

# TALBOT COUNTY



## NOISE ORDINANCE

### Proposed Noise Ordinance

Chapter 92 of the Talbot County Code

DRAFT ~~May 10~~ June 7, 2018 MKV

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DRAFT

# ARTICLE I: GENERAL PROVISIONS

## Section 92-1 TITLE AND AUTHORITY

- A. This Chapter may be cited as the "Talbot County Noise Ordinance", or "Chapter 92."
- B. The effective date of this Chapter 92 is (insert date upon adoption).

## Section 92-2 PURPOSE; OBJECTIVES

### A. PURPOSE

The purpose of this Chapter is to provide for the abatement and control of noise levels throughout Talbot County so as to promote public health, safety, welfare, and economic well-being, ~~the peace and quiet of for~~ the residents of the County, and the use and enjoyment of both public and private property.

Comment [mkv1]: Peace and quite "for" the residence?

### B. OBJECTIVES

1. To reduce the threat to health, safety, welfare, and economic value when excessive noise impacts a community by defining the circumstances under which such conditions may be considered a threat; and
2. To abate excessive noise conditions to promote the health, safety and welfare of the residents of Talbot County, and to promote the maximum use and enjoyment of property.
3. To provide authority and enforcement measures for such efforts.

- C. ~~According to documented studies and the Environmental Protection Agency, it has been determined it is known~~ that noise above certain levels, ~~for certain periods of time~~, is harmful to the health of humans. Although precise levels at which all adverse health effects occur have not definitely been ascertained, it is known that one's well-being can be affected by noise through loss of sleep, speech interference, hearing impairment and a variety of other psychological and physiological factors. The establishment of ambient noise standards or goals, must provide margins of safety in reaching conclusions based on available data which relate noise exposure to health and welfare effects with due consideration to technical and economic factors.

Comment [mkv2]: Per Susan's Comments

## Section 92-3 MEASUREMENT

### A. DECIBEL

1. Noise levels measured with a sound-level meter meeting the most recently published standards of the American National Standards Institute (ANSI S1.4) American Standards Specification for General Purpose Sound Level Meters. The instrument shall be set to the A-weighted response scale and the meter to the slow response. ~~Measurement shall be based on an average reading.~~
2. Measurements shall be conducted in accord with ANSI S1.2, American Standard Method for the Physical Measurements of Sound.

Comment [mkv3]: Per Susan's Comments.

**B. NON-DECIBEL**

1. Noise levels that can be heard clearly by a person using his or her unaided hearing faculties that reach the level of "noise disturbance" are regulated herein. This standard is only applied if a noise meter is not readily available to a Noise Control Officer.

C. Noise shall not exceed the decibel or non-decibel sound limits indicated in this Chapter beyond the noise source property line. Measurements may be made at any point along or adjacent to a zoning district boundary or lot line of the noise source property or at any point on any receiving property when measurement at the noise source property line is not practical or feasible, as determined by the Noise Control Officer. Measurements may be conducted at any point or multiple points for the determination of identity of single or multiple sources.

**Comment [mkv4]:** Allows for measurement across water, etc. Per MO comments.

**Section 92-4 NOISE STANDARDS**

A. Noise shall not exceed sound levels in Table I beyond the site boundary line or property line of the noise source, except as specifically stated herein.

**Comment [mkv5]:** Location established above.

B. Prominent discrete tones, cyclically varying sound, or periodic or repetitive noises shall not exceed a sound level that is 5 dBA lower than the applicable level allowed in Table 1.

TABLE I NOISE LEVELS		
Zoning District	Maximum Permitted Sound Level (dBA)	
	Daytime	Nighttime
AC, CP, WRC, RC, RR, TR, TC, VM, VH, VR, <u>LC, GC and LI</u>	<u>60</u> <del>65</del>	55
<u>LC, GC and LI</u>	<u>65</u>	<u>55</u>

C. It shall be unlawful for any person or persons to make, continue or cause to be made noise in excess of the levels set forth herein, or a noise disturbance within the county after having been directed or ordered by an enforcement officer to desist in creating such disturbance, except as provided in this section. This standard is only applied if a noise meter is not readily available to an enforcement officer.

