

Revisions to the County Noise Ordinance

County Manager Bryan Steen noted the following regarding revisions to the County

Noise Ordinance:

- County Manager Steen, Chairman Walker, Sheriff Mike Joyce, King Police Chief Paula May and Mayor Jack Warren met last Tuesday regarding a recent incident (event) in King
- Current noise ordinance only has a civil penalty
- Discussed at the meeting the need to revise the current noise ordinance by converting the civil penalty to a criminal penalty

County Manager Bryan Steen presented the following proposed county noise ordinance

which was drafted by County Attorney Edward Powell:

STOKES COUNTY NOISE ORDINANCE

Section I: AUTHORITY AND NEED FOR REGULATION OF NOISE.

(A) The authority for the county to regulate noise is G.S. § 153A-133. A county may by ordinance regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens.

(B) It is found and declared by the Board of Commissioners that:

(1) The making and creation of excessive, unnecessary or unusually loud noises within the county limits is a condition which has existed for some time and the extent and volume of such noises are 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 are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the county.

(4) The making of excessive or unusually loud sounds and noises constitute a nuisance which threatens the peace and dignity of the county.

(5) The necessity and the public interest for the provisions and prohibitions hereinafter contained and enacted are 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, convenience, safety, welfare and prosperity and the peace and quiet of the county and its inhabitants.

Section II. PROHIBITION OF UNREASONABLE NOISE.

(A) It shall be unlawful for any person to make, continue, or cause to be made or continued or to create or knowingly assist in creating any unreasonably loud, excessive, unnecessary noise or sound at any time in the county, taking into consideration the volume, duration, frequency, time and other characteristics of the sound.

(B) Making such unreasonably loud, excessive or unnecessary noise or sound between the hours of 11:00 p.m. and 7:00 a.m. on any day of the week or continuing to make, create or knowingly assist in creating any unreasonably loud, excessive or unnecessary noise or sound after receiving actual knowledge that such noises or sounds are disturbing to persons in the vicinity shall be prima facie evidence of a violation of this ordinance.

Section III. EXEMPTIONS.

The following are some mandated exemptions; however, the list is not inclusive.

(A) Athletic events and contests such as football games, baseball games and other outdoor sporting events shall be exempt from regulation hereunder so long as such events are sponsored under the authority of the county or the county public schools or any other governmental authority. The use of any loud speaker or electronic sound amplification equipment in connection with any other athletic event which results in the creation of unreasonably loud disturbing noises and sound levels which a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity shall not be allowed.

(B) Construction operations from 7:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 7:00 p.m. on Saturdays for which building permits have been issued, or construction operations not requiring permits; provided all equipment is operated in accordance with the manufacturer's specifications and with all standard equipment, manufacturer's mufflers and noise reducing equipment in use and in proper operating condition.

(C) Noises of safety signals, warning devices, emergency pressure relief valves and church bells.

(D) Noises resulting from any authorized emergency vehicles when responding to any emergency call or acting in time of emergency.

(E) Unamplified noises at street activity (such as fairs or parades) where the participants have a permit for the conduct of such activity and for use of the streets.

(F) All noises coming from the normal operation of properly equipped aircraft.

(G) All noises coming from motor vehicles properly equipped with the manufacturer's standard muffler and noise reducing equipment in use and in proper operating condition.

(H) Noise from lawful fireworks and noisemakers on holidays.

(I) Lawn mowers and agricultural equipment used between daylight and 9:00 p.m. when operated with all the manufacturer's standard mufflers and noise reducing equipment in use and in proper operating condition.

(J) Agricultural equipment operated for farming purposes. When operated in accordance with manufacturer's specifications and with all standard equipment, including manufacturer's mufflers and noise reducing equipment in use and in proper operating condition.

(K) Any sound resulting from activities of a temporary duration permitted by law and for which a license or permit has been granted by the county or a state or federal agency when such sounds do not exceed the conditions and limits stated in the license or permit.

SECTION IV. MAXIMUM PERMISSIBLE STANDARDS BY RECEIVING LAND.

(A) Sound levels received by the adjoining lands shall not exceed 50 decibels at any time during the day or night.

(B) Sound level measurements shall be made with a sound level meter using the "A" weighting scale set on "slow response".

(C) Sound level meters shall be at least Type Three meeting American Standards Institute, Incorporated (ANSI) latest approved version thereof. The entire sound measurement system shall be serviced and operated as recommended by the manufacturer. The persons using the sound level meters shall be trained in sound level measurement and the operation of sound level meters.

(D) Noise measurements shall be taken at the corner of the primary structure of the complainant nearest the sound source.

SECTION V. PENALTY.

(A) Any person violating any of the provisions of this ordinance shall be subject to criminal prosecution pursuant to G.S. § 14-4, and any such person found guilty of such violation shall be guilty of a Class 3 misdemeanor and subject to a fine of not more than \$500 or imprisonment for not more than 30 days pursuant to that same statute.

(B) Any person violating any of the provisions of this ordinance shall also be subject to the imposition by citation of civil penalty for each such violation in the amount of \$500 which shall be paid in full within 72 hours of the service of the citation in accordance with G.S. § 153A-123.

