



Brunswick County Board of Commissioners
ACTION AGENDA ITEM
2015

Action Item # VIII. - 4.

From:
Brunswick County Sheriff's Office

Sheriff's Office - Conduct Public Hearing for Noise Ordinance

Issue/Action Requested:

Request that the Board of Commissioners conduct a public hearing on March 16, 2015 for the consideration of a Noise Ordinance.

Background/Purpose of Request:

The Sheriff's Office is requesting that the Commissioners consider implementing a noise ordinance in response to numerous noise complaints throughout the county. There is currently a complete absence of any mechanism to allow deputies to encourage noise offenders to be more considerate of their neighbors. The impacts of noise on the community are far greater than mere inconvenience, and include impacts on health, relationships, and work performance. Throughout the U.S. there are documented cases of noise induced arson, assault, murder and suicide.

Fiscal Impact:

Not Applicable

Approved By County Attorney:

Yes

County Attorney's Recommendation:

To conduct a public hearing on March 16, 2015 for the consideration of a Noise Ordinance.

Advisory Board Recommendation:

Recommended by the Sheriff and Commissioner Liaison Committee of the Board of Commissioners.

County Manager's Recommendation:

Recommend that the Board of Commissioners conduct a public hearing on March 16, 2015 for the consideration of a Noise Ordinance.

ATTACHMENTS:

Description

- Proposed Ordinance
- Cost Projection

Proposed Noise Ordinance for Brunswick County

Chapter 1-9 - PUBLIC HEALTH AND SAFETY

Article VIII NOISE ORDINANCE

[Sec. 1-9-561. - Purpose.](#)

It is recognized that excessive and unnecessary noise endangers the physical and emotional health and welfare of the people, interferes with legitimate business and recreational activity, increases construction costs, depresses property values, offends the senses, creates public nuisances, and in other respects reduces the quality of life.

It is further recognized that a substantial body of science and technology exists by which excessive sound may be measured and substantially abated. Because the regulation of excessive and unnecessary noise that may jeopardize human health or welfare or substantially degrade the quality of life is well within the power of the governing body's police powers, it is declared to be the purpose of this section to prevent, prohibit, and provide for the regulation and abatement of excessive and unnecessary noise which may injure the physical and emotional health or welfare of its citizens or degrade the quality of life

[Sec. 1-9-562. - Terminology and standards.](#)

(a) *Conformance.* All terminology used in the provisions of this Article not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

(b) *Definitions:* [The following definitions shall apply to this article:]

Affected person. Any person who registers a complaint with an authorized enforcement agency that he or she is the receptor of noise on a protected property category, and said affected person has an interest in the property as an owner, tenant, or employee.

A-weighted sound level. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).

Decibel (dB). A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

Emergency Work. Activities necessary to protect the health and safety of persons, or prevent or repair damage to property as a result of an unexpected occurrence of natural or unnatural origin.

Excessive Noise. Any loud, raucous, or disturbing noise which, because of its volume level, duration or character, annoys, disturbs, injures or endangers the comfort, health,

peace or safety of an affected person of ordinary sensibilities within the limits of the County of Brunswick.

Motor Vehicle. Every vehicle defined as a motor vehicle by North Carolina General Statute §20-4.

Muffler. An apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

Noise. Any unwanted sound.

Person. Any individual, firm, owner, sole proprietorship, partnership, limited liability company, corporation, unincorporated association, governmental body, municipal corporation, executor, administrator, trustee, guardian, agent, occupant or other legal entity.

Plainly Audible. Any sound, other than unamplified human conversation that can be detected by a person using his or her unaided hearing faculties. For example, if the sound source under investigation is a vehicular or personal sound production device, the detection of the rhythmic bass component of music is sufficient to establish plainly audible sound. It is not necessary to identify the title, specific words, or the artist performing the song.

Real Property Line. 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 the intra-building real property divisions, such as an apartment or condominium.

Sound Level Meter. An instrument used to measure sound pressure levels that conforms to ANSI S1.4-1983 or its successors.

Person. Any individual, association, partnership, or corporation and includes any officer, employee, department, agency or instrumentality of the United States, the state, or any political subdivision thereof.

Slow Response. A measuring technique, or setting on a sound level meter, to obtain an average value when measuring a noise level that fluctuates over a range of four dB or more.

