

**Noise Control Regulations
Transylvania County, North Carolina**

**ARTICLE I
SHORT TITLE**

This Ordinance shall be known and cited as the Noise Control Ordinance of Transylvania County, North Carolina.

**ARTICLE II
AUTHORITY**

This Ordinance is adopted under the authority and provisions of the General Statutes of the State of North Carolina Article 6, Chapters 153A-121 and 153A-133.

**ARTICLE III
PURPOSE**

The purpose of this Ordinance is to establish an effective means of regulating and controlling loud and offensive sound and noise within Transylvania County to 1) promote the health, safety and general welfare for residents and visitors; and 2) protect the interest of local businesses while providing reasonable regulations.

**ARTICLE IV
JURISDICTION**

This Ordinance shall apply to all areas of Transylvania County located outside the planning jurisdiction of any incorporated city or town or its extraterritorial jurisdiction.

**ARTICLE V
NOISE REGULATIONS**

SECTION 1: Noise Regulations - It shall be unlawful for any person or persons to make, permit, continue, or cause to be made or to create any unreasonably loud and/or disturbing noise in the County. Noise of such character, intensity and duration as to be detrimental to the health, safety or welfare of any reasonable person of ordinary firmness and sensibilities in the vicinity is prohibited.

1.1 In determining whether a noise is unreasonably loud and/or disturbing, the following definitions shall apply:

- A. “Unreasonably loud”: noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace and good order.

- B. “Disturbing”: noise which is perceived by a person of ordinary firmness and sensibilities as interrupting the normal peace and calm of the area, neighborhood, or vicinity.
- 1.2 In determining whether a noise is unreasonably loud and/or disturbing, the following factors incident to such noise are to be considered based on the totality of circumstances surrounding a particular determination:
- A. Time of day;
 - B. Proximity to residential structures;
 - C. Whether the noise is recurrent, intermittent, or constant;
 - D. Volume and intensity;
 - E. Whether the noise is enhanced in volume or range by any type of electronic or mechanical means;
 - F. Whether the noise is related to the normal operation of a business or other labor activity; and
 - G. Whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

SECTION 2: Exempted Noises - The following noises are exempt from this Ordinance:

- 2.1 Sound emanating from regularly scheduled outdoor athletic events.
- 2.2 Construction operations from 6:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; provided all equipment is operating in accordance with the manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in properly operating condition.
- 2.3 Noises of safety signals, warning devices, emergency pressure valves, factory steam whistles and all mechanical and electronic church bells or chimes.
- 2.4 Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
- 2.5 All noises coming from the normal operations of aircraft (not including small model aircraft).
- 2.6 Noise from lawful fireworks and noisemakers on holidays.
- 2.7 Noise from lawnmowers, weed trimmers, edging machines, or other similar small-engine yard maintenance equipment, properly equipped according to manufacturer's specifications, and used between 6:00 a.m. to 9:00 p.m.

- 2.8 Musical accompaniment at military ceremonies that is taped outdoor music, or music played with instrument not electrically amplified.
- 2.9 Farming operations shall be exempt from the operation of this ordinance.

SECTION 3: Noises Prohibited - The following noises are prohibited.

- 3.1 Noise or sounds that are substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace or good order.
- 3.2 Noise that is perceived by a person of ordinary and reasonable sensibilities as interrupting the normal peace and calm of an area or neighborhood.
- 3.3 Dogs or any other constrained animals that, by frequent or habitually howling, yelping, barking or otherwise cause loud noises and produce seriously annoying disturbance to any person or to the neighborhood between the hours of 9:00 pm to 6:00 am.
- 3.4 Operating or permitting the operation of any automobile, motorcycle, dirt bike, go-cart, recreational vehicle, remote control vehicle, or other vehicle that engages in jackrabbit starts, spinning tires, racing engines, or other operations including without limitation operating an overloaded or out of repair vehicle which creates unreasonably loud or disturbing noise so as to disturb the comfort and repose of any person of normal sensibilities in the vicinity.
- 3.5 Knowingly permitting the occurrence or emanation of any of the foregoing specifically enumerated violations of this Ordinance on property owned, possessed, or used in whole or in part by any person or entity shall be a violation of this Ordinance.

**ARTICLE VI
NOISE COMPLAINT PROCEDURE**

In the event any person has reasonable grounds for believing that any provision of this Ordinance is being violated, he may make a report thereof to the Transylvania County Sheriffs Department, which shall investigate the alleged violation. If any such investigation reveals a violation, the investigating deputy has the authority to cause a written complaint to be made and may obtain criminal process for violation thereof, may issue a citation for a civil penalty, and/or may obtain other enforcement measures as allowed in this Ordinance. Criminal process for violation of this Ordinance may only be obtained by personnel from the Transylvania County Sheriffs Department.

ARTICLE VII
VIOLATIONS, PENALTIES, & ENFORCEMENT

This Ordinance may be enforced in accordance with any and all of the provisions of N.C.G. S. § 153A-123 and of any other applicable enforcement provision as may be set forth within the Transylvania County Ordinances or as may be provided for by applicable law.

