

MECKLENBURG COUNTY NOISE ORDINANCE

WHEREAS, the unincorporated areas of Mecklenburg County are becoming urbanized as farmland is developed for housing, commercial and industrial uses; and

WHEREAS, noise is an increasing problem for residents in the unincorporated area of the County; and

WHEREAS, there is a need for more specific regulation of noise as the unincorporated area is developed and becomes more like a city than a rural area; and

WHEREAS, there is a need for consistency in enforcement among areas of the County and the City of Charlotte, as both jurisdictions are policed by the Charlotte-Mecklenburg Police Department; and

WHEREAS, the purpose of this ordinance is to repeal the existing Mecklenburg County Noise Control Ordinance adopted March 5, 1984 and amended July 1, 1991 and to adopt this ordinance in its stead. Now, therefore,

BE IT ORDAINED by the Mecklenburg County Board of Commissioners:

Section 1. It shall be unlawful for any person to create or assist in creating any unreasonably loud and disturbing noise in the unincorporated area of Mecklenburg County and any County-operated park within Mecklenburg County.

Section 2. For the purpose of determining decibel levels (hereinafter db (A)s) referred to in this ordinance, the noise shall be measured on the A-weighting scale on a sound level meter of standard design and quality, meeting the standards prescribed by the American National Standards Institute.

Section 3. (a) It shall be unlawful to carry on the following activities in any part of the unincorporated area of the County that is zoned for residential use, or within three hundred (300) feet of any structure used as a residence in the unincorporated area, regardless of its zoning classification:

- (1) Operate a front-end loader for refuse collection between the hours of 9:00pm and 7:00am.
- (2) Operate construction machinery between the hours of 9:00pm and 7:00am.
- (3) Operate garage machinery between the hours of 9:00pm and 7:00am.
- (4) Operate lawn mowers or other domestic tools out-of- doors between the hours of 9:00pm and 7:00am.
- (5) Any mechanical noise which registers more than sixty decibels (60 db(A)) at the nearest complainant's property line will be probable cause for a violation.

(b) This section shall not apply to operations that are carried on in such a manner or in such a location as not to create sounds exceeding sixty decibels (60 db(A)), or to emergency operations designed to protect the public health and safety, or to agricultural operations and farms in the unincorporated area of Mecklenburg County.

Section 4. Amplified Sound.

(a) In the unincorporated areas of Mecklenburg County, it shall be unlawful to:

- (1) Operate or allow the operation of any sound amplification equipment so as to create sounds registering fifty five (55) db(A) between 9:00am and 9:00pm or fifty (50)db(A) between 9:00pm and 9:00am, as measured anywhere within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the Charlotte-Mecklenburg Police Department.
- (2) As to multifamily structures, including apartments, condominiums or other residential arrangements where boundary lines can not be readily determined, it shall be unlawful to operate or allow the operation of any sound amplification equipment so as to create sounds registering fifty five (55) db(A) between 9:00am to 9:00pm or fifty (50) db(A) between 9:00pm and 9:00am, as measured from any point within the interior of another residential unit within the same complex or within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the Charlotte-Mecklenburg Police Department.
- (3) As to places of public entertainment having a capacity of one thousand (1000) or more persons, operate or allow the operation of any sound amplification equipment so as to create sounds registering more than sixty five (65) db(A) between 9:00am and 9:00pm, or fifty (50) db(A) between 9:00pm and 9:00am, as measured anywhere within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the Charlotte-Mecklenburg Police Department.
- (4) Operate or allow the operation of any sound amplification equipment for advertising purposes or otherwise to attract customers so as to cast sounds that are unreasonably loud and disturbing or that register more than sixty (60) db(A) as measured at the boundary line of the nearest public right-of-way or park.
- (5) Operate or allow the operation for personal use of any sound amplification equipment on the public right of way, including streets or sidewalks, or in the public parks so as to produce sounds registering more than sixty (60) db(A) fifty (50) feet or more from any electromechanical speaker between the hours of 9:00am to 9:00pm, or fifty (50) db(A) fifty (50) feet or more from any electromechanical speaker between the hours of 9:00pm and 9:00am.
- (6) Operate or allow the operation for personal use of any sound amplification equipment in the public parks (i) without a permit issued by the Charlotte-

Mecklenburg Police Department, or (ii) so as to produce sounds registering more than seventy five (75) db(A) ten (10) feet or more from any electromechanical speaker between the hours of 9:00am and 9:00pm, or sixty five (65) db(A) ten (10) feet or more from any electromechanical speaker between the hours of 9:00pm and 9:00am.

