

CALDWELL COUNTY



NUISANCE ORDINANCE

Adopted 4-27-98

ARTICLE I. AUTHORITY AND ENACTEMENT CLAUSE

The County Commissioners of Caldwell County, pursuant to the authority conferred by an Act of the General Assembly of the State of North Carolina, General Statutes Sections 153A-121 and 153A-133, do hereby ordain and enact into law for the purpose of promoting the public health, safety and welfare of its citizens and the peace and dignity of the County this ordinance prohibiting certain unusually loud, excessive or continuous noises, which are more particularly defined and referred to hereinafter as “prohibited noises”.

ARTICLE II. SHORT TITLE

This ordinance shall be known and cited as the “Caldwell County Nuisance Ordinance”.

ARTICLE III. JURISDICTION

This ordinance shall apply within the unincorporated areas of Caldwell County and within the jurisdiction of any municipality whose governing body by resolution requests and authorizes Caldwell County to enforce this ordinance within its municipal boundaries.

ARTICLE IV. POLICY AND FINDINGS

POLICY. It is the policy of Caldwell County that all residents of this County are entitled to live in a community which is generally safe and free of conditions which adversely affect their general health and welfare. Residents of this County have the right to live in a community free of unusually loud, excessive or continuous noises. To protect against such noises, the County hereby defines and prohibits such noises.

FINDINGS. The Caldwell County Board of Commissioners finds that:

1. The making and creation of excessive, unnecessary or unusually loud noises within Caldwell County is a condition which has existed for some time and the extent and volume of such noises is increasing.
2. The making and creation of excessive or unusually loud noises and sounds interfere with and pose a threat to the health of the sick, the young and the elderly.
3. The making, creation or maintenance of such excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use affect are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of this County.
4. The making of excessive or unusually loud sounds and noises constitutes a nuisance which threatens the peace and dignity of the residents, including those engaged in worship services.
5. The necessity and the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for

the purpose of securing and promoting the public health, comfort, and convenience, safety, welfare and prosperity and the peace and quiet of Caldwell County and its residents.

ARTICLE V. DEFINITIONS OF PROHIBITED NOISES

For the purpose of this ordinance, the term “prohibited noises” means any loud, raucous and disturbing noise which, because of its volume level, duration and character, annoys, disturbs, injures or endangers, the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within Caldwell County. The term “prohibited noises” shall be limited to loud, raucous and disturbing noises heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, in any place of business, upon any parking lot open to members of the public as invitees or licensees, or in any residence which is not the source of the noise or upon the grounds thereof.

By way of illustration only, and without limiting the definition of “prohibited noises” set forth above, the following, to the extent that they annoy, disturb, injure or endanger the comfort, health, peace or safety of reasonable persons of ordinary sensibilities, are examples of “prohibited noises” within the meaning and intent of this ordinance:

1. The playing of any musical instrument, television, radio, stereo or electronic sound amplification equipment in such manner or with such volume, particularly between the hours of 11:00 p.m. and 7:00 a.m., such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.
2. The creation of unreasonable loud, disturbing noises and sound levels caused by musical instruments and/or electronic sound amplification equipment during any outdoor concert, musical performance, show, gathering or other similar outdoor event such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.
3. The keeping of any dog, cat or other animal which makes frequent or long continued sounds such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.
4. The use of any automobile, motorcycle or vehicle so out of repair, so modified or operated in such manner as to create unreasonably loud disturbing sounds.
5. The operating of any garage or service station in any residential area so as to cause unreasonably loud, disturbing sounds to be emitted between the hours of 9:00 p.m. and 7:00 a.m. on any day.
6. The creation of unreasonably loud, disturbing sound levels adjacent to any school, educational facility or church during normal operating hours, which a reasonably prudent person would recognize as likely to unreasonably interfere with the working of such institution, provided conspicuous signs are displayed indicating that such area is a school, educational facility or church.
7. The creation of unreasonably loud, disturbing noises and sound levels caused by or during the erection (including excavation), demolition,

alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 7:00 p.m. on any day.

