



**COUNTY OF HANOVER  
COMMUNITY DEVELOPMENT COMMITTEE  
(Meeting Memorandum)**

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**To: File**

**From: Frank Harksen**

**Date: March 14, 2019**

**Re: BOS Community Development Committee**

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**Meeting date:** February 27, 2019

**Attendees:**

**Committee Members:**

- 
- Sean Davis
  - Wayne Hazzard
  - Faye Prichard

**Other Board Members:**

- 
- Angela Kelly-Wiecek
  - Canova Peterson

**Staff/Presenters:**

- 
- Rhu Harris
  - Frank Harksen
  - David Maloney
  - Steven Herzog
  - Mike Flagg
  - David Hines
  - Yvonne Gibney
  - Sterling Rives
  - Trip Chalkley
  - Tom Woody
  - Jeff Parker

**Agenda:**

- I. Opening Remarks – Sean Davis, Chairman
- II. Discussion
  - a. Update Property Subdivision within Suburban Service Area
  - b. Potential establishment of running bamboo ordinance with civil penalties
  - c. Nuisance prolonged discharge of firearms
  - d. Growing litter problem – Outreach Opportunities
- III. Other Items
- IV. Future Topics to be considered
- V. Future Meeting
- VI. Adjourn

***I. Opening Remarks:***

The meeting was opened by Chairman Davis and those in attendance were welcomed and thanked for attending. Heavy lifting committee. Thanked Mr. Chalkley, Colonel Hines and Chief Parker for their attendance. He reviewed the agenda items.

*Hanover: People, Tradition and Spirit*

Citizen's time – none

## ***II. Discussion***

**Nuisance prolonged discharge of firearms** (moved to top of agenda by Chairman Davis)

The topic was introduced by Mr. Hazzard as a result of concerns that have been raised by residents. Several citizens spoke to the topic. Primary concerns were:

Many years dealing with prolonged rapid gunfire

The problem has gotten worse in recent years

Adversely affecting horses at boarding stable and when riding

Residents tried to work it out with those they were aware of shooting but they would not consider stopping

One resident stated she considered euthanizing horses since they cannot tolerate the shooting

Expert told her horses will not acclimate to the gun fire due to the randomness and different sounds from different guns.

Safety concern was raised - skeet shooting toward 500KW transmission line

Hesitant to work in yard

One resident raises and trains performance horses on 2 acres in Elmont – good neighbors advise when they plan to shoot. Others are not so considerate

Raises cattle, had them run through fences when spooked from shooting and has to retrieve them

VFW event is another problem. Staff noted discussions are underway with VFW and believe there may be some agreement reached in the near future.

Mr. Hazzard stated he understands the challenge of locating the shooting and enforcing. He asked Mr. Rives to discuss past actions and legal constraints regarding regulating shooting.

Mr. Rives described the activities of 2008 when this was last addressed and stepped through the ordinance developed at that time. He noted a broad stakeholder committee was formed to provide input on the ordinance. The Board at that time voted against the ordinance. Regardless, a change in law rendered the 2008 ordinance language unenforceable because it was unconstitutionally vague for criminal offense. We revised our noise ordinance to be civil penalties rather than criminal penalty and developed specific criteria for the noise (see barking dog provision). Difficult to craft a similar ordinance for prolonged rapid firearm discharges as well as being difficult to enforce, especially when you cannot tell where the shooting is coming from.

Ed Coleman with Cavalier Gun Club described the efforts the club has undertaken to minimize the effect of the shooting on neighbors. Sound barriers have been constructed (25' berms) and they manage timber as buffer. The Hanover noise ordinance limits noise to 72 db at property line. Very difficult – very low sound level but the club has achieved it. The club also has regular shooting hours, Sunday 9 am to 3 pm. Other days from 9 am to sunset. He noted there are horses and cattle perhaps

w/in 1000' and it doesn't seem to bother them. Shooting complaints have been lodged against the club but in recent history it has been determined the shooting was not occurring at the club. This just reinforces the fact that it is very difficult to identify the sound source and then enforce it.