Sound pressure level. Twenty times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference of 20 micronewtons per square meter.

(c) *Classification of use occupancies.* For the purpose of defining the "use occupancy" of any property, the following classifications apply:

- (1) *Entertainment.* All premises which are used for the amusement or enjoyment of others, including but not limited to performances, plays, shows, or concerts.
 - (2) *Commercial.* All premises where sales, professional or other commercial activity is legally permitted, except that residences with lawful home occupations are considered residential.
 - (3) *Industrial.* All premises where goods or wares are made, warehoused or stored or where manufacturing is legally permitted.
 - (4) *Agricultural activities.* Those activities performed on farmlands in order to cultivate the soil, produce crops, or raise livestock. In addition, activities associated with the growing, harvesting, producing, processing, or selling of farm-related products, as long as those activities are conducted on farm-lands.
 - (5) *Public Space.* Any area owned, utilized, or occupied by a municipal, county, state or federal agency.
 - (6) *Residential Use.* All premises containing habitually occupied sleeping quarters, other than as a condition of employment.
- (d) *Measurement of sound.*
- (1) *Personnel.* The operator of a sound level meter, but not persons assisting that operator with nontechnical aspects of sound level measurement, must have received training in sound measurement and must have received training in the use of the sound level meter used. The sheriff of the county shall prescribe minimum training standards for such operators.
 - (2) *Measurement procedures.* Sound level measurement and recording of measurement readings shall be accomplished in accordance with procedures approved by the sheriff of the county. These measurement procedures shall conform to the operating instructions included in the operator's manual for the sound level meter used.

[Sec. 1-9-563. – Specific Prohibitions.](#)

The following acts, or the causing or permitting thereof, among others, are declared to be excessive noise and are in violation of this article:

- (1) *Radios, television sets, musical instruments and similar devices.* Operating, playing or permitting the operation or playing of any radio, television, compact disc player, or other sound reproduction device, or any drum, musical instrument, or similar device between the hours of 11:00 p.m. and 7:00 a.m.:
 - a. In such a manner as to permit sound to be plainly audible across a residential real property line or through partitions common to two (2)

dwelling units within a building; or

b. When the sound is plainly audible at a distance of fifty (50) feet or more from its source.

(2) *Loudspeakers, public address systems and sound trucks.* Using, operating or permitting the operation of any loudspeaker, public address system, mobile sound vehicle or similar device amplifying sound therefrom for any purpose between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to permit sound to be plainly audible across a residential real property line, or through partitions common to two (2) dwelling units within a building.

(3) *Horns, whistles, etc.* Sounding or permitting the sounding of any horn, whistle or other auditory sounding device on or in any motor vehicle on any public right-of-way or public property, except as a warning of danger.

(4) *Vehicles.* Operation of a motor vehicle or operation of a motorcycle within the county that creates mechanical or exhaust noise that is plainly audible at a distance of two hundred (200) feet or more from the vehicle. Operation of sound amplifying equipment in a motor vehicle at a volume plainly audible at a distance of fifty (50) feet from the vehicle.

(5) *Yelling, shouting, etc.* Yelling, shouting, and other vocal sounds in excess of a normal conversational level, whistling or singing, any of which occurs between the hours of 11:00 p.m. and 7:00 a.m. so as to create a plainly audible sound across a residential real property line or on a public right-of-way or public property, or that is plainly audible to an occupant of a dwelling unit within a building other than an occupant of the unit from which such sound emanates.

(6) *Schools, public buildings, places of worship, and hospitals.* The creation of any noise on the grounds of any school, court, public building, place of worship, or hospital in a manner that is plainly audible within such school, court, public building, place of worship or hospital and interferes with the operation of the institution.

(7) *Large party nuisance.* Plainly audible sound between the hours of 11:00 p.m. and 7:00 a.m. that continues unabated for thirty (30) minutes or more, and emanates from a gathering of ten (10) or more people where the gathering is not completely contained within a structure, but spills outdoors into balconies, yards, common areas, parking lots, or other outdoor spaces and is plainly audible across a residential property line.

