

ORDINANCE #2014-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON CALIFORNIA, APPROVING AMENDMENTS TO THE MUNICIPAL CODE TO REPEAL AND REPLACE CHAPTER 8.12 TO PROVIDE NEW AND REVISED NOISE ORDINANCE REGULATIONS IN THE CITY OF AMERICAN CANYON

WHEREAS, at the time of incorporation up to today, the City's Noise Ordinance consisted of a reference to the County's noise ordinance with a few local amendments; and

WHEREAS, over time, the County has updated and reformatted its noise ordinance and the applicable County chapter and sections referenced in the City's Municipal Code no longer exist; and

WHEREAS, the City adopt its own noise ordinance by; and

WHEREAS, the proposed Municipal Code amendments would take applicable sections of the County's standards that have worked well and modify the balance of the ordinance to better fit the needs of the city of American Canyon; and

WHEREAS, the Planning Commission of the City of American Canyon unanimously recommended approval of the proposed ordinance; and

WHEREAS, a public hearing was held by the City Council of the City of American Canyon on May 20, 2014 after due notice was given as required by law, at which time oral and documentary evidence was introduced along with the written recommendation of the Community Development Department staff of the City of American Canyon.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON CALIFORNIA, DOES HEREBY APPROVE AMENDMENTS TO THE MUNICIPAL CODE TO REPEAL AND REPLACE CHAPTER 8.12 TO PROVIDE NEW AND REVISED NOISE ORDINANCE REGULATIONS IN THE CITY OF AMERICAN CANYON AS FOLLOWS:

SECTION 1. The adoption of the proposed ordinance is not a project that has the potential for causing a significant effect on the environment and therefore is not subject to review under the California Environmental Quality Act (CEQA). In addition, the proposed ordinance amendment is exempt under the definition of Project in Section 15378 (b)(3) in that it concerns general policy and procedure making.

SECTION 2. American Canyon Municipal Code Chapter 8.12 Community Noise is hereby repealed and replaced as follows:

Chapter 8.12 COMMUNITY NOISE

Sections:

- 8.12.010** Purpose of provisions—Public nuisance determination.
- 8.12.020** Definitions.
- 8.12.030** Administration and enforcement—Authority and procedures.
- 8.12.040** General noise restrictions designated.
- 8.12.050** Measurement procedures.
- 8.12.060** Interior noise standards.
- 8.12.070** Exterior noise limits.
- 8.12.080** Specific types of noise prohibited.
- 8.12.090** Exemptions to noise regulations.
- 8.12.100** Variances.
- 8.12.110** Enforcement.

8.12.010 Purpose of provisions—Public nuisance determination.

The city council has determined that:

- A. Certain noise levels and vibrations are detrimental to the public health, welfare, safety and quality of life, and are contrary to the public interest;
- B. The making and creating of disturbing, excessive or offensive noises within the city is a public nuisance, and is unlawful, and the noise ordinance shall be enforced as provided in this chapter.

8.12.020 Definitions.

All terminology used in this chapter, not defined in this section, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

"Agricultural property" means any area in which agricultural uses are permitted by the terms of Title 19 of this code, zoning.

"Ambient noise level" means the composite of noise from all sources near and far. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.

"Amplified sound" means any sound created by the use of sound-amplifying equipment.

"A-weighted sound level" means the sound level in decibels, as measured on a sound level meter using the A-weighted network. The level so read is designated "dB(A)" or "dBA."

"Commercial area" means any area defined as commercial in Title 19 of this code, zoning.

"Construction" means any site preparation, assembly, erection, substantial repair, alteration or similar action for or of public or private rights-of-way, structures, utilities or similar property.

"Cumulative period" means an additive period of time composed of individual time segments which are either continuous or interrupted.

"Decibel (dB)" means a unit of measurement indicating the relative intensity of a sound, equal to twenty times the logarithm to the base 10 of the ratio of the pressure of the sound, measured to the reference pressure, which is twenty micropascals.

"Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

"Emergency work or action" means any work or action necessary to restore property to a safe and usable condition after a public calamity, or work required to protect persons or property from imminent exposure to danger or damage, or work by public or private utilities to restore utility service.

"Fixed noise source" means a stationary device which creates sounds while fixed or motionless, including but not limited to residential, agricultural, industrial and commercial machinery and equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

"Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop-forge impacts, and the discharge of firearms.

"Industrial area" means any area defined as industrial or manufacturing in Title 19 of this code, zoning.