Colonel Hines noted it is an issue throughout the County not just the western part of the County. He is aware of similar complaints in the Henry Magisterial District. An additional problem with enforcement is that if multiple people are hunting it would sound like continuous shooting.

There was some talk of suppressor on rifles but this is beyond the Board's authority.

Mr. Davis noted shooting is legal activity and even with some type of law how would it be enforced.

Mr. Rives suggested the Committee authorize the County Attorney's Office to research other localities' ordinances on this topic. Some of the residents in attendance noted they had examples and provided them to the attorneys. The matter is to be returned to the Committee once the County Attorney's research is complete.

### **Update Property Subdivision within Suburban Service Area**

Mr. Maloney described the analysis that has been performed to fully understand the impact on the Comprehensive Plan if 1± acre subdivisions within the SSA without public water and wastewater service being a requirement is allowed. A memorandum summarizing his research was provided to the Committee members in advance. David stepped the Committee through the memorandum and results of the analysis. There are 371 parcels (4 to 25 acres) totaling 3,175 acres that would be eligible for subdivision.

Staff suggested it would not in the board's interest to allow all 371 to be subdivided into AR-6 development.

Mr. Maloney's memorandum provided three options ranging from do nothing to allowing AR-6 zoning without constraints. A middle ground option was to allow some number of parcels to be divided with no additional divisions allowed. Lots would be as small as possible but must be able to accommodate the well and septic systems.

Mr. Davis asked how widespread this issue is. Staff noted this effort was initiated mainly as the result of 2 property owners desiring to divide their properties to add value, they had no plans to develop (Cedar Lane and Holly Hill Road). Mr. Hazzard noted he had heard more complaints.

At this time the Committee directed staff stand down for a while due to the precedent this would establish and potential adverse effect on the Comprehensive Plan.

### **Potential establishment of running bamboo ordinance with civil penalties**

Mr. Davis explained the situation that brought this matter to his attention – a property owner complained about a neighbor's running bamboo and the complainant feared the invading bamboo would affect his septic system drainfield. Mr. Rives noted that 2017 General Assembly action now allows localities to establish local ordinances for civil

penalties to be assessed against property owners who have running bamboo which has invaded adjoining properties.

There was considerable discussion about the difficulty controlling running bamboo and/or eradicating it. Mr. Hazzard and Mr. Flagg noted eradicating would essentially require the area of the bamboo be completely excavated. Also questions regarding the enforcing agency and who would be responsible for delineating the property line as a property line would be difficult for staff to locate in areas of the County with large rural lots.

The Virginia Department of Agriculture and Consumer Services model ordinance was discussed.

The Committee directed staff to prepare a draft ordinance and take it to full Board for consideration.

### **Growing litter problem – Outreach Opportunities**

The subject opened by Mr. Davis and is the result of his personal observations and complaints. Most in attendance agreed the problem has gotten worse even though the County's efforts have intensified.

Public outreach. More comprehensive plan for cessation of litter.

Flagg, summarized efforts currently underway. Secure loads ... did to understand how to enforce. Continue the discussion.

- CVWMA periodic events and education with schools regarding litter and recycling
- Hanover continue to have the VDOT Adopt a Highway....they say they have all the roads adopted that safety will allow. They only adopt lower volume secondary. High volume secondary roads and primary roads we have to use contract or us due to traffic control.
- Set to unveil Sponsor a Highway, organizations can sponsor a contractor to pick up litter. Budget codes being established and invitation to bid is being issued to establish sponsor costs for the next 3 years. Public relations effort ready with Tom Harris. This will allow sponsorships which we anticipate will be around \$200 for a twice a year 2 mile stretch of road.
- Pop Up 'Secured Load Reward Events' - Chik Fil A sponsoring first set of events for late-March by providing coupons for a free menu item. Sweet Frog is in line to sponsor the next event. Public relations effort ready with Tom Harris. Coupons will be given to patrons with properly secured "open bed" loads.
- New signs have been installed at Convenience Centers emphasizing the requirement to have secured and covered loads and fines if the loads are not secured
- Contractor is engaged for litter pick up - \$18,000 in current fiscal year (grant money)
- Inmates assist w/litter pick up when available
- Mechanical sweeping in key areas 2 weeks a year
- Signs about litter/cigarette butts at key intersections on 301 / 360.