(8) *Domesticated or caged animals.* Domesticated or caged animals that vocalize a plainly audible sound across a residential property line, which disturbs or interferes with the peace, comfort and repose of any affected person. Prima facie evidence of a violation of this section shall include but not be limited to:

- (a) Vocalizing (howling, yelping, barking, squawking, etc.) for five (5) minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or
- (b) Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this section that the dog or other animal was intentionally provoked.

[Sec. 1-9-564. – Prohibited Noise, Generally.](#)

Maximum sound pressure levels.

(a) In addition to, and not in limitation of the specific prohibitions of Sec. 1-9-563, no person shall operate or permit to be operated any noise source which generates a sound pressure level exceeding the limits set forth in the following tables when measured at or outside the property boundary of the noise source or at any point within any other property affected by the noise. When a noise source can be identified and its noise measured in more than one (1) district classification, the limits of the most restrictive classification shall apply.

(b) Sound level limits are deemed to be in violation where the limit set forth in tables below is exceeded during any three or more sampling intervals, the duration of which shall be no less than 30 seconds each. Where the sound under investigation ceases prior to 90 seconds from initiating the sound level testing, the requirement for a minimum of three sampling intervals is waived.

MAXIMUM SOUND PRESSURE LEVELS

Table 1 - Outdoors

Receiving Property (Affected Person) Category	Residential Property or residential portion of a multi-use property		Non-residential facility including non-residential portion of multi-use facility
Time	7 a.m.— 11 p.m.	11 p.m.— 7 a.m.	24 hours
Maximum A-Weighted Sound Level Standard	60	50	65

Table 2 - Indoors

Receiving Property (Affected Person) Category	Residential Property or residential portion of a multi-use property		Non-residential facility including non-residential portion of multi-use facility
Time	7 a.m.— 11 p.m.	11 p.m.— 7 a.m.	24 hours
Maximum A-Weighted Sound Level Standard	50	40	55

(c) *Measurements in multi-family structures.* In a structure used as a multi-family dwelling the investigating officer may take measurements to determine such sound levels from common areas within *or* outside the structure or from other dwelling units within the structure, when requested to do so by the owner or tenant in possession and control thereof. Such measurement shall be taken at a point at least four (4) feet from the wall, ceiling or floor nearest the noise source, with doors to the receiving area closed and windows in the normal position for the season.

[Sec. 1-9-565 - Exemptions.](#)

- (a) The following are exempt from the provisions of [section 1-9-563 and 1-9-564](#):
- (1) Non-amplified crowd noises resulting from the activities, such as those planned by student, governmental or community groups;
 - (2) Noises emanating from organized school athletic events.
 - (3) Agricultural and farming operations when the equipment is operated with all the manufacturers' standard mufflers and noise reducing equipment in use and proper operating condition;
 - (4) Construction or demolition operations conducted pursuant to a valid building permit or construction or demolition operations by an agency of government or their contractors.
 - (5) Noises made by dogs while they are being lawfully used for hunting or taking wildlife, and noise made by dogs during the course of training by hunters, pursuant to N.C.G.S. Chapter 113.
 - (6) Noises emanating from or resulting from the normal operation of any facility that is properly licensed by the North Carolina Department of Agriculture, Veterinary Division, as a boarding kennel, pet shop or dealer, in accordance with the North Carolina Animal Welfare Act (N.C.G.S. Chapter 19A-20 et seq.), as may be amended, or from any animal shelter that is operated by Brunswick County.

- (7) Noises of safety signals, warning devices, emergency pressure relief valves and bells and chimes of churches;
- (8) Noises resulting from any authorized emergency or law enforcement vehicle when responding to a call or acting in time of emergency;
- (9) Any other noise resulting from activities of a temporary duration otherwise permitted by law;
- (10) Noises associated with any event held in recognition of a community celebration of national, state or county events or public festivals.
- (11) All noises coming from the normal operations of aircraft (not including scale model aircraft) and all noises emanating from any airport within the county.
- (12) All noises coming from the normal operations of railroads and locomotives (not including scale model railroads).
- (13) Household tools and lawnmowers and other lawn care equipment with manufacturer's recommended mufflers installed, between 7:00 a.m. and 7:00 p.m. or sunset, whichever occurs later..