"Intrusive noise" means that noise which intrudes over and above the existing ambient noise at a given location. The relative intrusiveness of a

sound depends upon its amplitude, duration, frequency and time of occurrence, and tonal or informational content, as well as the prevailing ambient noise level.

"Mobile noise source" means any noise source other than a fixed noise source.

"Motor vehicle" means and includes any and all self-propelled vehicles as defined in the California Motor Vehicle Code, including all on-highway type motor vehicles subject to registration under said Code, and all off-highway type motor vehicles subject to identification under said Code.

"Noise control officer" means the community development director or the designated representative of the director except that for the purposes of granting variances pursuant to Section 8.120.080 of this code which are heard in conjunction with an application for land division, use permit or other entitlement for use, the noise control officer shall be the person or body authorized by this code to issue such land division, use permit, or other entitlement for use.

"Noise disturbance" means any sound which endangers or injures the safety or health of humans or animals; disturbs the peace and quiet of any neighborhood; annoys or disturbs a reasonable person of normal sensibilities; or endangers or damages personal or real property.

"Noise zone" means any defined area or region of a generally consistent land use wherein the ambient noise levels are within a range of five dB.

"Person" means any individual, association, partnership or corporation, including any governmental officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

"Powered model vehicle" means any self-propelled, airborne, waterborne or landborne plane, vessel or vehicle which is not designed to carry persons, including but not limited to any model airplane, boat, car or rocket.

"Public right-of-way" means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

"Public space" means any real property or structures thereon which are owned or controlled by a governmental entity.

"Pure tone" means any sound which can be judged as audible as a single pitch or a set of single pitches by the noise control officer.

"Real property boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

"Residential area" means any area defined as residential in Title 19 of this code, zoning.

"Sound-amplifying equipment" means any device for the amplification of the human voice, music, or any other sound, excluding: .

1. Standard automobile radios when used and heard only by the occupants of the vehicle in which the radio is installed; and
2. Warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic-safety purposes.

"Sound level meter" means a sound measuring instrument which meets the American National Standards Institute's Standard S1.4-1971, or the most recent revision thereof, for Type 1 or Type 2 sound level meters; or, an instrument and the associated recording and analyzing equipment which will provide equivalent data.

8.12.030 Administration and enforcement—Authority and procedures.

A. The noise control program established by this chapter shall be administered by the community development director or by the director's designated representatives, and shall be enforced by the community development director and the police chief or their designated representatives unless otherwise expressly provided herein.

B. In order to implement and enforce this chapter, and for the general purpose of noise abatement and control, the community development director, as city noise control officer (hereinafter "NCO"), shall have, in addition to any other authority vested in the director, the power to:

1. Studies. Conduct or cause to be conducted studies, research and monitoring related to noise, including joint cooperative investigation with public or private agencies, and the application for and acceptance of grants;

2. Education. Conduct programs of public education regarding the cause, effect and general methods of abatement and control of noise and the actions prohibited by this chapter, and the procedures for reporting violations. Public interest groups shall be encouraged in related public information efforts;
3. Training. Provide for training of field inspectors and other technical personnel concerned with noise abatement, in conformance with standards for technical qualifications as established by the State Office of Noise Control;
4. Coordination and Cooperation.
 - a. Coordinate the noise-control activities of all city departments,
 - b. Cooperate where practicable with all appropriate state and federal agencies,
 - c. Cooperate where practicable with appropriate county and municipal agencies;
5. Public and Private Projects. On all public and private projects which are likely to cause noise in violation of this chapter and which are subject to mandatory review or approval by other departments:
 - a. Review for compliance with the intent and provisions of this chapter,
 - b. Require sound analyses which identify existing and projected noise sources and associated noise levels;
6. Inspections. Upon presentation of proper credentials, enter upon and inspect any private property of place, at any time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, an inspection warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection authority may include the conduct of any necessary tests;
7. Zoning Changes. Prior to the approval of any zoning change:
 - a. Review the potential noise impact of the zoning change by identifying existing and projected noise sources and the associated sound levels,
 - b. Recommend the imposition of adequate control measures on noise sources identified.