An application for a permit pursuant to this subsection shall be submitted to the Charlotte Mecklenburg Police Department at least twenty four (24) hours, but not more than seven (7) days before the permit time requested, and shall specify the proposed location of the sound amplification equipment as well as the date and time that the sound amplification will begin and end. Permits will be issued on a first come, first served basis. A permit shall not be issued for a location that is within one hundred (100) feet of another location for which a permit has been issued for the same time.

Mobile sound amplification equipment does not require a permit.

- (b) The foregoing limits on the operation of sound amplification equipment shall not apply to the operation of horns, sirens or other emergency warning devices actually being used in emergency situations. Sound amplification produced in conjunction with a County festival shall be exempt from this subsection.

Section 5. Permits for additional amplification.

- (a) The application for a permit for additional amplification under the preceding section shall be submitted to the Charlotte-Mecklenburg Police Department at least fifteen (15) working days in advance of the planned use, except in case of an emergency. The application shall designate a person or persons who shall be in control of the sound amplification equipment and assure that its use complies with the terms of the permit.
- (b) 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 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 the noise control officer that the notices have actually been mailed or delivered.
- (c) No permits shall be issued which have the effect of allowing more than twenty (20) hours of excess amplification per year at any place of public entertainment having a capacity of one thousand (1000) or more persons, or more than ten (10) hours of excess amplification at any other location. Permits shall be tentatively approved and subsequently granted by the Charlotte-Mecklenburg Police Department in the order of receipt unless permits for twenty (20) or more hours

have previously been issued for the same or other locations within a one thousand (1000) foot radius of the facility in the same calendar year. In that event, the applicant shall elect whether to limit his request so as to keep the year's accumulated hours of excess amplification in that location below twenty (20) hours or select another location.

- (d) In no event shall a permit be granted that allows the creation of sounds registering more than seventy (70) db(A) anywhere within the boundary line of the nearest residentially occupied property.
- (e) If an applicant has been denied a permit under this section, he may promptly submit a copy of the denied permit application along with a short statement of the reasons that he believes entitle him to a permit to the County Manager. The County Manager shall have the discretion to grant an exceptional permit waiving location, time and /or db(A) requirements, upon a determination by the Manager that the applicant has made a substantial showing of legal entitlement. The issuance of such exceptional permit shall be reported to the Board of Commissioners promptly.

Section 6. Animals. It shall be unlawful for any person to own, possess or harbor any dog, bird or other animal which, by frequent or habitually howling, barking, yelping or otherwise, causes loud noises or seriously annoying disturbances to any person or to the neighborhood.

Section 7. Motor Vehicles. It shall be unlawful to operate or allow the operation of any motor vehicle in the unincorporated area of Mecklenburg County or in any County-operated park under the following conditions:

- (a) The vehicle has had its muffler-exhausts and/or other noise –control equipment removed, altered or maintained in such disrepair as to create unreasonably loud and disturbing noises.
- (b) The vehicle is being operated in a manner so as to create unreasonably loud and disturbing noises, by engaging in jackrabbit starts, spinning tires and other such activities.
- (c) The vehicle is being driven off-road for racing or other activities or other operations that create unreasonably loud and disturbing noises.

Section 8. Enforcement and penalties.

Upon violation of any provision of this ordinance, the County, at its discretion, may take one or more of the following enforcement actions.

- (a) A police officer or an animal control officer may issue a citation subjecting the violator to a one hundred dollar (\$100.00) civil penalty. The penalty may provide for a ten-dollar (\$10.00) delinquency charge for non-payment.
- (b) The violator may be charged with a misdemeanor punishable in accordance the North Carolina General Statute 14-4 with a fine of up to five hundred dollars (\$500.00) and/or other sanctions allowed by law.

- (c) A civil action seeking a penalty of five hundred dollars (\$500.00) per day of violation along with orders of abatement and injunction may be directed toward any person creating or allowing the creation of any unlawful noise, including the owner or person otherwise having legal or actual control of the premises from which it emanates.
- (d) A police officer may issue a citation for violation of Section 3(a)(1) of this ordinance that subjects the violator to a civil penalty in the amount of two hundred dollars (\$200.00). The penalty shall provide for a ten-dollar (\$10.00) delinquency charge upon nonpayment, and the County may recover the penalty and the delinquency charges in a civil action.
For the purposes of this section, violator means the operator of the front-end loader, the employer of the operator or the company, partnership, corporation or other person or entity owning, possessing or controlling the front-end loader.

Section 9. Jurisdiction.

This ordinance shall apply to all unincorporated areas of Mecklenburg County and in all parks operated by the County.

Section 10. Severability.

Should any section or provision of this ordinance be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the parts held to be unconstitutional or invalid.

Section 11. Effective date.

This ordinance shall be effective on and after the _____ day of _____, 200_.