**Comment [mkv6]:** Lee Comment. MK tweaks. Animals, equipment make noise. Applies to both decibel and non-decibel.

**Section 92-5 EXEMPTIONS**

A. The provisions of this Chapter do not apply to devices used solely for the purpose of warning, protecting or alerting the public, or some segment thereof, or the existence of an emergency situation or operation.

B. Certain noise sources, or unintended noise, in the regular course of permitted business or residential activities (e.g. wind chimes, garage door) as determined by the Noise Control Officers, will not be investigated for compliance with this Chapter.

**Comment [mkv7]:** Business/commercial complaints should be investigated. I don't think the examples provided applied to business/commercial uses.

C. The provisions of this Chapter do not apply to the following:  
1. Household tools and portable appliances in normal usage and in proper operating condition, with the exception of amplified music devices.

2. Operation of garden and lawn maintenance equipment between the hours of ~~6~~7:00 a.m. and 1/2 hour after sunset.

**Comment [mkv8]:** Per Susan's Comments. 7am is consistent with construction start time.

3. Air conditioning or heat pump equipment used to cool or heat housing on residential property. For this equipment, a person may not cause or permit noise levels which exceed 70 dBA for air conditioning equipment at receiving residential property and 75 dBA for heat pump equipment at receiving residential property.

4. A person may not cause or permit noise levels emanating from construction or demolition site activities which exceed:

a. 90 dBA from 7:00 am to 7:00 pm; or

b. The levels specified in Table 1 above from 7:00 pm to 7:00 am

**Comment [mkv9]:** Relocated to exemptions per Jacks comments. MK amended time, as previously written no regulation between 7-10pm.

~~4-5.~~ Back-up generators being used during power outages resulting from storms and other emergencies.

6. On a property granted agricultural assessment by the Maryland Department of Assessment and Taxation, noise emanated by commercial agricultural, livestock and timber operations, and related support operations and machinery. Related operations include, but are not limited to, production and management of tillage, fertilization, pest control, crop or timber harvesting, marketing, saw mills, grain dryers, livestock, crops, vegetation, and soil including compost, feeding, housing, and maintaining of farm animals and handling their by-products. Related machinery includes, but is not limited to, motor vehicles, tractors and all terrain vehicles being used for such operations.

**Comment [mkv10]:** Combined previous 5 & 6 per MO comments.

~~5-7.~~ Motor vehicles and all terrain vehicles being used for commercial use, landscaping and/or yard work.

~~6-8.~~ Motor vehicles licensed for use on public roads when used in a manner consistent with the Transportation Article of the Annotated Code of Maryland. This does not include noise caused by stereos, radios or other similar devices located within or on motor vehicles.

~~7-9.~~ Aircraft and related airport operations at airports licensed by the Maryland Aviation Administration.

~~8-10.~~ Boats on State waters or motor vehicles on State lands under the jurisdiction of the Department of Natural Resources.

~~9-11.~~ Sounds of pile driving equipment from 7:00 am to 1/2 hour after sunset or 7:30 pm, whichever is later.

**Comment [mkv11]:** Susan asked if dredging should be included here. Talbot County issues a permit for pile driving, we do not permit or regulate dredging activities.

~~10-12.~~ Sound created by vehicles used for, or in the act of, trash and recycling collection.

~~11-13.~~ Sound created by temporary public gatherings, such as sporting, amusement and entertainment events operating according to terms and conditions of the County. This includes but is not limited to athletic contests, carnivals, fairs, parades, festivals, ~~and-or~~ other public celebrations authorized by a temporary use certificate or other approval issued by Talbot County.

~~12-14.~~ Sound created by sanctioned events that occur on the property of a public or private school.

~~13-15.~~ Construction and repair work on public property.

