

# **CHOWAN COUNTY NOISE CONTROL ORDINANCE**

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### **SEC. 1. AUTHORITY TO REGULATE**

The authority to regulate, restrict, or prohibit the production or emissions of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens, is conferred upon the counties by North Carolina General Statutes §153A-133.

### **SEC. 2. DECLARATION OF POLICY**

It is hereby declared to be the policy of the Chowan County Board of Commissioners to prevent unreasonably loud, disturbing or unusually excessive noise. It is the intention of the Chowan County Board of Commissioners to maintain a low noise level within Chowan County so as to preserve, protect and promote the public health, safety and welfare and to foster convenience, peace and quiet within Chowan County for its inhabitants and residents alike. The Chowan County Board of Commissioners finds that every person is entitled to have noise levels maintained which are not detrimental for life, health, and enjoyment of property and that unusually excessive and unreasonable noise within Chowan County is a menace to the public health, safety and welfare, and the comfort of the people of Chowan County.

### **SEC. 3. DEFINITIONS**

- (a) 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).

- (b) 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 section 5.1(d) of this ordinance and excluding impulsive sounds.
- (c) ANSI: American National Standards Institute or its successor bodies.
- (d) 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.
- (e) Common Carrier: Any motor vehicle for hire by the public or/and motor vehicle that is part of a public transportation system.
- (f) Daytime Hours: 7:00 a.m. to 11:00 p.m., local time.
- (g) Decibel (dB): A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 ratio of the pressure of the sound measured to the reference pressure, which is 20 micro newtons per square meter.
- (h) dB(A): Sound level in decibels, determined by the “A” weighing scale of a standard sound level meter having characteristics defined by the American National Standards Institute Publication ANSI, Si.4-1971, for a Type 2 instrument.
- (i) Emergency: Any condition that exists or is imminent during a time of public crisis, disaster, rioting, catastrophe, or similar public emergency.
- (j) 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 private or public utilities when restoring utility service.
- (k) Impulsive Sounds: Sounds of short duration, usually less than one second, with an abrupt onset and rapid decay. (Examples of sources of impulsive sound include explosions, drop forge impacts and discharge of firearms.)
- (l) Legal Holiday: Any day defined in the North Carolina General Statutes §103-4(a).
- (m) Motor Vehicles: Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle, as defined in North Carolina General Statutes §20-4.01(23)(27).
- (n) 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.

- (o) Noise Sensitive Zone: Any area within 200 feet from the property line of any school, church, nursing home, hospital or funeral home, day care facility, or Court.
- (p) Occupancies: In classifying uses under this section, the zoning classification of an area may be considered, however, the actual use of premises shall control when the use and the zoning classification conflict. Any area not otherwise classified under this section shall be considered commercial. In case of multiple use the more restrictive use category shall prevail.

Use Occupancies shall be as follows:

- (1) Residential: All premises containing habitually occupied sleeping quarters. Premises containing transient commercial sleeping quarters are considered commercial (see below). Hospitals, nursing homes, schools, libraries, and churches are considered residential.
- (2) Public Space: Any area owned, utilized or occupied by a municipal, county, state or federal agency, including, but not limited to, park or recreation areas and streets and sidewalks.
- (3) Manufacturing/Industrial: All premises where goods or wares are made, warehoused or stored, or where manufacturing is legally permitted.
- (4) Agricultural: All premises which are bona fide farms or which are characterized by farming activities as the primary use of the premises.
- (q) Owner of Real Property: The owner or listing owner of real property as defined in North Carolina General Statutes §105-302
- (r) Person: Any individual, association, partnership, or corporation. Any officer, employee, department, agency or instrumentality of the United States, the State of North Carolina or any political subdivision thereof.
- (s) Plainly Audible: Any sound produced by a Sound Magnifying Device which can be clearly heard at a distance of 75 feet. Measurement standards shall be the auditory senses, based upon the direct line of sight. Words or phrases need not be discernible and bass reverberations are included.
- (t) Public Right-of-Way: Any street, avenue, boulevard, highway, sidewalk, alley, or similar place which is owned or controlled by a governmental entity.
- (u) Public Space: Any real property or structures thereon which are owned or controlled by a governmental entity.

