

## **Proposed Revision to County Noise Ordinance**

County Manager Bryan Steen presented the following proposed revision to the County Noise Ordinance:

### **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 and school reunions 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) Noises from production operations of manufacturing plant facilities, power plant generating facilities, and sawmills and lumber plant facilities at any time.

(C) 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.

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

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

(F) 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.

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

(H) 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.

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

(J) 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.

(K) 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.

(L) All noises coming from the operations of paid public spectator racetracks.

(M) Noises from outdoor concerts with amplified music who have obtained permits from the state or county for limited performances.

(N) 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 75 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

Manager Steen noted the following:

- Revised ordinance was forwarded to the City of King and Town of Walnut Cove managers for their review and input
- Response from the City of King has been provided in today's Agenda packet
- Town of Walnut requested the Board consider placing a time limit on firework displays

County Attorney Edward Powell noted the following:

- Consulted with Attorney Fleming Bell, Institute of Government, who had no issues with the proposed ordinance, but suggested to be careful with including so many exemptions
- Attorney Bell suggested that the ordinance clearly states that the enforcement can be on the unreasonably loud standard or on decibels
- Should revisit the 72 hours for payment in full
- Have not changed anything yet in the ordinance, waiting for comments from the Board regarding the changes suggested by the City of King officials
- Reiterated the revised ordinance does include criminal and civil penalties

The Board continued discussion regarding the proposed revisions to the county's noise ordinance.

The Board unanimously agreed that more discussion and thought need to be put into the revised ordinance prepared by County Attorney Powell.

The Board unanimously agreed to place the item on hold.