C. Duties of the Noise Control Officer.

1. Develop measurement standards and procedures which will further the purposes of this chapter;
2. Develop administrative procedures which will provide for effective enforcement of this chapter;
3. Investigate and pursue possible violations of this chapter;
4. Where appropriate under this chapter, delegate functions to personnel within the department;
5. Assist in or review the total transportation planning of the city, including planning for new roads and highways, bus routes, airports, and other systems of public transportation, to insure that proper consideration is taken with regard to the impact of sound levels and that the policies set forth in the noise element are adhered to;
6. Provide ongoing assistance to local agencies in determining possible mitigation measures for current or forecast noise problems;
7. Make recommendations to the city council for modifications or amendments to this chapter to insure consistency with all state and federal laws and regulations, and as may otherwise be deemed appropriate;
8. Administer noise program grants, funds and gifts from public and private sources, including the state and federal governments.

8.12.040 General noise restrictions designated.

- A. Notwithstanding any other provision of this chapter, and in addition thereto, it is unlawful for any person to wilfully or negligently make or continue, or cause to be made or continued, any loud, unnecessary or unusual noise which disturbs the peace and quiet of any neighborhood or which causes any discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.
- B. The factors which shall be considered in determining whether a violation of the provisions of this section exists shall include, but not be limited to the following:
1. The sound level of the objectionable noise;
 2. The sound level of the ambient noise;
 3. The proximity and timing of the noise in relation to residential sleeping facilities and normal sleeping hours;
 4. The nature and zoning of the area within which the noise emanates;
 5. The number of persons affected by the noise source;

6. The time of day or night the noise occurs;
7. The duration of the noise and its tonal or musical content;
8. Whether the noise is continuous, recurrent or intermittent;
9. Whether the noise is produced by a commercial or noncommercial activity.

8.12.050 Measurement procedures.

Upon receipt of a complaint, the noise control officer, or designee, shall investigate the complaint. The investigation may consist of a measurement and the gathering of data required to comply with such code section, and a deadline date for such compliance, and shall warn that if a subsequent inspection or sound level measurement discloses the continued existence of such violation, further action will be taken to adequately define the noise problem, and may include the following:

A. Nonacoustic Data.

1. Type of noise source;
2. Location of noise source relative to complainant's property;
3. Time period during which the noise source is considered by complainant to be intrusive;
4. Total duration of noise produced, by noise source;
5. Date, time and precise location of the noise measurement survey.

B. Noise Measurement Procedure. Utilizing the "A" weighting scale of the sound level meter and the "slow" meter response, the NCO or designee shall measure the noise level at a position or positions at any point on the complainant's property. Calibration of the measurement equipment, utilizing an acoustic calibrator, shall be performed immediately prior to recording any noise data, and the measurement itself shall be conducted in accordance with procedures established by the noise control officer.

8.12.060 Interior noise standards.

A. Maximum Permissible Dwelling Interior Sound Levels. The interior noise standards for residential dwelling units generated by noise sources outside the dwelling unit, as presented in Table 8.12.060 shall apply, unless otherwise specifically indicated, within all such dwelling units.

Table 8.12.060
INTERIOR NOISE LIMITS

Type of Land Use	Time Interval	Allowable Interior Noise Level (dBA)
Residential	10 p.m. — 7 a.m.	55
	7 a.m. — 10 p.m.	60

8.12.070 Exterior noise limits.

A. Maximum Permissible Dwelling Exterior Sound Levels. The exterior noise standards for residential dwelling units generated by noise sources outside the dwelling unit, as presented in Table 8.12.070 shall apply, unless otherwise specifically indicated, outside all such dwelling units.

Table 8.12.070
EXTERIOR NOISE LIMITS

(Levels not to be exceeded more than 30 minutes in any hour)

Type of Land Use	Time Interval	Allowable Exterior Noise Level (dBA)
Residential Single and double	10 p.m. — 7 a.m.	50
	7 a.m. — 10 p.m.	60
Residential multiple	10 p.m. — 7 a.m.	55
	7 a.m. — 10 p.m.	60

8.12.080 Specific types of noise prohibited.

A. Noise Disturbances Prohibited. No person shall unnecessarily make, continue or cause to be made or continued any noise disturbance.

B. Specific Prohibitions. The following acts, and the causing or permitting thereof, are declared to be in violation of this chapter:

1. Animals, including fowl. Keeping or maintaining, or permitting to be kept or maintained upon any premises owned, occupied or controlled by any person of any animal or animals which, by any frequent or long-continued noise, shall cause annoyance or discomfort to two or more

reasonable persons of normal sensitiveness who reside in separate residences, including apartments and condominiums. However, the NCO or designee may proceed on the basis of a complaint from only one person if circumstances are determined to exist whereby a noise disturbance caused by an animal affects only one individual.

a. Any noise which is audible continuously for ten minutes, or intermittently for thirty minutes shall be prima facie evidence of such annoyance or discomfort.

b. Factors which may be used to evaluate excessive animal noise, include but are not limited to:

- i. Pitch;
- ii. Pattern;
- iii. Duration;
- iv. Frequency of occurrence.

