

LEE COUNTY

NORTH CAROLINA

Committed Today for a Better Tomorrow

LEE COUNTY NOISE ORDINANCE

ARTICLE II. NOISE

Sec. 12-31. Purpose, statutory authority, and name of Article.

The purpose of this Article is to regulate, restrict and, where necessary, prohibit or abate the production and emission of amplified speech, music and other noises and sounds in the unincorporated areas of the county that tend to annoy, disturb, or frighten citizens. This Article is adopted pursuant to the authority contained in G.S. 153A-133, G.S. 153A-123 and G.S. 14-4 and shall be known as the Lee County Noise Control Ordinance.

Sec. 12-32. Definitions.

In addition to the common meaning of words, the following definitions shall be used in interpreting this Article.

- (a) *Construction.* On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility or addition thereto, including all related activities such as clearing of land, earth moving, blasting and landscaping. "Construction" also shall include building or maintenance of public streets, roads, highways, and public vehicular areas.
- (b) *Commercial sport shooting range.* An area or structure designed for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting, which is operated as a business venture and, where required by law, is properly licensed and permitted.
- (c) *Daytime hours.* From 7:00 a.m. until 10:00 p.m., local time.
- (d) *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.
- (e) *Loudspeaker.* A device actuated by an electrical signal that produces sounds controlled by the electric signal. The sounds produced are usually a reproduction of speech or music or other sound encoded in the electrical signal.
- (f) *Nighttime hours.* After 10:00 p.m. and until before 7:00 a.m., local time.
- (g) *Person.* Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political

subdivision or agency thereof or any legal successor, representative, agent or agency of the foregoing.

(h) *Property boundary line.* An imaginary line along the ground surface, and its vertical extension, separating the real property owned or occupied by one person from that owned or occupied by another person, including real property divisions within buildings. Public rights-of-way and easements that divide the property are not property boundary lines.

(i) *Residential area.* For the purpose of this Article, "residential area" means any tract or parcel of land zoned for residential use or actually used for sleeping purposes, including, but not limited to, land on which is located private homes, apartments and other multi-family structures, hospitals, nursing homes, rest homes, assisted living centers, hotels, motels, dormitories, or campgrounds, and shall further include any tract or parcel of land on which are located any school, library, or church which is open and operating.

(j) *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.

Sec. 12-33. Prohibited noises and sounds generally.

It shall be unlawful in the unincorporated areas of the county for any person to produce and cause or allow to cross the property boundary line of his property:

(a) any unreasonably loud, disturbing or raucous noise or sound that tends to seriously annoy, disturb, or frighten a reasonable individual of normal sensitivities, or

(b) noise or sound of such character, intensity or duration as to be detrimental to the health of any individual or which disturbs the quiet comfort or repose of a reasonable individual of normal sensitivities, or which interferes with the useful enjoyment of property.

Sec. 12-34. Enumerated prohibited and unlawful noises and sounds.

In addition to any other noises and sounds prohibited by this Article, the following acts are specifically declared to produce unreasonably loud, disturbing, or raucous sound or noise that seriously annoys, disturbs or frightens a reasonable individual of normal sensitivities, or to be detrimental to the health of any individual, or disturbs the quiet comfort or repose or useful enjoyment of property. Causing or allowing these sounds or noises to cross over the property boundary line of the property from which the sound or noise emanates is prohibited and unlawful. This enumeration shall not be deemed to inclusive of all the noises or sounds that violate this Article.

(a) Playing, operating, or permitting to be played or operated, any radio, television set, musical instrument, or a tape recorder, cassette player, compact disc player, digital video recording or other machine or device for the reproducing of sound during in or on:

(1) Any public property including any public street, highway, building, sidewalk, park, thoroughfare, or public or private parking; or

(2) Any motor vehicle on a public street, highway or public space, or within the motor vehicle area of any public or private parking lot or parks;

if, at the same time the noise or sound is generated, it is audible at a distance of 30 feet from the machine or device reproducing the sound.

- (b) Using or operating outdoors for any purpose any loudspeaker, loudspeaker system, noise amplification device, or similar device within any residential area, except for noncommercial public speaking, public assembly, or other activity for which a permit has been issued by appropriate authority.
- (c) Offering for sale, selling, or advertising any item by shouting or outcry within any residential area, except when a permit has been issued by appropriate authority.
- (d) Owning, possessing, or harboring in a residential area any dog, bird, or other animal which howls, barks, cries, meows, squawks, or makes other loud sounds or noises continuously for a period of ten minutes or more, or intermittently for one-half hour or more, at any time. It shall not be a violation of this section if, at the time the animal is making the illegal noise, a person is trespassing or threatening to trespass upon private property in or upon which the animal is situated or has teased or provoked the animal. Any resident, owner, occupant, or tenant of property upon which the animal is situated shall be deemed a person in charge or otherwise exercising control over such animal. This provision shall not apply to public zoos or private animal attractions operated for profit to which the public has general admission and for which a permit has been issued by appropriate authority.
- (e) Operating or permitting the operation of any mechanically powered saw, drill grinder, lawn or garden tool, or similar tool in any residential area in the nighttime.

Sec. 12-35. Exceptions.

- (a) The prohibitions established in this Article shall not apply to the following sources of sound:
 - (1) Emergency warning devices or safety signals;
 - (2) Lawnmowers, agricultural equipment, and landscape maintenance equipment when operated in the daytime with all the manufacturer's standard mufflers and noise-reducing equipment in use and in reasonable operating condition;
 - (3) Equipment being used for construction, provided that all equipment is operated in accordance with manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.
 - (4) Parades, fairs, circuses, other similar public entertainment events, sporting events, or sporting activities taking place in areas set aside for such activities, or any activities normally associated with any of these activities;
 - (5) Bells, chimes and similar devices which operate for a duration of no longer than five minutes in any hour;
 - (6) Emergency work.