The Committee directed staff to continue its efforts and Committee members will publicize the highway sponsorship option.

***III. Other Items***

***IV. Future Topics to be considered*** - None

***V. Future Meeting*** – As needed

***VI. Adjourn***

# **Community Development Committee**

**Wednesday, February 27, 2019**

**2:00 p.m.**

**Hanover County Administration Building  
Board of Supervisors Conference Room**

## **AGENDA**

- I. Opening Remarks** **Sean Davis**  
*Chairman*
- II. Discussion**
  - a. Update Property Subdivision within Suburban Service Area**
  - b. Potential establishment of running bamboo ordinance with civil penalties**
  - c. Nuisance prolonged discharge of firearms**
  - d. Growing litter problem – Outreach Opportunities**
- III. Other Items**
- IV. Future Topics to be considered**
- V. Future Meeting**
- VI. Adjourn**

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## PLANNING DEPARTMENT

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### MEMORANDUM

**TO:** Community Development Committee  
Hanover County Board of Supervisors

**FROM:** David P. Maloney, AICP  
Director of Planning

**DATE:** February 27, 2019

**RE:** Preliminary Analysis: AR-6 Zoning Within the Suburban Service Area:

The Community Development Committee directed Planning staff to evaluate the feasibility of allowing zoning within the Suburban Service Area (SSA) that would be similar to the AR-6 zoning district. The question arose because of several inquiries from property owners wishing to divide their property.

Under the current zoning ordinance, all properties zoned A-1, Agricultural are permitted to be divided into 10-acre lots. Other options to develop and divide property within the SSA include rezoning to either RS, Suburban Residential, or RM, Multi-family. Both zoning districts require all lots to be served by public water and sewer. There are areas within the Suburban Service Area where water and sewer is currently unavailable, and the cost to extend utilities to serve a small-scale development would be prohibitive.

The purpose of the SSA is to allow residential and commercial/industrial development to occur in a compact and contiguous manner. Establishing such a land use pattern will allow nearly 80 percent of Hanover to remain rural. Compact and contiguous development also combats suburban sprawl by minimizing the amount of infrastructure necessary to serve residents and businesses. Hanover's ability to maintain its conservative and efficient fiscal policies are in part directly linked to the adherence to and implementation of the land use policies and strategies policies outlined in the Comprehensive Plan.

Staff undertook an analysis of undeveloped parcel within the SSA which included the following assumptions:

1. Only parcels less than 25 acres would be eligible for consideration of an AR-6 type development. It is assumed that the potential future value of parcels 25 acres or greater would

make zoning to a density significantly below permitted suburban densities (i.e. 1.5 – 3.0 units per acre) would be unattractive for the property owner.

2. Parcels less than four acres in area would also be ineligible to participate. This assumption is based on the fact that the AR-6 district is currently only available to parcels four acres or greater.

The results of the analysis reveal that there are a total of 371 parcels totaling 3,175 acres located within the boundaries of the residential areas of the SSA that meet the assumption criteria. Per the Comprehensive Plan, Hanover County currently has approximately 10,100 acres available for residential development within the SSA. Therefore, approximately 31 percent of available land for residential development would be at risk of being consumed by rural-scale development.

