

Chapter §92: Noise Ordinance (Approved _____, 2018)

Section:

- 92.01 Definitions
- 92.02 Noise; Generally
- 92.03 Sound Level Meter Not Required
- 92.04 Maximum permissible standards by receiving land
- 92.05 Exceptions
- 92.06 Sound measurement standards
- 92.07 Permit to exceed maximum permissible standards
- 92.08 Burden of proof of Noise Violations
- 92.09 Presumption in prosecution for noise violations
- 92.10 Abrogation

- 92.99 Penalty

§92.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“A” Weighting Scale. The sound pressure level in decibels as measured with a sound level meter using the “A” weighted network. The standard unit notation is db(A).

db(A). Sound level in decibels determined by the “A” weighting scale of a standard sound level meter having characteristics defined by the American National Standards Institute (ANSI) Publications ANSI, S1.4 4, latest edition.

Ambient Base Noise Level. The average sound pressure level in db(A) during a reasonable period of time, as determined by employing a sound level meter as described in §92.06.

ANSI. American National Standards Institute or its successor organization.

CONSTRUCTION. On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility or addition thereto, including all related activities, including, but not restricted to, clearing of land, earth moving, blasting and landscaping.

DECIBEL. A unit of measure on a logarithmic scale, of the ratio of the magnitude of a particular sound pressure to a standard reference pressure, which for purposes of this chapter shall be 20 microneutons/meter.

DISTURBING. Noise that is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of daily life. In determining whether a noise is unreasonably loud and DISTURBING, the following factors incident to the noise are to be considered: time of day; proximity to occupied residential structures; whether the noise is recurrent, intermittent or constant; the volume and intensity; the character and zoning (if applicable) of the area; whether the noise is related to the normal

operations of a business or other labor activity and whether the noise is subject to being controlled without unreasonable effort or expense to the creator, thereof.

DULY AUTHORIZED INVESTIGATING PERSON OR AGENT. A person or agent is duly authorized if he or she is an employee of the Chatham County Sheriff's Office.

EMERGENCY WORK. Work made necessary to restore property to a safe condition; work required to protect, provide, or prevent persons or property from danger or potential danger; or work by a private or public utility when restoring utility service.

IMPACT NOISE. Sound that occurs intermittently rather than continuously.

PERSON. Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of the state any other state or political subdivision or agency thereof or any legal successor, employee, representative, agent or agency of the foregoing.

SOUND LEVEL. In decibels, a weighted sound pressure level determined by the use of a sound level meter whose characteristics and frequency weightings are specified in the ANSI Standard.

SOUND LEVEL METER. Any instrument certified to meet or exceed ANSI standards which includes an omni-directional microphone, an amplifier, an output meter, and frequency weighting network(s) for the measurement of sound level.

SOUND PRESSURE LEVEL. In decibels 20 times the logarithm to the base ten of the ratio of the magnitude of a particular sound to the standard pressure. The standard pressure is 20 micronewtons/meter.

UNREASONABLY LOUD. Noise which is substantially incompatible with the time and location where created to the extent that it interferes with peace or good order.

WEEKDAY. Any day except Sunday.

§92.02 NOISE; GENERALLY.

Unreasonably loud and disturbing noises prohibited. It shall be unlawful for any person or persons to make, permit, continue or cause to be made or to create any unreasonably loud and disturbing noise in the county regardless of its source.

§92.03 SOUND LEVEL METER NOT REQUIRED.

A sound meter shall not be required to determine whether a sound is unreasonably loud and disturbing. However, a sound meter may be used as evidence of a violation, provided it is properly calibrated and conforms to ANSI Standards.

§92.04 MAXIMUM PERMISSIBLE STANDARDS BY RECEIVING LAND.

(A) The maximum permissible daily standard shall not exceed 60 decibels without a permit by the receiving land. The maximum permissible daily standard with a permit shall not exceed 80 decibels by the receiving land, and shall be immediately reduced to 60 decibels as defined in the time table listed in Section B of this provision.

(B) Unless a permit has been issued no person shall exceed 60 decibels during the following hours:

MAXIMUM NOISE LIMITATION WITH A PERMIT		
<i>Shall not exceed 80 decibels at any time:</i>		

SUNDAY- THURSDAY	7:00 a.m.-9:00 p.m.	up to 80 decibels
FRIDAY- SATURDAY	7:00 a.m.-11:00 p.m.	up to 80 decibels

§92.05

EXCEPTIONS.

The following sounds shall be exempt from the provisions of this chapter:

(A) 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 Sundays for which building permits have been issued, or construction operations not

requiring permits during such hours, 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.

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

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

(D) Noises at street activities (such as fairs or parades) where the participants have a permit for the conduct of the activity and for the uses of the streets.

(E) All noises coming from the normal operation of properly equipped aircraft (not including scale model aircraft)

(F) 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.

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

(H) Lawn mowers and residential landscaping 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.

(I) Agriculture equipment operated for farming purposes including poultry farming, when operated in accordance with the manufacturer's specifications and with all standard

equipment, including manufacturer's mufflers and noise reducing equipment in use and in proper operating condition.

- (J) Any sound resulting from the natural behavior of farm animals or for animal husbandry purposes in areas where it does not violate local zoning regulations.
- (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 the sounds do not exceed the conditions and limits stated in the license or permit.
- (L) Any sound resulting from activities to meet the requirements for training of sworn law enforcement officials and its members using county owned facilities or real property.
- (M) Any sound resulting from an explosive device, which, in the opinion of the Sheriff or Fire Marshal, or Director of Emergency Management, should be deliberately set off in order to secure the safety of the public.
- (N) Any sound resulting from the firing of weapons at a sport shooting range exempted from liability or prosecution under N.C. Gen. Stat. §14-409.46.