~~14-16.~~ The sounding of bells, chimes or carillons while being used for religious purposes or in conjunction with religious services or for national or state celebrations or public holidays in such a manner as would otherwise cause a noise disturbance.

~~15-17.~~ Recreational firearm shooting and hunting activities to include regulated shooting areas as licensed by the Maryland Department of Natural Resources ~~and celebratory cannon fire by organized yacht clubs.~~

**Comment [mkv12]:** If we state "in" regulated area, that would not exempt a hunter on private land.

**Comment [mkv13]:** With fireworks below.

~~16-18.~~ Fireworks displays and celebratory cannon fire permitted ~~licensed~~ by the Office of the State Fire Marshal.

**Comment [mkv14]:** State FM approval needed to fire cannon (Licensed Cannoneer)

~~17-19.~~ Activities for which the regulation of sound has been pre-empted by Federal or State law.

## Section 92-6 PROHIBITIONS

### A. GENERAL PROHIBITION

It shall be unlawful for ~~any person~~ to make, continue to make, permit or cause to be made or continued, any noise disturbance or sound levels of sufficient volume, character or duration which unreasonably annoy, disturb, injure or endanger the comfort, health, safety, welfare or environment of others as determined by a Noise Control Officer.

**Comment [mkv15]:** Lee and MO proposed this section. Jack suggested removal of "general" prohibition.

### B. PROHIBITED ACTS

The following acts and the causing thereof are declared to be a noise disturbances in violation of this Chapter:

**Comment [mkv16]:** Since this is a decision if the noise is "unlawful" it should be clarified that the NCO makes the determination.

1. Operating or permitting to be operated an off-road internal combustion engine powered vehicle for recreation purposes, including, but not limited to, a dirt bike, an all terrain vehicle, a go cart, a snowmobile, or a similar vehicle, on private property closer than 300 feet to a neighboring residence or the associated curtilage, without the written permission of the affected resident, unless it can be demonstrated to the Noise Compliance Officers that the vehicle can be operated within the noise limits specified in Table Section 92-4.
2. Operating, playing or permitting the operation of any radio, television, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in such a manner as to exceed the noise limits specified herein.
3. Between the hours of 10:00 p.m. and 7:00 a.m., vocal expressions in the public streets or public areas or from private property that exceed the noise levels specified herein.
4. Any owner or person in control of any animal or bird who allows or otherwise permits any such animal to bark, howl, bay, meow, squawk, quack, crow or make such other sound when such sound by its volume or frequency unreasonably disturbs or interferes with the peace of any person for more than fifteen minutes in any one-hour period of any day, or is documented by three or more separate episodes in a sequential seven-day period. The provisions of this paragraph shall not apply to any animal that, at the time of the sound or sound generation, was responding to pain or injury, or was in the act of protecting from an actual threat; when the animal is a service dog that is engaged in the performance of its duties at the time of making the sound; when part of a bona fide agricultural operation; when related to activities regulated by the Department of Natural Resources related to hunting, ~~or the sounds that emanate from a licensed kennel.~~

**Comment [mkv17]:** FOR CONSIDERATION BASED ON COMMENTS RECEIVED AND SPLIT VOTE: Due to the small average lot size and unique mix of commercial and residential uses in the VM and VH zoning districts, noise in this category shall not exceed a sound level that is \_\_\_\_ dBA lower than the applicable level allowed in Table 1. (Would suggest 2-5 dBA, allowing 60-63 dBA)

**Comment [mkv18]:** Open to different time/day limits. Review by animal control.

**Comment [mkv19]:** Consensus to not exempt kennels?

## Section 92-7 ENFORCEMENT

### A. ENFORCEMENT

1. Violations of this Chapter need not be complaint based.

**B. ENFORCEMENT OFFICERS**

1. Primary Noise Control Officers have the authority to investigate suspected violations of any section of this Chapter and pursue enforcement activities.
2. If a Primary Noise Control Officer is unavailable, a Secondary Noise Control Officer has the authority to investigate suspected violations of any section of this Chapter that do not require the use of a sound level meter (i.e. noise disturbance, times of day and/or distance determinations) and pursue enforcement activities.
3. Noise Control Officers may cooperate with noise enforcement personnel of an adjacent municipality in investigating compliance with one another's noise ordinance.