(7) The provision of all government services, including but not limited to, noises produced by solid waste collection vehicles, fire, law enforcement, ambulance, rescue or other emergency vehicles, while such vehicles are engaged in their proper functions.

(8) Emission of sound from any source or sources on public rights-of-way, except for those limited by Section 14-34(a) herein.

(9) Noise from trains and associated railroad rolling stock when operated in proper repair and manner.

(10) All noises coming from the normal operations of properly equipped aircraft, not including scale model aircraft.

(11) Normal operation of a commercial sport shooting range when operated with a permit from appropriate authority.

(12) Any sounds associated with bona fide farm or agricultural activities including seasonal activities such as harvesting at the end of the growing season or planting during planting season.

(13) Non-amplified crowd noises resulting from activities and events sponsored by school, governmental, or community groups.

(14) Music produced by school bands while practicing or performing on school property.

(b) In any proceeding pursuant to this Article, if an exception is asserted in defense of an alleged violation, the person making the assertion shall have the burden of persuasion that the exception applies and that the terms of the exception have been met.

Sec. 12-36. Creating public disturbance prohibited.

(a) The gathering of any group on the sidewalks, streets, or public places within the county for the purpose of creating, or which creates, mechanical, vocal or other sound which is of such intensity or nature to interfere with the rights of peaceful occupation of the property owners in the adjacent areas is unlawful. Any person who participates in, leads, directs or encourages such actions shall be in violation of this section.

(b) Nothing in this section shall prevent the orderly expression of spectators at regularly organized sporting events or the peaceful assembly of any group for orderly expression or communication between those assembled.

Sec. 12-37. Enforcement responsibility.

The Sheriff of Lee County shall have primary enforcement responsibility for violations of this Article. Any Lee County Animal Control Officer shall have authority to enforce sections of this Article relating to unlawful noise or sounds created by animals only through warnings, assessment of a civil penalty and initiation of equitable remedies.

Sec. 12-38. Authorized enforcement actions.

(a) No person violating this Article shall be charged either civilly or criminally or be named a defendant in a civil action seeking an equitable remedy without first being warned by a law enforcement officer or animal control officer that his action constitutes a violation of this Article and given an opportunity to bring his conduct into compliance with this Article.

(b) When a violator, after warning, fails to immediately bring his conduct into compliance with this Article, one or more of the following enforcement actions may be taken.

(1) Imposition of a civil penalty.

a. Any person violating any provision of this Article shall be subject to a civil penalty in the amount of \$200.00. Any subsequent violation within a 12-month period of a first violation shall subject the violator to a civil penalty of \$400.00 and each subsequent violation after the second, regardless of when it occurs, subjects the violator to a penalty of \$500.00. Separate offenses shall be deemed committed on each day during or on which a violation occurs or continues.

b. Imposition of a civil penalty shall be by issuance of a civil citation or notice of violation by a Lee County deputy sheriff or Lee County animal control officer which shall state upon its face, as a minimum, the nature of the violation with a citation to the provision of this Article alleged to be violated, the amount of the civil penalty, that the civil penalty shall be paid in person or via United States Mail to the Lee County Revenue Department at 106 Hillcrest Drive within five business days from the date the citation or notice of violation is issued, and notify the alleged violator that failure to pay the civil penalty within the prescribed time shall subject the alleged violator to a civil action in the nature of a collection of a debt to recover the stated penalty and the cost of the action as taxed by the court.

(2) Issuance of a criminal citation or arrest.

a. Any person who violates this Article, shall be guilty of a Class 2 misdemeanor and shall be punished by a fine of not more than \$200.00 for a first offense, \$400.00 for a second offense committed within 12 months of a first offense conviction and \$500.00 for the third or subsequent conviction regardless of when the third or subsequent conviction is obtained. Imprisonment for up to 30 days is an additional authorized punishment for any violation. Separate offenses shall be deemed committed on each day during or on which a violation occurs or continues.

b. A criminal charge shall be initiated by issuance of a criminal citation only by the Lee County Sheriff or deputy sheriff, except that the Sheriff or deputy sheriff may arrest the alleged violator when he refuses to provide his name and address and any proof thereof as may be reasonably available to him; or the alleged violator refuses to promptly cease such illegal activity after being issued a civil or criminal citation.

(3) Equitable and injunctive remedies.

a. Lee County, the Lee County Sheriff, a Lee County deputy sheriff or a Lee County animal control officer may seek equitable remedies from the Superior

Court of Lee County for violations of this Article through a civil action in the Superior Court of Lee County.

b. The institution of a civil action for equitable relief shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this Article.

Sec. 12-39. Other remedies.

No provision of this Article shall be construed to impair any common law or statutory cause of action or legal remedy of any person for injury or damage to person or property, arising from violation of this ordinance or arising from sound crossing a property boundary that does not violate this ordinance.

Sec. 12-40. Severability.

It is hereby declared to be the intention of the Board of County Commissioners that the sections, paragraphs, sentences, clauses and phrases of this Article are severable and if any 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 section, subsection, sentence, or clause hereof, irrespective of the fact that any one or more sections, subsections, sentences, or clauses might be adjudged to be unconstitutional or for any other reason invalid.

Adopted by majority vote, a quorum being present, this the 4th day of October 2010.

LEE COUNTY BOARD OF COMMISSIONERS

By: _____
Richard B. Hayes, Chairman

ATTEST:

Gaynell M. Lee, Clerk