- (v) Public Waterways: Any navigable waters not privately owned.
- (w) Residential Area: An area designated for any residential use under the Chowan County Zoning Ordinance.
- (x) Sound: An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression, and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
- (y) Sound level: The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.41971 or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.
- (z) Sound Level Meter: Any instrument certified to meet or exceed ANSI standards which includes an omnidirectional microphone, an amplifier, an output meter and frequency weighting network(s) for the measurement of sound level.
- (aa) Sound-Magnifying Device. Any device or machine for the magnification of a human voice, music or any other sound. "Sound magnifying device" shall not include emergency warning devices on police, fire, ambulance or other emergency vehicles, nor shall it include horns or steam whistles which are used for purposes authorized by sections 7(a) through (j)
- (bb) Sound pressure level: Twenty times the logarithms to the base 10 of the ratio of the root mean squared (RMS) sound pressure to the reference pressure of 20 micro newtons per square meter.
- (cc) Subdivision: An area designated for any residential use under the Chowan County Subdivision Ordinance.
- (dd) Tenant: One who resides on or has the temporary use or occupation of real property owned by another person. In the case of residential property, "tenant" shall be construed to mean any individual actually residing at the residential location, whether such person is listed on a lease or not.
- (ee) Unnecessary Noise: Any excessive or unusually loud sound or any sound which disturbs the peace and quiet of any neighborhood or which does annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of any person or causes damage to property of business.

#### **SEC. 4. PROHIBITION OF NOISE POLLUTION**

- (a) It shall be unlawful for any person to cause or allow the emission of any unreasonably loud, disturbing and unnecessary noise in the county. Specifically, it shall be unlawful to create or emit noise of such character, intensity or duration as to be detrimental for life, health, or enjoyment of property of any individual or that is above the sound emission decibel limits set forth herein.
- (b) It shall be unlawful to play any radio, music player, television, audio system or musical instrument in such a manner or at such volume as to annoy or disturb the quiet, comfort or repose of neighboring inhabitants or at a volume which is plainly audible at a distance of 75 feet and is within the provisions of Section 5.3, Table 1 of this Ordinance or to persons other than those who are in the premises in which such device or instrument is played and who are voluntary listeners thereto.
- (c) Except for organized events which have received any type of permit required in conjunction with the event, it shall be unlawful to play any radio music player, television or audio system upon a public right of way or upon other public property in such a manner or at such a volume as to disturb the quiet, comfort or response of other persons.
- (d) It shall be unlawful to play any radio, music player or audio system in a motor vehicle at such volume as to disturb the quiet, comfort or repose of other persons or at a volume which is clearly audible at a distance of not less than 30 feet.

#### **SEC. 5. STANDARDS**

##### **5.1**

- (a) Standards, instrumentation, personnel, measurement procedures, and reporting procedures to be used in the measurement of sound shall be as specified in this section, and as directed by the Chowan County Sheriff.
- (b) Sound level measurement 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 II meeting American National Standards Institute (ANSI) S1.4-1971 requirements. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measurement equipment.
- (d) The sound level measurement shall be determined as follows:
  - (1) Calibrate the sound level meter after each use to ensure proper operations.

- (2) Set the sound level meter on the “A” weighted network at slow response.
  
- (3) Set the omni-directional microphone in an approximately seventy-degree position in a location which complies with the subsections (1) and (2) above. The operator of the sound level meter shall face the noise source and record the meter’s instantaneous response (reading) observed.

**5.2 Maximum permitted sound levels by use occupancy.**

- (a) The use of sound amplifying equipment is limited to the conditions specified in this section.
  
- (b) Except as allowed in section 7(a) through (j) of this ordinance, no person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which at its peak exceeds the limits set forth for the use occupancy categories in Section 5.3 Table 1 when measured at or beyond the point on the property line closest to the dwelling located on the property from which the sound complaint originates. For purposes of measurement, the back of the curb, the outside edges of driveways, fences, hedges, or other physical features commonly associated with property boundaries are presumed to be at a point which is at or beyond the property line. In all cases the maximum sound level permitted by use occupancy shall be determined on the basis of the use occupancy of the property from which the sound originates and not by the use occupancy of any surrounding property. Sound which originates from a dwelling unit in a duplex or other multifamily housing unit shall be measured from any point which is at least 25 lineal feet, whether inside or outside a building, from the nearest point of the enclosed or habitable space of the dwelling unit from which the sound originates.

**5.3 TABLE 1**

**SOUND LEVELS BY USE OCCUPANCY**

<b>Use Occupancy Category</b>	<b>Time</b>	<b>Sound Level Limit (dB(A))</b>
Residential / Mobile Home Park	11:00 p.m.—7:00 a.m.	50

**5.4 Interference**

It shall be unlawful for any persons to interfere, through the use of sound or otherwise, with the taking of sound level measurements.

**SEC. 6. ENUMERATED NOISES**

In addition to any other violation of this article, the acts enumerated below are specifically declared to be unreasonably loud, disturbing, and annoying or unnecessary noise, the creation or emission of which shall be unlawful. Such enumeration shall not be deemed to be exclusive:

- (a) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal, so as to create any unreasonably buds or harsh sound or the sounding of such device for an unnecessary and unreasonable period of time.
- (b) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.
- (c) The use of any gong or siren upon any vehicle other than police, fire, ambulance or other emergency vehicles.
- (d) The playing of any sound magnifying device, radio, television, phonograph amplifier system, tape deck, tape recorder or other musical instrument in such a manner or with such volume, between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any person or persons in any dwelling, hotel or other type of residence.
- (e) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a

muffler or other device which will effectively prevent loud or explosive noises therefrom.

