

REQUEST FOR BOARD ACTION

**HENDERSON COUNTY
BOARD OF COMMISSIONERS**

MEETING DATE: September 4, 2007

SUBJECT: Set Public Hearing on Noise Ordinance Amendments

ATTACHMENTS: Yes

SUMMARY OF REQUEST:

When the Board received the substance of the proposed amendments, the Board noted a desire for a public hearing on this ordinance.

BOARD ACTION REQUESTED:

Set public hearing on draft noise ordinance. Staff proposes the Board consider one of the following dates for a 7:00pm public hearing: **Tuesday, October 2nd, Thursday, October 4th, Tuesday, October 9th, or Thursday, October 11th.**

Suggested Motion:

*I move the Board set a public hearing on the draft noise ordinance for _____
at 7:00pm.*

Chapter 125 of the Henderson County Code is hereby amended by striking the same.

A new Chapter 125A of the Henderson County Code is ordained, as follows:

Chapter 125A: NOISE



Sec. 125A-1. Authority, title.

This Chapter is hereby adopted under the power and authority granted to counties by N.C.G.S. 153A-121 and N.C.G.S. 153A-133, and shall be known and may be cited as the “Henderson County Noise Ordinance.”

Sec. 125A-2 Jurisdiction.

This chapter shall apply to all unincorporated areas of Henderson County and to those incorporated areas of any city or town specifically requesting its enforcement by Henderson County upon the consent of the Henderson County Board of Commissioners. (In making such a request, the city or town must comply with the requirements of N.C.G.S. 153A-122.)

Sec. 125A-3. Loud and disturbing noise.

(A) Subject to the provisions of this section, it is prohibited in Henderson County to create, cause or allow the continuance of any unreasonably loud, disturbing noise. Noise of such character, intensity and duration as to be detrimental to the health, safety or welfare of any reasonable person of ordinary firmness and sensibilities in the vicinity is prohibited. For the purposes of this section, the following definitions shall apply:

(1) Unreasonably Loud. Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace and good order.

(2) Disturbing. Noise which is perceived by a person of ordinary firmness and sensibilities as interrupting the normal peace and calm of the area.

In determining whether a noise is unreasonably loud and disturbing, the following factors incident to such noise are to be considered: Time of day; proximity to residential structures; whether the noise is recurrent, intermittent or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of mechanical means; the nature and zoning of the area; whether the noise is related to the normal operation of a business or other

labor activity or is the result of some use for individual purposes; and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

(B) The following acts, among others are declared to be loud and disturbing in violation of this section if they annoy or disturb the quiet, comfort or repose of any reasonable person of ordinary firmness and sensibilities in the vicinity where created, caused, or continued, but this enumeration shall not be deemed to be exclusive.

(1) The use of any loud, boisterous or raucous language, yelling, or shouting, whether or not amplified.

(2) The congregation of persons at and participation in any party or gathering of people from which noise emanates of a sufficient volume or of such nature as to disturb the peace, quiet and comfort of any reasonable person of ordinary firmness and sensibilities in the vicinity.

(3) The keeping, owning, possessing, harboring or controlling of any animal or bird which barks, bays, yelps, howls, cries, squawks or makes any other unreasonably loud disturbing noise continuously or incessantly for a period of 10 minutes or intermittently for a period of 30 minutes or more thereby causing a noise disturbance.

(4) The playing of any radio, television, phonograph, drum, musical instrument, or sound production, reproduction or amplification equipment in such manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., so as to annoy or disturb the peace, quiet, comfort or repose of any person of ordinary firmness and sensibilities in the vicinity.

(5) The playing of any radio, cassette player, compact disc, or other similar device for production or reproduction of sound located in or on any motor vehicle on a public street, highway, within a public vehicular area, within the motor vehicular area of any public or private parking lot or park or on the premises of a private residence in any unreasonably loud or disturbing manner as defined above.

(6) The intentional sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger signal or as required by law, so as to create any unreasonably loud or disturbing noise as defined above, or the sounding of such a device for an unnecessary and/or unreasonable period of time.

(7) The operation of any automobile, motorcycle or other vehicle in such a manner as to create loud grating, grinding, rattling, screeching of tires, or other unreasonably loud or disturbing noise.

(8) The repair, rebuilding or testing of any motor vehicle, particularly during the hours between 11:00 p.m. and 7:00 a.m.

(9) Operating or permitting the operation of any motor vehicle or motorcycle not equipped with a muffler or other device in good working order so as to effectively prevent loud

or explosive noises there from, or which has its muffler-exhaust or other noise control equipment removed, altered or maintained in such disrepair as to create unreasonably loud and disturbing noises.

(10) Operating or permitting the operation of any motor vehicle or motorcycle that engages in jackrabbit starts, spinning tires, racing engines, or other operations which create unreasonably loud and disturbing noises.

(11) The creation of any excessive noise on any street adjacent to any school, institution of learning, library or sanitarium, or court while the same is in session, or adjacent to any hospital or any church during services, which unreasonably interferes with the working of such institution.

(12) The firing, shooting or discharging of any firearm for the sole purpose of making noise or disturbance.

Sec. 125A-4 **Exceptions.**

(A) The following uses and activities, among others, are not governed by and shall be exempt from the noise ordinance set forth in this chapter. It is expressly provided, however, that the following enumeration shall not be deemed or considered exclusive, and any activity that is not expressly prohibited as set forth in Section 125A-3 shall be exempt from this chapter.

(1) Noise made by dogs while they are being lawfully used for hunting or taking wildlife, and noise made by dogs during the course of lawful training by hunters, pursuant to N.C.G.S. Chapter 113.

(2) Noise associated with or resulting from the normal operations of any facility that is properly licensed by the North Carolina Department of Agriculture, Veterinary Division, as a boarding kennel, pet shop or dealer, in accordance with the North Carolina Animal Welfare Act (N.C.G.S. Chapter 19A-20 *et seq.*), as may be amended, or from any animal shelter that is operated by Henderson County.

(3) Noise associated with any legal operations of any firearms club, or association legally established.

(4) Noise caused by the discharge of firearms by law enforcement officers in the performance of their official duties or during the course of official firearms training.

(5) Noise resulting from farming operations, including but not limited to noises generated by machinery, equipment and farm animals.

(6) Noise associated with any event held in recognition of a community celebration of national, state or county events or public festivals.

(7) Noise associated with any public or private school activity or camp activity, except that it shall be unlawful for any person to use any unreasonably loud, disturbing, boisterous, raucous language or shouting in violent or offensive manner while attending such activities.

(8) Noise associated with the chimes or bells of businesses, schools, camps or religious institutions in the daytime hours, provided that they operate for no more than 10 minutes in any hour.

(9) Non-amplified crowd noise resulting from activities by student, government, camp or community groups.

(10) Noise associated with or resulting from operations of any construction, commercial, industrial or agricultural activities or operations, except for electronically amplified sound and acts prohibited by Section 125A-3.

Sec. 125A-5 **Violations and penalties, enforcement.**

This chapter shall be enforced in accordance with Article II of Chapter I of the Henderson County Code.

The Henderson County Animal Services Director and Animal Services Officers are hereby empowered to enforce the provisions of this chapter insofar as they relate to unreasonably loud, disturbing noise made by any animal or bird as described in Sec. 125A-3 (b)(3) of this article, and to issue citations to any person or persons who violate the same.