(C) Any person violating any of the provisions of this ordinance shall further be subject to the county enforcing the provisions of this ordinance by applying to a court of competent jurisdiction in the General Court of Justice for equitable relief including, but not limited to, mandatory or prohibitory injunctions and/or orders of abatement in accordance with G.S. § 153A-123.

(D) Each day a violation shall be considered a separate and distinct offense for the purpose of the enforcement of this ordinance.

(E) Failure to make payment and correct the violation within the 72-hour period will result in an additional fine of \$100 per day.

SECTION VI. REPEAL OF PREVIOUS NOISE ORDINANCE.

Upon the effective date of this ordinance, the previously adopted Noise Ordinance of Stokes County is hereby repealed.

This ordinance shall be effective on _____, 2010.

Adopted this the ____ day of _____, 2010.

Jimmy Walker, Chairman
Stokes County Board of Commissioners

ATTEST:

Darlene Bullins, Clerk to the Board

Chairman Walker asked the Board if there were any issues with allowing Captain Mike Marshall, Major Durward Bennett, or King Police Chief Paula May to speak. The Board had no issues with allowing Captain Marshall, Major Bennett or Police Chief May to speak.

Captain Mike Marshall noted the proposed ordinance could have affect on the following:

- County has two sawmills in the county that operate 24 hours a day
- County has two speedways within the county that operate pass 11:00 pm

- County has industries that initiate specific machinery procedures that cause loud noises

Captain Marshall noted that the proposed ordinance can have a “double edge sword” for some departments.

Major Durward Bennett spoke on behalf of Sheriff Mike Joyce who was unable to attend the meeting.

Major Bennett noted the following:

- Sheriff Mike Joyce requested the Board consider changing the civil penalty to a criminal penalty
- With a civil penalty, the citation is written and then it is the responsibility of the County to follow through to collect the money which can be a long execution process if the person refuses to pay
- With a criminal penalty, the citation is written, a court date is set and the judge renders a judgment, if the fine is not paid, the person can be placed in jail
- Be careful not to affect citizens who perform daily functions such as mowing their grass late, farmers plowing late at night, etc.
- The business in question was actually written a citation several years ago, but the county failed to follow the civil process
- Sheriff’s Department will be glad work with the county attorney if needed

County Attorney Edward Powell noted the following regarding the proposed ordinance:

- Met before the meeting today with members from the Sheriff’s Department to discuss the issues presented by Captain Mike Marshall and Major Durward Bennett
- More exemptions can be incorporated into the proposed ordinance as long the exemptions are general and do not name or imply certain businesses
- Revisions to the ordinance don’t require a public hearing
- Proposed ordinance must be introduced to the Board at one meeting
- Can be adopted at the same meeting it was introduced as long as there is an unanimous vote
- Can be adopted at the another meeting by a majority of the Board, as long as it has been presented at a previous meeting

King Police Chief May noted that the City of King Police Department can enforce the ordinance if it has a criminal penalty.

Attorney Powell noted that any municipality in the county can vote to “opt in” into the county’s ordinance.

Commissioner Inman noted the need for more time to review the document due to receiving the document the day before the meeting.

Major Bennett discussed the recent event in King which caused officials to review the ordinance. Major Bennett noted the following:

- Outdoor event which was fairly (loud music) noisy occurred a week ago Sunday in King (July 25, 2010)
- Emergency Communications received 64 actual complaints (Sheriff’s Department was originally told there was approximately 500 complaints)

The Board discussed the current ordinance and the proposed ordinance.

Commissioner Carroll confirmed with Attorney Powell that in Section II (Item B), an individual could be cited without prior notice or warning anytime between the hours of 11:00 pm and 7:00 am and outside that timeframe, the individual would be warned first and if such noises or sounds continue, then cited.

Commissioner Carroll also confirmed with Attorney Powell that there must be a complaint in order to have a violation and in order to verify the complaint, you must have a noise meter to verify the decibel level (Section IV – item A).

Commissioner Carroll questioned Attorney Powell if Section V (Item K) would take care of mass gatherings, turkey shoots, etc. Attorney Powell noted that after speaking with Major Bennett, Section K needed to be clearer.

Commissioner Carroll noted that he may have further concerns/questions later.

Vice Chairman Lankford agreed with Commissioner Inman the need for more time

to review the document. Vice Chairman Lankford expressed concerns with the proposed ordinance and its effects on businesses, non-profit organizations, musical events, high school events, etc.

Chairman Walker confirmed with Police Chief May that another event similar to the one held in July is scheduled for September 12th. Chief May commented that other events such as fairs, parades can generate complaints.

Commissioner Inman noted the need to involve officials from the Town of Danbury and Town of Walnut Cove regarding the proposed ordinance.

County Attorney Powell noted that he would work with the county manager, officials from

the municipalities, and Sheriff's Department to incorporate the comments made at today's meeting

for the Board's consideration.

Commissioner Carroll suggested placing the item on the Discussion Agenda for the next meeting.

Chairman Walker, with full consensus of the Board, directed the Clerk to place the item on the August 23rd Discussion Agenda.