8. The use of any loud speaker, drum, instrument or any electronic sound amplification equipment for the purpose of attracting attention by creating noise to any performance, show or sale or display of merchandise or for advertising and solicitation purposes.
9. The firing or discharging of any gun, fireworks, firecracker, gun powder or other combustible substance in the street or elsewhere for the purpose of making noise or which creates frequent or long continued noises and sounds such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity, except with the appropriate permit issued hereunder or by authorized law enforcement officers discharging their official duties.

ARTICLE VI. UNLAWFUL TO MAKE OR CAUSE TO BE MADE PROHIBITED NOISE

It shall be unlawful for any person, persons, firm or corporation to willfully make, create, continue or cause to be made any prohibited noise. It shall be unlawful for the owner, lessee, occupant, caretaker or person in possession of any lot, parcel or tract of land to create, permit, allow or suffer prohibited noise to be made, created, caused or continued upon such lot, parcel or tract of land.

ARTICLE VII. INDUSTRIES AND BUSINESSES LOCATED IN APPROPRIATE ZONES AND ATHLETIC AND SPORTING EVENTS EXEMPT

All industries and businesses located in industrial and manufacturing zones, as defined by the applicable Caldwell County or municipal zoning ordinance, are exempt from this ordinance. All athletic contests and sporting events are exempt from this ordinance.

ARTICLE VIII. PERMIT FOR CERTAIN ACTIVITIES

APPLICATION FOR PERMIT FOR CERTAIN ACTIVITIES. Any person, persons, firm or corporation which proposes to sponsor or engage in any temporary outdoor activity or event which involves loud music, electronic sound amplification, gatherings of large numbers of persons, fireworks displays or any other potentially loud or disturbing sounds which might otherwise be prohibited by this Ordinance may apply to the Sheriff of Caldwell County, no less than forty-five (45) days prior to the planned event or activity, for a permit to sponsor or engage in such event or activity.

Applications for permits shall be addressed to the Sheriff of Caldwell County upon forms supplied for the purpose by the County. In deciding whether such permit shall be granted or denied, the Caldwell County Sheriff shall consider the following factors.

1. The public benefit to be derived by the residents of Caldwell County from the proposed event or activity.
2. The nature, extent and duration of the noise to be emitted from the proposed event or activity.

3. The proximity of the proposed event or activity to residences, places of business, schools, churches, institutions and other facilities likely to be exposed to the noise.
4. The time of day, and the day of the week, of the proposed event or activity.
5. Past experience with the same or related applicant engaging in or sponsoring similar events or activities.

Any permit which is granted is deemed to permit only those activities which are specified in the application, at the location, times, dates and duration set forth therein. Any activities which exceed the scope of the permit in nature, extent or duration shall be deemed to be conducted without a permit.

Any person who is aggrieved by the grant or denial of any application for a permit by the Sheriff of Caldwell County may appeal to the Caldwell County Board of Commissioners. Such appeal must be made in writing to the Clerk to the Caldwell County Board of Commissioners at least ten (10) days before the next regularly scheduled meeting of the Board of Commissioners.

ARTICLE IX. RESPONSIBILITY FOR ENFORCEMENT

The Sheriff of Caldwell County, and his deputies, shall enforce the provisions of this ordinance.

ARTICLE X. VIOLATION A MISDEMEANOR

The County may seek injunctive relief or orders of abatement in a court of competent jurisdiction against any person, persons, firm or corporation who or which makes or causes to be made continuing or repeated prohibited noises.

This Caldwell County Noise Ordinance was adopted by the Caldwell County Board of Commissioners on this the 27th day of April, 1998, and it shall become effective immediately.

Chairperson,
Caldwell County Board of Commissioners

Clerk to the Board