- (f) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.
- (g) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in session, or within one hundred fifty (150) feet of any hospital which unreasonably interferes with the working of such institution or which disturbs or duly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, church, court or hospital street.
- (h) The creation of loud and excessive noise in connection with loading or unloading any vehicles, or the opening, closing or destruction of bales, boxes, crates and containers.
- (i) The shouting and crying of peddlers, barkers, hawkers or vendors which disturbs the quiet and peace of the neighborhood.
- (j) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise. However, this section does not apply to noise created by devices, bands or musical instruments used in any public parade or public procession, nor to a public fair, public circus or public athletic event.
- (k) The firing or discharging of firearms in the streets or elsewhere for the purpose of making noise or disturbance.
- (l) The conducting of contests of "turkey shoots" where firearms are discharged in trials of skill and the contestants shoot for turkeys or other prizes, except between the hours of 7:00 a.m. and 11:00 p.m.
- (m) The keeping of any bird, livestock or other animal causing frequent or long continued noise disturbing the comfort or repose of individuals in the vicinity.

## **SEC. 7. EXCEPTION**

The maximum noise limitation standards defined above shall not apply to the following sources:

- (a) Emergency warning devices or safety signals

- (b) All agricultural or farm related equipment used to plant, protect or the harvest of crops and timber;
- (c) Lawn care equipment used during the daytime hours;
- (d) Equipment being used for construction during daytime hours, provided that all equipment, manufacturers mufflers and noise reducing equipment is operated with all standard equipment, manufacturers mufflers and noise reducing equipment in use and in proper operating condition;
- (e) Parades, fairs, circuses, other similar public entertainment, turkey shoot where firearms are discharged in trials of skills and contestants shoot for turkeys or prizes, sporting events taking place during daytime hours in areas set aside for such activities, or any activities normally associated with any of the above, provided that in any sporting event utilizing motor vehicles the vehicles be equipped with properly operating mufflers and noise reducing equipment as would be required for operation of the motor on the public streets;
- (f) Chimes, Pressure Relief Valves, Church Bells and similar devices which operate during daytime hours for a duration of no longer that five (5) minutes in any given period;
- (g) Emergency work.
- (h) Noise from noisemakers on holidays and fireworks on holidays or at times allowed under a pyrotechnics permit issued pursuant to North Carolina General Statutes Chapter 14, Article 54.
- (i) Sound emanating from events for which a special use or conditional use permit has been issued under the Chowan County Unified Development Ordinance by the board of commissioners;
- (j) The provisions of this ordinance shall not apply for activities described in a permit issued by the Chowan County Manager. However no permit will be issued in a residential area without written permission from persons living within 200 feet of the described activity.

## **SEC. 8. ENFORCEMENT AND DUTIES**

The Chowan County Sheriff's Office shall be responsible for the administration and enforcement of this ordinance as provided in North Carolina General Statutes §153A-123. In addition, the Chowan County Alcohol Beverage Control and any other Chowan County sanctioned law enforcement agency has the authority to enforce the provisions of

this ordinance within their realm of jurisdiction. Duties of the Chowan County Manager shall involve the processing of permits to exceed.

**SEC. 9. PRESUMPTION IN PROSECUTION FOR NOISE VIOLATIONS**

The complaints of two or more persons, at least one of whom resides in a different home from the other complaining person, or persons at a distance of at least 75 feet from such device, when combined with the complaint of a duly authorized investigating person, shall be prima facie evidence that such sound is unreasonably loud, disturbing, and annoying or unnecessary noise. In such cases sound emission decibel measurements shall not be required for establishment of a prima facie case.

**SEC. 10. VIOLATION**

In accordance with North Carolina General Statutes §14-4:

**10.1 Misdemeanors**

Any person, group, event or business found in violation of this ordinance shall be guilty of a Class III misdemeanor, as provided by applicable state law. Each incident shall constitute a separate and distinct offense.

First Offense	\$100.00
Second Offense	\$200.00
Third and Subsequent Violations for Same Offense	\$300.00

**10.2 Criminal Process**

The responding law enforcement officer shall be authorized to serve either a criminal summons or misdemeanor citation, as appropriate, to the person in apparent or obvious control of the location or facility.

**SEC. 11. EFFECTIVE DATE**

This Ordinance as rewritten shall become effective on the date of adoption and shall supersede and repeal the Noise Ordinance adopted June 1, 1992

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Clerk