**C. ENFORCEMENT PROTOCOLS**

1. The Departments have discretion to determine which noise cases will be investigated by which Department. A noise complaint may be referred to another municipality, County or state agency as appropriate.
2. Noise investigations and sound measurements need not be conducted at the exact time of a noise complaint.
3. A violation of any provision of this Chapter shall be cause for issuance of a Warning, Notice of Violation or a Notice of Penalty Assessment as set forth in Table II below, or other actions or mitigation measures as required by this Chapter.
4. If a person fails to comply with a Noise Control Officer's decision that a violation exists and must cease, immediate enforcement shall proceed in accordance with this Chapter and/or the Noise Control Officer's enforcement process.
5. The enforcing agency has discretion to provide adequate time for a property or business owner to implement a noise mitigation measure.

**D. PENALTIES**

1. In addition to, and not in lieu of, the penalties prescribed in this Chapter, the County Attorney may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this Chapter and may seek any other remedy of relief authorized by law.
2. Upon the first infraction or at the discretion of the Noise Control Officer if the means to determine decibel levels is unavailable, a warning shall be issued.
3. Upon confirmation of a subsequent violation of this Chapter, A Noise Control Officer ~~may shall~~ issue a Notice of Violation and Penalty Assessment as set forth in Table II below.

TABLE II PENALTIES				
RESIDENTIAL <b>USE</b>				
VIOLATION OF THIS CHAPTER	OFFENSE WITHIN A 12 MONTH PERIOD			
	1 <sup>ST</sup>	2 <sup>ND</sup>	3 <sup>RD</sup>	4 <sup>TH</sup> and more
	FINE			
	\$100	\$200	\$400	\$1,000

**Comment [mkv20]:** Inserted "use" and other categories below to match Chapter 190 land use table.

COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL, MARINE, UTILITY, TRANSPORTATION AND COMMUNICATION USE				
VIOLATION OF THIS CHAPTER	OFFENSE WITHIN A 12 MONTH PERIOD			
	1 <sup>ST</sup>	2 <sup>ND</sup>	3 <sup>RD</sup>	4 <sup>TH</sup> and more
	FINE			
	\$1,000	\$2,000	\$4,000	\$10,000

**Comment [mkv21]:** Suggestion to remove 12 month period from both Residential and Commercial/etc. uses. I believe Commercial should be held to a higher standard. I would support removal from this land use category only.

4. ~~In addition to the fines established in Table II above, if applicable, t~~The Noise Control Officer shall send a copy of the nNotice of Violation and Penalty Assessment to the approving authority(ies), as applicable (e.g. Short-Term Rental Review Board, Liquor Board, Board of Appeals, Planning Commission or Planning Director). The notice may include a recommendation to suspend or revoke a license or approval in accordance with the applicable regulations for such action or may include a requirement or recommendation for noise mitigation.

**E. MITIGATION**

**Comment [mkv22]:** New section to address mitigation measures using base language that Lee provided as approved by Task Force.

- 5-1. Installation and use of Nnoise suppression and measurement devices and systems may be required by the Talbot County Code or pursuant to enforcement action.
  - a. No person shall cause, suffer, ~~or~~ allow or permit the removal, disconnection or disabling of any noise suppression device or system which has been installed on or in proximity to any noise source pursuant to the Talbot County Code or enforcement thereof.
  - b. No person shall defeat the designed purpose of any noise suppression or measurement system or device by installing therein or thereon any part or component which does not meet the minimum designed specifications for that system or device.
  - c. No noise source shall be operated with its noise suppression or measurement system or device removed or otherwise rendered inoperable.