§92.06 SOUND MEASUREMENT STANDARDS.

A sound meter may be used as evidence of a violation provided the following standards are followed:

(A) Sound level measurement shall be made with a sound level meter using the “A” weighting scale set on “slow response”.

(B) Sound level meters shall be of at least Type Three meeting American National Standards Institute (ANSI) S1.4, latest edition REQUIREMENTS. The entire sound measurement system shall be serviced and operated as recommended by the manufacturer. Persons using the sound level meter shall be trained in should level measurement and the operation of sound level meters.

(C) Except as provided in division (D) below, noise measurements shall be taken at a point on the complainant’s property line nearest the noise source, but when this location is not practicable in the opinion of the duly authorized law enforcement officer because of ambient noise at the complainant’s source, or some other factor that is distorting a proper reading, noise measurements shall be made at the boundary of the public or private right-of-way which adjoins the complainant’s property.

(D) In the case of noises emanating from within a multi-family structure and where the complainant is a resident of the same multi-family structure, noise measurements shall be made in the unit of the complainant at the height of at least four feet above the floor and at a point approximately equal distance from all walls.

(A) No person or group of persons shall operate or cause to be operated a source of sound in excess of sound levels as specified in §92.04 without first obtaining a permit as hereinafter set forth.

(B) Any person or persons desiring a permit shall apply as provided herein and provide all the information required.

(1) A legally responsible person of 18 years or older, must be listed on the permit.

(2) An application for a permit pursuant to this subsection shall be submitted to the Chatham County central permitting office at least seven (7) days prior to the event or activity. Upon tentative approval, the applicant for a permit shall be responsible for mailing or otherwise delivering to the occupants of each property within a one-thousand (1000) foot radius of the facility or property for which the permit is being considered, as shown on the tax maps of the County, a notice stating the date and hours of the event. The notice shall be delivered at least seventy-two (72) hours in advance of the event. The permit shall not be granted until the applicant submits an affidavit to central permitting that the notices have actually been mailed or delivered. An application may be accepted with less than seven (7) days' notice provided notice to property owners is achieved within 72 hours of the event.

(3) The applicant or applicant's designee shall have the permit present at the event and available for inspection upon request by any law enforcement officer otherwise the permit becomes null and void.

(4) The County Manager, or his or her designee, will act expeditiously upon all requests for a permit to exceed maximum permissible sound levels.

- (5) In considering and acting on all requests for permits pursuant to this section, the County Manager, or his or her designee, shall consider the following in issuing or denying the permit: the timeliness of the application; the nature of the requested activity or event; the time of the event, and other activities in the vicinity of the location proposed; the effect of the activity on surrounding areas and/or persons; previous noise ordinance violations or failure to provide any of the provisions in this subsection, if any, of the applicant, and any other relevant information at his or her disposal. Any person aggrieved by a permit decision may seek review by certiorari in the Superior Court of Chatham County.
- (6) Prior to obtaining a permit to exceed maximum permissible sound levels, the applicant will pay to the county an administrative fee of \$50, or the then current fee. The information included in the permit shall include the type of activity, purpose of the event, address of event, date of the event or activity.
- (7) Permit holders shall cooperate with the County Sheriff's office in enforcing this chapter by having the applicant or applicant's designee as indicated on the permit application physically present at the site of the event during the entire time for which a permit has been issued and shall agree to assist the Sheriff in enforcing this chapter. The permit holder shall allow the Sheriff's officer to enter the premises at any time during the prescribed activity in order to assess compliance. Failure of the applicant or designee to be present or to assist the Sheriff as herein prescribed shall be cause for revocation of the permit.

§92.08 BURDEN OF PROOF OF NOISE VIOLATIONS.

In any proceeding based upon this chapter, if an exception stated in this chapter would limit an obligation or limit liability, or eliminate an obligation or liability, the person seeking the exception shall have the burden of establishing that the exception applies and that the terms of the exception has been met.

§92.09 PRESUMPTION IN PROSECUTION FOR NOISE VIOLATIONS.

The complaints of two or more persons who have heard the noise, at least one of whom resides in a different home from the other complaining persons or persons, or the complaint of a duly-authorized law enforcement officer, shall be prima facie evidence that the sound is unreasonably loud and disturbing. Sound emission decibel measurements shall not be required for establishment of a prima facie case. While, complainants are encouraged to contact law enforcement to report an unreasonably loud and disturbing noise prior to swearing out a warrant or other criminal process from a magistrate; they are not required to do so. Prior to appearing before the Magistrate, Hhowever, a verbal or written request asking the offending party to stop the offending noise is required. Any magistrate shall upon hearing convincing evidence under oath of two or more persons who have heard the noise, and not speaking on behalf of another person, shall issue a citation or other enforcement mechanism. A verbal or written request is not required before contacting law enforcement.

§92.10 ABROGATION.

This chapter is not intended to repeal, abrogate or impair any greater restrictions imposed by, covenants or deed restrictions. Wherever the provisions of any other law, ordinance, or regulation impose higher standards than are required by the provisions of this chapter, the provision of such other law, ordinance or regulation shall govern.

§92.99 CRIMINAL PENALTY.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor punishable by imprisonment not to exceed 30 days, or a fine not to exceed \$500 in accordance with §153A-123, or both. Each day of a continuing violation shall constitute a separate offense under this chapter.