

ORANGE COUNTY SHERIFF'S OFFICE LEGAL BULLETIN

Subject: Orange County Noise Control Ordinance

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PLAINLY AUDIBLE NOISE STANDARDS

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Noise complaints arise in a variety of situations, such as house parties. But, as Orange County becomes increasingly urbanized, and homes and businesses are in closer proximity, noise complaints may become more numerous. The Orange County Noise Control Ordinance ([Orange County Code Sections 15-176 through 15-215](#)) prohibits noise that exceeds allowable sound level limits or is plainly audible from a specified distance. It applies to private or public property, whether commercial or residential, including rights of way. The noise ordinance shall be effective throughout the unincorporated area of the county.

The ordinance does not apply to loud music from motor vehicles. Please see [Legal Bulletin 30, "Loud Radio Play from Motor Vehicles"](#) for additional information.

Deputies can enforce the Noise Control Ordinance by issuing a warning, a civil, or criminal citation for a violation of the plainly audible standard. Additionally, deputies will respond to a noise disturbance complaint that might involve the consumption of alcohol or any suspected illegal activity and noise disturbance complaints involving "breach of the peace" as defined in [§ 877.03, Fla. Stat.](#)

PLAINLY AUDIBLE NOISE STANDARDS

The ordinance prescribes decibel limits in various circumstances. The Orange County Environmental Protection Division ("EPD") equips its officers with noise meter readers and handles any such cases.

Orange County deputies are authorized to handle cases arising under the "plainly audible" standard. "Plainly audible" means "any sound produced or reproduced by any source that can be clearly heard by a person using his/her normal hearing faculties, at a distance as defined in [15-183\(b\)\(1\)](#) from the property line or right-of-way line of the source of the sound. When the particular sound or noise involves words or phrases, sound or noise may be deemed as clearly heard even though the deputy cannot determine the specific words or phrases being uttered or produced. The detection of a rhythmic bass vibrating component of music or type of noise disturbance is sufficient to constitute a plainly audible sound or noise.

A noise complaint shall mean a verbal or written complaint submitted to the Environmental Protection Division (EPD) or the Sheriff's Office by a property owner; a business owner; a tenant; an authorized representative of any owner or leaseholder, or a person legally residing in a dwelling unit. A noise disturbance 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 the table below or is plainly audible.

Plainly Audible Standard Sound Limits

Table 1

<u>Underlying Land Use Category</u> (from which noise emanates)	<u>Time of Day</u>	<u>Distance</u>
Residential Area	All days 7:00 a.m. – 10:00 p.m.	100 feet or more
	All days 10:01 p.m. – 6:59 a.m.	50 feet or more
Nonresidential Area	All days 7:00 a.m. – 10:00 p.m.	200 feet or more
	All days 10:01 p.m. – 6:59 a.m.	100 feet or more
Regional Center (excluding theme parks, amusement attractions, and rides)	See Table 1.1 below	

Regional Center Plainly Audible Standard Sound Limits

Table 1.1

<u>Underlying Land Use Category</u> (from which noise emanates)	<u>Time</u>	<u>Day/Distance</u>						
		<i>Sunday</i>	<i>Monday</i>	<i>Tuesday</i>	<i>Wednesday</i>	<i>Thursday</i>	<i>Friday</i>	<i>Saturday</i>
Regional Center 1 (excluding theme parks, amusement attractions, and rides)	12:01 a.m. - 2:00 a.m.	500 feet or more	300 feet or more	300 feet or more	300 feet or more	300 feet or more	300 feet or more	500 feet or more
	2:01 a.m. - 6:59 a.m.	300 feet or more	300 feet or more	300 feet or more	300 feet or more	300 feet or more	300 feet or more	300 feet or more
	7:00 a.m. - 12:00 a.m.	300 feet or more	300 feet or more	300 feet or more	300 feet or more	300 feet or more	500 feet or more	500 feet or more

¹ Regional Center shall mean the I-Drive District and any other area defined as a Regional Center by the Orange County Comprehensive Plan.

The primary means of detection shall be the deputy's normal hearing faculties, provided the deputy's hearing is not enhanced by any mechanical or medical device. Deputies must have a direct line of sight and hearing to the real property that is the source of the sound so that the deputy can identify the offending source of such sound and the distance involved.

Please note the distances listed above may be measured from **any** point on the property line or right-of-way. However, for simplicity's sake and to leave a margin for error, deputies may wish to use a more conservative standard. For example, suppose a deputy responds at midnight to a noise complaint in a residential area. The front of the house includes a yard and sidewalk. There is a small grassy area between the sidewalk and curb of the street. By measuring from the curb of the street, not the sidewalk, the deputy uses a more conservative standard but likely hears a noise level similar to measuring from the sidewalk.

The distance can be measured by using Google Maps, Google Earth, a measuring wheel, counting paces, or an electronic device that utilizes global positioning software (GPS) or similar software application.

EXCEPTIONS TO THE NOISE STANDARDS

There are various exceptions, such as the following:

- (1) Lawn maintenance activities, from 7:00 a.m. until 09:00 p.m.;
- (2) Railway locomotives or cars activity conducted in accordance with federal laws and regulations;
- (3) Church or clock carillons, bells, or chimes from 7:00 a.m. until 10:00 p.m.;
- (4) Aircraft and airport activity conducted in accordance with federal laws and regulations;
- (5) Law enforcement activities, including training;
- (6) Emergency signals during emergencies;
- (7) Emergency signal testing between 7:00 a.m. and 7:00 p.m.;
- (8) Emergency work or emergency service;
- (9) Generators used during or as a result of an emergency; or intermittent testing of generators.
- (10) Motor vehicles operating on a public right-of-way subject to [§ 316.293, Fla. Stat.](#), and applicable federal criteria;
- (11) Refuse collection vehicles, including street sweepers, while in the process of performing their intended activities;
- (12) Construction or demolition activities, other than the placement of concrete as described in Section 13 below, for which the county has issued a development permit, provided they occur between 7:00 a.m. and 09:00 p.m.;
- (13) 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. (See ordinance for other conditions.)
- (14) Construction activities related to city, county, state or federal roads, highways or freeways;
- (15) Scheduled organized activities at a publicly-owned or operated facility;

- (16) The supervised public display of fireworks by fair associations, amusement parks, and other organizations or groups of individuals or other lawful use of fireworks;
- (17) Unamplified human voices;
- (18) 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
- (19) Outdoor event for which the organizer has been issued a special outdoor event permit by Orange County, provided it is conducted in accordance with the permit.
- (20) Any activity for which an environmental protection officer granted a variance.

ENFORCEMENT

EPD officers are authorized to investigate, and to issue notices of violation or civil citations, in cases involving residential property under construction or nonresidential property. EPD will also be responsible for noise violations from a theme park. A common scenario for EPD is noise from commercial equipment impacting nearby residents (e.g., a restaurant's air conditioners, industry-specific equipment). A deputy who is familiar with a location that has a persistent problem with noise of that kind may document the situation and forward the information to EPD for investigation.

If the noise is excessive, EPD may issue a Notice of Violation that may result in a hearing before the Code Enforcement Special Magistrate.

The ordinance specifies that the Orange County Sheriff's Office is responsible for handling the following situations under the "plainly audible" standard:

- (1) Noise complaints involving the consumption of alcohol;
- (2) Noise complaints involving suspected illegal activities; and
- (3) Noise disturbance complaints involving "breach of the peace" defined in **§ 877.03, Fla. Stat.**

For example, EPD will not respond to complaints of noise emanating from homes not under construction, motor vehicles, or clubs serving alcohol. EPD will refer all complaints involving an area of OCSO responsibility (e.g., suspected illegal activity) to the OCSO non-emergency number. EPD also will not respond to a citizen's request for a noise measurement if it appears the EPD officer will be at risk of attack.

How may deputies enforce the ordinance? Three options are available – issuing a notice of violation (warning), civil citation, or criminal citation. Each violation is considered a separate offense.

When a deputy finds probable cause to believe the owner or operator of the real property is violating the ordinance, he or she may issue a notice of violation (written warning) to cease and desist. (Deputies may use the "Courtesy Notice" for this purpose by citing the noise ordinance in the "Other" space and crossing out the traffic language at the bottom of the form.) The owner or

operator of the property must take corrective action within 5 minutes. What happens if the owner takes corrective action within 5 minutes but creates another noise disturbance later that evening? According to the ordinance, if the owner abates the noise after the deputy issues the warning, but the noise reoccurs within 180 days of the abatement, the deputy may issue a civil citation.

Deputies may issue a civil citation punishable by a fine of \$200 for a first violation if the owner does not take corrective action within a reasonable time (defined by the ordinance as 5 minutes). A second violation may result in a fine of \$400. A third or subsequent violation requires a mandatory court appearance and may result in a fine of \$500. For a third or subsequent violation, deputies may issue a criminal citation for a second-degree misdemeanor per Section 1-9 of the County Code (penalty is a fine up to \$500 and/or confinement up to 60 days in the county jail).

Deputies should use the most recent version of the Notice of Appear (“NTA”) form to issue a civil or criminal citation for violating the noise ordinance. For a first or second violation, the deputy should check the “Civil Infraction” box at the top of the form (or the “Summons/Citation” box on the older form). The deputy should cite the ordinance in the charges section of the form and check the “Court Appearance Not Mandatory” box. For a third violation, the deputy should check the “NTA” box at the top of the form to indicate to the Clerk of Court that it’s a criminal violation. Also, the deputy should cite the ordinance in the charges section of the form, check the “Mandatory Court Appearance” box, and complete the court date section. Applicable court dates may be obtained from the misdemeanor court date calendar on the OCSO SharePoint portal.

As an alternative to enforcing the county ordinance, Orange County deputies may use applicable state statutes (e.g., breach of the peace). Under state law, a complainant other than the deputy is needed to pursue the charge.

CONCLUSION

In short, the Orange County Noise Control Ordinance prohibits sound on public or private property, whether residential or commercial, above specified levels in certain situations. (It does not cover loud music coming from a motor vehicle.) The Orange County Environmental Protection Division generally handles complaints involving commercial equipment. Under the “plainly audible” standard of the ordinance, OCSO deputies may address complaints involving suspected illegal activity, the consumption of alcohol, and activities on residential property that generate noise unrelated to construction (e.g., breach of the peace). OCSO deputies may enforce the ordinance by issuing a notice of violation, civil citation, or criminal citation. Deputies may also use applicable state statutes to address these situations (e.g., breach of the peace).

ORANGE COUNTY DEPUTIES WITH QUESTIONS ABOUT THIS LEGAL BULLETIN MAY CONTACT THE LEGAL SERVICES SECTION FOR ASSISTANCE. PERSONS WHO ARE NOT EMPLOYED BY THE ORANGE COUNTY SHERIFF’S OFFICE SHOULD CONSULT THEIR OWN LEGAL ADVISORS BEFORE TAKING ACTION OR RELYING UPON THE SUBJECT MATTER CONTAINED IN THIS BULLETIN.