**E.F. COMPLAINTS**

**Comment [mkv23]:** Complaint requirements.

- 1. Complaints shall include detailed information to include; the location of noise, type or source of noise, time noise began, and length of time noise has continued.
- ~~1-2.~~ Name and contact information of complainant is optional. Complainants providing a name and contact information will be updated regarding the investigation at all stages.

**Section 92-8 CONFLICTS**

**A.** Whenever any provision of this Chapter conflicts with any other provision of law, rule, or regulation covering the same subject matter, whether set forth in this Chapter or elsewhere, that provision which is more restrictive or imposes the higher standard or requirement shall govern.



# ARTICLE II: DEFINITIONS

## Section 92-9 GENERAL

### A. RULES OF CONSTRUCTION

1. Words used in the present tense include the future; words in the singular number include the plural, and words in the plural number include the singular unless the natural construction of the wording indicates otherwise.
2. The words "shall" and "must" are mandatory, and the words "may" and "should" are permissive.

## Section 92-10 TERMS DEFINED

As used in this chapter, the following terms shall have the meanings indicated:

### **ANSI**

The American National Standards Institute or its successor bodies.

### **A-WEIGHTED SOUND**

A unit for describing the amplitude of sound as measured on a sound level meter using the A-weighting network.

### **CONSTRUCTION**

Any site preparation, assembly, erection, repair, alteration, or similar activity.

### **CURTILAGE**

The enclosed land surrounding a house or dwelling and includes all areas maintained in lawn or horticultural plantings and may be bounded by a fence or wall, but would not typically include areas more distant than 300 feet from the dwelling unless those areas were horticulturally maintained and routinely used as areas of personal refuge, or supported accessory structures that were routinely utilized.

### **DAYTIME**

For the purposes of this chapter, daytime shall mean from 7:00 am to 10:00 pm.

### **DECIBEL (dB)**

Means a unit of measure equal to ten times the logarithm to the base ten of the ratio of a particular sound pressure squared to a standard reference pressure squared. For the purposed of the chapter, 20 micropascals shall be the standard reference pressure.

### **DECIBEL A – WEIGHTED (dBA)**

The sound level in decibels determined by the A-weighting network of a sound level meter or by a calculation from octave band or one-third band data.

### **DEPARTMENT**

For the purposes of this Chapter only, this term shall mean the Department of Planning and Zoning, Office of Permits and Inspections, the Talbot County Sheriff's Office and the Maryland State Police.

### **NIGHTTIME**

For the purposes of this chapter, nighttime shall mean from 10:00 pm to 7:00 am.

**NOISE**

The intensity, frequency, duration, and character of sound, including sound and vibration of sub-audible frequencies.

**NOISE CONTROL OFFICER, PRIMARY**

A Talbot County Code Compliance Officer.

**NOISE CONTROL OFFICER, SECONDARY**

A Law Enforcement Officer having jurisdiction in Talbot County.

**NOISE DISTURBANCE**

Sounds of sufficient volume, character and duration which unreasonably annoy, disturb, injure or endanger the comfort, health, safety, welfare, or environment of others, in the opinion of a Talbot County Noise Control Officer.

**PERIODIC NOISE**

Noise possessing a repetitive on and off characteristic.

**PERSON**

Any individual, group or individuals, firm, partnership, voluntary association or private, public or municipal corporation, or political subdivision of any government entity responsible for the use of the property.

**PROMINENT DISCRETE TONE**

Any sound that can be distinctly heard as a single pitch or a set of single pitches.

**SOUND LEVEL**

In decibels, the weighted sound pressure level measured by the use of a sound level meter satisfying the requirements of ASNI S1.4 1971 "Specifications for Sound Level Meters". Sound level and noise level are synonymous. The weighting employed shall always be specified.

**SOURCE**

Any person, animal, equipment, location or property, real or personal, generating noise contributing to noise pollution, or noise disturbance.

**SUNSET**

The time of apparent decent of the sun below the horizon.