2. Construction or Demolition.

a. Operating or causing the operation of any tools or equipment used in construction, drilling, repair, alteration or demolition work between the hours of seven p.m. and seven a.m., such that the sound therefrom creates a noise disturbance across a residential or commercial real property line, except for emergency work of public service utilities or by variance issued by the appropriate authority. This subsection shall not apply to the use of domestic power tools, as specified in subsection (B)(3) of this section.

b. Noise Restrictions at Affected Properties. Where technically and economically feasible, construction activities shall be conducted in such a manner that the maximum noise levels at affected properties will not exceed those listed in the following schedule:

Table 8.12.080

NOISE LIMITS FOR CONSTRUCTION ACTIVITIES

Timeframe	Residential	Commercial	Industrial
Daily: 7 a.m. to 7 p.m.	75 dBA	80 dBA	85 dBA
Daily: 7 p.m. to 7 a.m.	60 dBA	65 dBA	70 dBA

3. Domestic Power Tools—Machinery.

a. Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar tool between ten p.m. and seven a.m. so as to create a noise disturbance across a residential or commercial real property line;

b. Any motor, machinery or pump, such as swimming pool equipment, etc., shall be sufficiently enclosed or muffled and maintained so as not to create a noise disturbance in accordance with section 8.12.040.

4. Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects between the hours of ten p.m. and six a.m. in such a manner as to cause a noise disturbance across a residential real property line or at any time to violate the provisions of section 8.12.040.

5. Loudspeakers, Amplified Sound. Using or operating for any purpose any loudspeaker, loudspeaker system or similar device, such that the sound therefrom creates a noise disturbance, or at any time violates the provisions of section 8.12.040, except for any activity for which a variance has been issued by the NCO.

6. Powered Motor Vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential or commercial real property line or at any time to violate the provisions of section 8.12.040.

7. Radios, Television Sets, Musical Instruments and Similar Devices. Operating, playing or permitting the operation or playing of any radio, television set, phonograph, drum, musical instrument, or similar device which produces or reproduces sound in such a manner as to create a noise disturbance, or at any time to violate the provisions of section 8.12.040, except for activities for which a variance has been issued by the NCO.

8. Street Sales.

a. The solicitation, sale or advertising of any product or service by shouting or outcry within any residential or commercial area or noise-sensitive zone of the city, except by variance issued by the NCO;

b. The provisions of this subsection shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses, or other similar licensed public entertainment events.

9. Tampering with Noise Control Devices. The removal or rendering inoperative, other than for purposes of maintenance, repair or replacement of any noise-control device or element thereof, from any product required to meet specified noise emission limits under federal, state or local law, and the use of such product after its noise-control device has been removed or rendered inoperative, other than for purposes of maintenance, repair or replacement.

8.12.090 Exemptions to noise regulations.

A. Emergency Exemption. The provisions of this chapter shall not apply to:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency; or
2. The emission of sound in the performance of emergency work.

B. Warning Devices. Warning devices necessary for the protection of public safety, as for example police, fire and ambulance sirens, and train horns, shall be exempted from the provisions of this chapter.

C. Outdoor Activities. The provisions of this chapter shall not apply to temporary events as defined in Chapter 5.05 and Chapter 12.04, provided such events are conducted pursuant to licenses issued pursuant to Chapters 5.05 and 12.04, respectively, of this code and then only as specifically required by such chapters or any manual of standards adopted by resolution of the city council for the purpose of implementing such chapters.

D. Preexisting Noise Sources. Those commercial and industrial operations in existence prior to the date of adoption of the ordinance codified in this chapter, if it can be shown that compliance with the provisions in this chapter constitutes a hardship in terms of technical and economic feasibility, a variance may be granted until such time as compliance may be effected.

8.12.100 Variances.

A. The noise control officer is authorized to grant variances for a period of not more than five years from any provision of this chapter, subject to limitations as to area, noise levels, time limits, and other terms and conditions as the noise control officer determines are appropriate to protect the public health, safety and welfare from the noise disturbance. Variances exceeding five years are not permitted. This section shall in no way affect the duty to obtain any other permit or license that may be required by law before implementing a proposed project.