A. Criminal penalties: Any Deputy Sheriff of Transylvania County, having first investigated this matter, pursuant to Article VI above, may obtain criminal process for violation of this Ordinance. A violation of any Ordinance provision shall constitute a Class 3 misdemeanor and may be punished by fine in the discretion of the Court, up to a maximum of \$500 per offense.

(1) Warning: Upon the violation of a particular provision of this Ordinance, an individual may be issued a warning. Such warning shall identify the particular practice which is in violation of the Ordinance and shall state the time, date and place of the violation. Such warning shall further state that if the individual commits further violations following the date of the warning, Transylvania County, by and through an enforcement agent, may cause a warrant to be issued for the individual's arrest.

(2) Arrest or Citation: Upon the violation of a particular provision of this Ordinance, a law enforcement officer having jurisdiction may charge the offender with a misdemeanor committed in the officer's presence, by arrest or citation, as set forth in Chapter 15A of the North Carolina General Statutes.

(3) Warrant: Upon the violation of a particular provision of this Ordinance, Transylvania County, by and through an enforcement agent, may request from a magistrate that a warrant be issued for the arrest of the individual.

B. Civil Penalties: Any individual who is found in violation of this Ordinance may be subject to a civil penalty. The amount of such civil penalty shall be assessed as described below. Each day the violation continues shall be considered a separate offense and therefore such continuing violation may be subject to multiple civil penalties as described below:

(1) Compliance Order:

A. Upon making a determination that a person is in violation of this Ordinance, Transylvania County may issue a compliance order to the person in violation of this Ordinance. The compliance order shall notify the violator of the violation in writing. Such order shall identify the circumstances giving rise to the violation, including the times, dates and places of the violation. Such notification shall further

identify the action which is necessary to comply with this Ordinance. Such order shall state that if the violator does not comply within a reasonable time, not to exceed 15 days, the individual will be subjected to a civil penalty. If circumstances exist such that the violator cannot come into compliance within 15 days, Transylvania County may grant an extension of time commensurate with the magnitude of the violation. The compliance order shall further state that failure to comply with the terms of the compliance order will subject the violator to a civil penalty and shall further state the amount of said civil penalty.

B. Failure to comply with the terms of a compliance order issued by Transylvania County within the time stated in the order shall subject the violator to a civil penalty of \$500.00. Each day that the violation continues shall be considered a separate offense, and the violator may be subject to additional \$500.00 civil penalties for each separate offense.

(2) Civil Action: When necessary to collect any civil penalty or accrued civil penalties, a civil action may be instituted by the County against an individual for the collection of all accrued penalties if not paid within thirty (30) days of assessment.

C. Equitable Remedies: This Ordinance may be enforced by the County through equitable remedies, and any unlawful condition existing in violation of this Ordinance may be enforced by injunction or order of abatement in accordance with N.C.G.S. § 153A-123.

(1) Injunction: Where necessary to effectuate compliance with this Ordinance, Transylvania County may institute an action in a court of competent jurisdiction seeking an injunction against the further violation of this Ordinance. Such action may be joined with a civil action instituted to collect accrued civil penalties in accordance with the provisions above, and may be brought against any person or entity causing a violation of this Ordinance or against an owner of a premises upon which a violation of this Ordinance occurred.

(2) Order of Abatement: Where necessary to abate a condition existing upon land in violation of this Ordinance or a use made of land in violation of this Ordinance, Transylvania County may institute an action in a court of competent jurisdiction seeking an order of abatement of the use or condition of land in violation of this Ordinance. Such action may be enjoined to an action for an injunction and/or an action to recover civil penalties accrued against an individual for the use or condition of land in violation of this Ordinance.

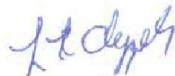
- (3) Other Equitable Remedies: This Ordinance may be enforced by any other equitable remedy which a court of competent jurisdiction deems just and proper.
- (4) To the extent allowable by law, reasonable attorney's fees may be sought by the County or its authorized agent in any action to enforce the provisions of this Ordinance.

ARTICLE VIII
LEGAL STATUS PROVISIONS

- A. Effective Date of Ordinance:
This Ordinance shall take effect immediately upon its adoption by the Transylvania County Board of Commissioners, and shall amend and supersede the previously existing Noise Control Regulations Ordinance existing prior to this Ordinance's adoption.
- B. Severability:
If any provision or provisions of this Ordinance shall be deemed by a Court of law having Jurisdiction over such matters to be unenforceable, invalid, or unconstitutional for any reason, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof that is not specifically declared to be unenforceable, invalid, or unconstitutional.
- C. Conflict of Laws or Ordinance Provisions:
Whenever the regulations of this Ordinance conflict with each other, or with the requirements of another statute, the more restrictive standard shall govern.

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

Adopted this 14th day of July, 2008.



Jason R. Chappell, Chairman
Board of County Commissioners

ATTEST:



Trisha D. McLeod
Clerk to the Board