in writing on the application the reasons for the decision. If the decision is to grant the application, the environmental protection officer shall set forth the terms and conditions of the variance.

(g) Any person aggrieved by the decision of the environmental protection officer may appeal pursuant to the provisions of section 15-38.

Sec. 15-187. Enforcement/penalty.

(a) It shall be unlawful for any person to violate any provisions of this article, or any provisions of any resolution enacted pursuant to this article. The provisions of this article may be enforced by issuance of a letter of warning, a notice of violation, civil citation, or criminal citation. Any person not in compliance with this article, or any provisions of any resolution enacted pursuant to the authority of this article, may be prosecuted in accordance with chapter 11 of this Code or as provided in section 1-9 of this Code. Each violation shall be considered a separate offense.

(b) When a complaint is investigated by the environmental protection officer, pursuant to subsection 15-179(c), and a determination is made that a violation of this article has occurred without the issuance of the appropriate variance or special event permit as provided in sections 15-186 and 15-187 of this article, or

not in accordance with this article, the environmental protection officer shall promptly issue a letter of warning, written notice of violation, or civil citation. If and when issued, a civil citation shall be issued pursuant to the requirements provided at F.S. § 162.21, which shall be punishable by a fine of two hundred dollars (\$200.00) for the first offense and four hundred dollars (\$400.00) for the second offense. A third and each subsequent violation of the same provision requires a mandatory court appearance and may be punishable by a fine of five hundred dollars (\$500.00). All such fines are shown in Table 3 in subsection 15-187(f). If and when issued, a notice of violation shall include a description of the site where the violation has occurred, cite the provisions of this article and other applicable laws that have been violated, and set forth the required remedial action or actions to be taken as deemed reasonable and necessary by the county. Such remedial action may include:

- (1) Modification of the structure or business causing the violation in order to comply with applicable local, state or federal laws or regulations;
- (2) Any other actions consistent with the purpose and intent of this article or other applicable laws in order to ameliorate the adverse impacts of the violation; and
- (3) Administrative and civil penalties.

(c) (1) When a noise complaint is received and referred to the investigating officer for investigation, pursuant to subsection 15-179(d), and upon personal investigation the investigating officer finds probable cause to believe the owner or operator of the real property at issue is in violation of this article, the investigating officer may issue a written warning to cease and desist the violation.

- (2) If the owner or operator of the real property does not take corrective action regarding such a cease and desist warning within a reasonable time, which is defined to be ~~fifteen (15)~~ five minutes or less, or if the noise or sound is abated after the warning and then reoccurs within one hundred eighty (180) days of the time of abatement, the owner or operator of the real property at issue may be found guilty of a civil infraction, with a maximum penalty in an amount not to exceed five hundred dollars (\$500.00).
- (3) Upon determination that a violation of this article has occurred, the investigating officer may issue a civil

citation pursuant to the requirements provided at F.S. § 162.21, which shall be punishable by a fine of two hundred dollars (\$200.00) for the first offense and four hundred dollars (\$400.00) for the second offense. A third and each subsequent violation of the same provision requires a mandatory court appearance and may be punishable by a fine of five hundred dollars (\$500.00) or by criminal citation as provided in section 1-9 of this Code. All such fines are shown in Table 3 in subsection 15-187(f).

(d) If the person cited elects to pay the applicable reduced civil penalty for a first or second violation, the person shall be deemed to have admitted the infraction and waived the right to a hearing. If the person cited fails to pay the civil penalty by the fourteenth day after issuance of the citation or fails to request a court hearing within the time prescribed, the person shall have waived any right to contest the citation, and a judgment shall be entered against the person cited in an amount up to the maximum civil penalty, which shall not exceed five hundred dollars (\$500.00).

(e) Any person violating this article shall be liable for all costs incurred by the county in connection with enforcing this article or any provisions of any resolution enacted pursuant to this article, including, without limitation, attorneys' fees and investigative and court costs.

(f) Enforcement and penalty summary table.

TABLE 3
ENFORCEMENT AND PENALTY SUMMARY

<u>Enforcing Agency</u>	<u>Property Type</u>	<u>Penalty Type</u>	<u>Associated Fine</u>
<u>Orange County Environmental Protection Division (EPD)</u>	<u>Industrial, Commercial, or Residential</u>	<u>Notice of Violation</u>	<u>No fine (written warning only)</u>
		<u>Civil Citation – 1st Offense</u>	<u>\$200</u>
		<u>Civil Citation – 2nd Offense</u>	<u>\$400</u>
		<u>Civil Citation – 3rd Offense (includes mandatory court appearance)</u>	<u>Up to \$500.00 fine or criminal citation</u>
<u>Orange County Sheriff's Office</u>	<u>Residential and Nonresidential</u>	<u>Cease and Desist Violation</u>	<u>No fine (written warning only)</u>

<u>(OCSO)</u>		<u>Civil Citation – 1st Offense</u>	<u>\$200</u>
		<u>Civil Citation – 2nd Offense</u>	<u>\$400</u>
		<u>Civil Citation – 3rd Offense</u> <u>(includes mandatory court</u> <u>appearance)</u>	<u>\$Up to a \$500</u> <u>fine or criminal</u> <u>citation</u>

Footnote: If a repeat violation is found, the case may be presented to the Special Magistrate, in accordance with chapter 11 of this Code or as provided in section 1-9 of this Code.

Sec. 15-188. No liability for reasonable, good faith trespass by enforcement officer or authorized designee or sheriff or deputy sheriff.

The environmental protection officer, the investigating officer, any other authorized code enforcement officer, and the county shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon private property while in the discharge of duties under this article.

Sec. 15-189. Reserved.

Sec. 15-190. Reserved.

Sec. 15-191. Administration.

The board of county commissioners may adopt such resolutions as are necessary to effectively administer this article.

Secs. 15-192—15-215. Reserved.

Section 2. *Effective date.* This ordinance shall take effect pursuant to general law.

ADOPTED THIS ____ DAY OF _____, ____.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Jerry L. Demings
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk