

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON**

ORDINANCE NO. 2016-__

**AMENDMENT TO KITTITAS COUNTY CODE CHAPTER 9.45 NOISE
CONTROL**

WHEREAS, Portions of Kittitas County's Noise Control Ordinance (KCC 9.45) were found unconstitutional; and

WHEREAS, Kittitas County is concerned with protecting its citizens from the adverse effects of noise; and

WHEREAS, Kittitas County held a public hearing on January 5 where public comment was taken; and

WHEREAS, due notice of the hearing had been given as required by law, and the necessary inquiry has been made into the public interest to be served by such change; and

WHEREAS, that meeting was continued until January 19, 2016; and

WHEREAS, the Board of County Commissioners approved amendment to the Kittitas County Noise Control regulation as attached and incorporated hereto and directed the Prosecutor's Office to prepare enabling documents; and

WHEREAS, RCW 70.107.060(3) and WAC 173-60-110(2) provide that local noise ordinances must be sent for review and approval to the Director of the Department of Ecology, that they cannot become effective until approved by the Department of Ecology, and that if the Department of Ecology does not respond in ninety (90) days, the ordinance is deemed approved; and

BE IT HEREBY ORDAINED: by the Board of County Commissioners of Kittitas County, Washington, after due deliberation and in the best interest of the public, does hereby approve amendment to Kittitas County Code to amend its noise control regulations.

BE IT HEREBY FURTHER ORDAINED that the Prosecutor's Office is directed to submit this ordinance for review to the Department of Ecology as required by RCW 70.107.060(3) and WAC 173-60-110(2) and to report back to the Board of County Commissioners upon either hearing a response from the Department of Ecology or the expiration of ninety (90) days from transmission. Effective date of the regulation and

direction to amend the official County Code will occur after the Department of Ecology's response, if any.

ADOPTED this _____ day of _____ 2016.

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON

Obie O'Brien, Chairman

Paul Jewell, Vice-Chairman

Gary Berndt, Commissioner

ATTEST:
CLERK OF THE BOARD

APPROVED AS TO FORM:

Julie A. Kjorsvik

Greg Zempel, Prosecuting Attorney
WSBA#19125

EXHIBIT A

Chapter 9.45 NOISE CONTROL

Sections:

<u>9.45.010</u>	Declaration of Policy.
<u>9.45.020</u>	Public Disturbance – Finding of Special Conditions.
<u>9.45.030</u>	Public Disturbance – Noise Unlawful When.
<u>9.45.040</u>	Exemptions.
<u>9.45.050</u>	Enforcement.
<u>9.45.060</u>	Violation – Penalty.
<u>9.45.070</u>	Variances.

9.45.010 Declaration of Policy.

It is declared the policy of the county to minimize the exposure of citizens to adverse effects of excessive noise and to protect, promote, and preserve the public health, safety and welfare. It is the express intent of the board of county commissioners to control the level of noise in a manner which promotes commerce; the use, value, and enjoyment of property, sleep and repose; and the quality of environment.

9.45.020 Public Disturbance – Finding of Special Conditions.

The making, creation or maintenance of excessive, unnecessary or unusual loud noises which are prolonged and unusual in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the people of the county. The board of county commissioners and the county sheriff's department have received numerous citizen's complaints regarding noise and believe such noise constitutes a public disturbance. Special conditions within the county make necessary any and all differences between this chapter and regulations adopted by the Department of Ecology.

9.45.030 Public Disturbance – Noise Unlawful When.

(1) It is unlawful for any person to make, continue, or cause to be made or continued or any person owning or in possession of property to make, continue, or cause to be made or continued or allow to originate from the property any sound which:

(a) Is plainly audible within any dwelling unit which is not the source of the sound or is generated within two hundred feet of any dwelling unit, and;

(b) Either reasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.

(2) Sound which is "plainly audible" is sound that can be understood or identified.

(3) It shall be a rebuttable presumption that sounds created between 8:00 a.m. and 10:00 p.m. do not unreasonably annoy, disturb, injure, or endanger.

9.45.040 Exemptions.

The following sounds are exempt from the provisions of this chapter:

(1) Sounds originating from aircraft in flight and sounds which originate at airports and are directly related to flight operations;

(2) Sounds created by safety and protective devices, such as relief valves, where noise suppression would defeat the safety release intent of the device;

(3) Sounds created by fire alarms;

- (4) Sounds created by emergency equipment and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community;
- (5) Sounds created by the discharge of firearms in the course of lawful hunting or target practice activities;
- (6) Sounds created by natural phenomena;
- (7) Sounds originating from [lawful] forest harvesting and silviculture activity, and from agriculture and livestock (not including sounds created by dogs);
- (8) Sounds created by auxiliary equipment on motor vehicles used for highway maintenance;
- (9) Sounds created by off-highway vehicles while being used in officially designated off-road vehicle parks. Such off-road vehicles are nevertheless subject to the provisions of RCW Chapter 46.09;
- (10) Sounds created by warning devices not operated continuously for more than thirty minutes per incident;
- (11) Sounds created by the operation of equipment or facilities of surface carriers engaged in commerce by operating on the railroad;
- (12) Sounds created by construction between 6:00 a.m. and 10:00 p.m.;
- (13) Sounds created by refuse removal equipment or personal snow removal equipment;
- (14) Sounds originated from officially sanctioned parades and other public events;
- (15) Sounds created by motor vehicles while being driven upon public highways. Such motor vehicles are nevertheless subject to the provisions of WAC Chapter 173-62;
- (16) Sounds originating from motor vehicle racing events at authorized facilities;
- (17) Sounds created by unamplified human voices from 6:00 a.m. to 10:00 p.m.;
- (18) Sounds created by lawn and garden equipment from 6:00 a.m. to 10:00 p.m.;
- (19) Sounds created by lawfully established commercial and industrial uses;
- (20) Sounds created by commercial kennels, veterinaries, animal shelters, pet shops, grooming parlors, commercial dog breeders;
- (21) Sounds created in conjunction with military operations or training.

9.45.050 Enforcement.

The county sheriff and other law enforcement officers are authorized and directed to enforce the provisions of this chapter. The provisions of this chapter shall be cumulative, nonexclusive, and supplementary, and shall not affect any other remedy, including without limitation, the provisions of Chapter 70.107 RCW.

9.45.060 Violation – Penalty.

Any person who violates the provisions of this chapter, shall, upon a finding of having committed the civil infraction thereof, be punished by a civil penalty in the amount of \$100 for the first offense, \$250 for the second offense, and \$500 for each offense thereafter.

9.45.070 Variances.

From time to time, upon application to the board of county commissioners, further specific exemptions may be granted to this chapter on a fact and date specific basis. An example is the request for and granting of a festival permit. All such exemptions shall be made through proper

application to the board of county commissioners and in conformance with existing provisions of the Kittitas County Code, as it now exists, or as amended in the future. All requests for exemptions to this chapter are subject to a nonrefundable \$25.00 fee, which must be paid at the time the request is made. All recipients of a variance must provide proof of notification of said variance (including dates and times of the variance) to all residents within 1,000 feet of the noise source property boundary.