B. Any person seeking a variance pursuant to this chapter shall file an application with the noise control officer.

C. Any application filed shall include all of the following:

1. Information which demonstrates that bringing the source of the sound or activity for which the variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons; and
2. Payment of that environmental and application fee established by resolution of the city council; and
3. A list of the owners of each parcel of real property any portion of the outer boundary of which is within three hundred feet of the outer boundary of the parcel on which the fixed noise source for which the variance is requested is, or will be, located. This list must be certified as accurate in a manner approved by the community development director, and must be in a form approved by the director. This subdivision 3 shall not be applicable if the variance is requested for a mobile noise source; and
4. If the noise source involves, or may involve, the use of ammunition, a list of all improved parcels that are located within one mile of the parcel on which the noise source for which the variance is requested is, or will be, located. This list must be certified as accurate and complete in a manner approved by the community development director, and must be in a form approved by that director; and
5. Such additional information as the noise control officer may require.

D. A separate application shall be filed for each noise source; provided, however, that variance requests involving several mobile noise sources under common ownership, or variance requests involving several fixed noise sources to be located on a single parcel, may be combined in one application.

E. The following notice of an application for a variance shall be given. If the request for a variance is filed in conjunction with a request that the city approve a land division, use permit or other entitlement for use, the notice shall be consolidated with the notice regarding such application:

1. The notice shall be published once in a newspaper of general circulation in the city.
2. If the variance is requested for a fixed noise source, the notice shall be mailed to the owners of all real property located within three hundred feet of the parcel on which the fixed noise source is located or is proposed to be located.

3. If the variance is requested for a fixed noise source, and if the noise source involves, or may involve, the use of ammunition, the notice shall be mailed to the owner of each improved parcel that is located within one mile of the parcel on which the noise source for which the variance is requested is located or is proposed to be located.

F. A public hearing shall be scheduled before the noise control officer. At the hearing, any person who would be adversely affected by the granting of the requested variance may object orally or in writing and provide any information to support said objection.

G. In determining whether to grant or deny the application, the noise control officer shall balance the hardship on the applicant, the community and other persons of not granting the variance against the adverse impact on the health, safety and welfare of persons affected by the noise disturbance, as well as any other adverse impacts that will result if the variance is granted. The variance shall be conditioned in such a way as to protect the public health, safety and welfare from the noise source. In determining the conditions to be imposed, the noise control officer shall, at a minimum, consider the magnitude of the nuisance that is or will be caused by the offensive noise, the uses of the property within the area that will be affected by the noise, operations carried on under existing nonconforming rights or previously approved conditional use permits or zoning variances, and the economic factors related to the age and useful life of the equipment that is creating the noise or will create the noise.

H. No variance shall be granted until all conditions are agreed to by the applicant. All variances granted shall provide that noncompliance with any condition of the variance shall terminate the variance and subject the persons holding it to all of the provisions of this chapter.

I. The applicant shall be notified of the approval or denial of the variance and of any conditions attached to the approval of a variance by certified mail within ten working days of the close of the public hearing.

J. Appeals of an adverse decision of the noise control officer shall be made to the city council pursuant to Chapter 2.04 of this code.

K. The noise control officer shall maintain a written record of all decisions denying or granting each variance, including the reasons for such denial or approval.

8.12.110 Enforcement.

A. Violation of Sections 8.12.040 or 8.12.060 of this chapter shall be a public nuisance which may be abated civilly or enforced criminally in accordance with Chapter 9.12 of this code.

B. Those employees of the community development department specified in Chapter 9.12 of this code shall have the authority under Penal Code Section 836.5 to issue citations for violations of this chapter, except that no such criminal citation shall be issued for any violation which has already been abated in a fashion satisfactory to the noise control officer or during the period for compliance specified in any abatement order issued for the same violation.

SECTION 3. Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, subsections subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional., is for any reason held to in invalid or unconstitutional.

SECTION 4. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen days of its adoption cause a summary of it to be published in a newspaper and circulated in the City and thereupon and thereafter this Ordinance shall take effect and be in force according to law.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of American Canyon on the 3rd day of June, 2014, by the following vote:

MAYOR GARCIA:

VICE MAYOR RAMOS BENNETT:

COUNCIL MEMBER BENNETT:


COUNCIL MEMBER JOSEPH:


COUNCIL MEMBER LEARY:

yes
yes
yes
yes
yes

ATTEST:


Rebekah Barr, MMC, City Clerk



Leon Garcia, Mayor
APPROVED AS TO FORM:


William D. Ross, City Attorney