(b) If any exceptions stated in this Chapter would limit obligation, limit liability or eliminate either an obligation or liability, the person who would benefit from the application of the exception shall have the burden of proving that the exception applies and that the terms of the exception have been met.

[Sec. 1-9-566. - Enforcement responsibility.](#)

(a) The sheriff of the county shall have primary enforcement responsibility for this Article.

[Sec. 1-9-567. - Penalties for violation.](#)

(a) *Civil penalties.*

(1) Any person, firm or corporation violating any provision of sections this Article shall be subject to a civil penalty in the amount of \$300.00 for each offense, and separate offenses shall be deemed committed on each day during or on which a violation occurs or continues. Any subsequent violation within a 12-month period of a first violation shall subject the violator to a civil penalty of \$500.00 for each subsequent violation. For purposes of determining subsequent violations within a twelve-month period, the date of the first violation shall be the anniversary date from which a new 12-month period shall begin.

(2) Any person, firm, or corporation found to be in violation of any provision of this Article shall be issued a citation which shall, among other things, state upon its face the

amount of the civil penalty and that it shall be paid within 72 hours from and after such violations; notify such offender that failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of a debt for the stated penalty plus the cost of the action to be taxed in the court; and further provide that the penalty may be paid at the Brunswick County Sheriff's Office, 70 Stamp Act Drive, Bolivia, North Carolina 28422. If the penalty prescribed in subsection (1) above is not paid within 72 hours, the county may initiate a civil action in the nature of a debt and recover the civil penalty and the cost of the action.

(3) As an additional remedy, this article may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction to restrain the violation. The action shall be brought in the appropriate division of the general court of justice of Brunswick County. The institution of an action for equitable relief shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this article.

(b) *Criminal penalties:* A violation of any provision of this article shall be deemed a class 3 misdemeanor punishable to the extent provided in North Carolina General Statutes, Section 14-4. A violation that either reoccurs or continues without cessation after a person has been criminally charged, either by arrest or citation, shall constitute a separate offense.

[Sec. 1-9-568. - Severability.](#)

If any article, section, subsection, sentence, or clause of this article is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portions of this article. It is hereby declared that this article would have been passed, and each article, section, subsection, sentence, or clause hereof, irrespective of the fact that any one or more articles, sections, subsections, sentences, or clauses might be adjudged to be unconstitutional or for any other reason invalid.

[Sec. 1-9-569 – 1-9-580. - Reserved.](#)

Cost Projection to Implement the Ordinance

With an ordinance that incorporates a “plainly audible” standard that will apply to a large majority of our noise complaints, the need for equipment and specialized training will be greatly reduced.

The basic level of training should be provided to all uniform division personnel, consist of a minimum of four hours, and include the following: an introduction to the community impacts of noise; the properties of sound; understanding the “plainly audible” standard; the Brunswick County Noise Ordinance; enforcement options; and a test.

Advanced noise enforcement should be provided to a minimum of 12 uniformed division deputies, which would provide two deputies per shift. and in addition to the above will include: Sound level meter familiarity, calibration, and operation; procedures for measuring sound; isolating the noise source from residual neighborhood noise; calculating noise levels; preparation of the Noise Measurement Report Form; written test and practical skills test. This course (which will include the basic 4 hour training) should be a total minimum of 16 hours.

Refresher training should be provided at both the basic and advanced levels every 3 years., with basic being a 2 hour course with a test, and advanced being a 4 hour refresher and test.

A minimum of 10 sound meter kits are required to implement the program, which will place 2 meters on each patrol shift, with 2 spares. Consideration should be made for equipment replacement, and annual re-certification.

Equipment needed:	10 Certified Sound Level Meters at	\$ 538.00 each
	10 Certified Sound Generators/Calibrators at	\$ 251.00 each
	10 Windmeter/Thermometers	\$ 60.00 each
Initial Equipment Cost =	\$ 7400.00	
Initial Training Cost =	\$ 11,000.00	
Civil Citation Printing Cost =	\$ 500.00	
Total Initial Projected Implementation Cost =	\$ 18,900.00	
Annual Equipment Recert (meter & calibrator) =	\$ 4500.00	
Annual Equipment Maint/Replacement =	\$ 2000.00	
Annual Training Cost =	\$ 3000.00	
Total Annual Projected Cost =	\$ 9,500.00	