The Plan assumes an average density within the SSA of three dwelling units per acre. Based on the plan's forecast 1.5 percent per year population growth over the next 20 years, 3,560 acres of land must be available for future planned residential development. The land area necessary to accommodate planned residential growth (3,560 acres) together with the parcels that could be eligible for lower density AR-6 type development totals 6,735 acres, or 67 percent of the entire residentially planned portion of the SSA.

Staff is seeking direction from the Community Development Committee on alternative approaches to address the desires of the several property owners who have inquired about dividing their land. Staff offers several options for further consideration which include:

- 1) **Maintaining current land use and zoning practices:** This approach would only permit the division of A-1 zoned land within the SSA at a density of one dwelling unit per 10 acres unless the property owner sought RS or RM zoning.
- 2) **Expand AR-6 zoning to the Suburban Service Area:** This strategy would allow property owners to seek AR-6 zoning on parcels 4 acres or greater. Per current AR-6 requirements, no connection to public utilities would be required. Should the Committee direct staff to further investigate this option, staff would caution that such a strategy would significantly compromise the viability of the SSA over time, and likely cause the Board of Supervisors to make significant adjustments to its suburban land use and development policies.
- 3) **Develop a limited AR-6 type zoning strategy:** This strategy would be limited to parcels no less than four acres but less than 25 acres. A formula could be applied to establish a minimum and/or a maximum lot size, and limit the number of parcels that could be created, and the maximum number of lots that could be created. Based on the formula, a majority of the parcel could be preserved in temporary open space which would allow for future suburban development when utilities become available.

Should the Committee desire that staff continue to investigate opportunities for property owners to divide their property without benefit of public utilities, staff recommends the Committee to direct staff to prepare recommendations based on the third option. This option will preserve significant land for future suburban development which will extend the viability of the SSA in the long-term. This strategy will also preserve future potential utility and road corridors which will assist the county to continue its compact and contiguous suburban land use practices



## § 15.2-901.1. Locality may provide for control of running bamboo; civil penalty

A. For purposes of this section, "running bamboo" means any bamboo that is characterized by aggressive spreading behavior, including species in the genus *Phyllostachys*.

B. Any locality may, by ordinance, provide that:

1. No landowner shall allow running bamboo to grow without proper upkeep and appropriate containment measures, including barriers or trenching; and
2. No landowner shall allow running bamboo to spread from his property to any public right-of-way or adjoining property not owned by the landowner.

C. A violation of a running bamboo ordinance authorized by this section shall be subject to a civil penalty, not to exceed \$50 for the first violation or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.

D. No violation of a running bamboo ordinance arising from the same set of operative facts shall be subject to a civil penalty under both (i) an ordinance adopted pursuant to this section and (ii) an ordinance adopted pursuant to § [15.2-901](#).

2017, cc. [213](#), [392](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.



County of Hanover

Board Meeting: October 8, 2008

Reject

APPROVED by Hanover County Board of Supervisors

Meeting of 10-8-08

Cecil R. Harris, Jr  
County Administrator/Clerk  
to the Board of Supervisors

**Subject:** Ordinance No. 08-24 Amending Hanover County Code Chapter 16 "Noise" to Include a Provision Relating to the Frequent, Habitual or Prolonged Discharge of Firearms and to Clarify the Provisions Related to Enforcement

**Summary of Agenda Item:**

Hanover County Code Section 16-9 currently enumerates a number of specific circumstances that are deemed to be "noise disturbances" including

- repairing motor vehicles in residential districts between 9:00 PM and 7:00 AM;
- sounding the horn or warning device of a vehicle, except when necessary as a warning during operation of the vehicle;
- operating any radio, TV or other device for the production of sound between 10:00 PM and 8:00 AM in a manner as to be plainly audible across property boundaries;
- owning any animal which frequently or habitually howls, barks, meows or makes other such noises as plainly audible across property boundaries;
- use of an automobile or motorcycle so out of repair, so loaded or operated in such a manner as to create loud and unnecessary grating, grinding, rattling or other noises.

Ordinance No. 08-24 would identify as an additional noise disturbance the "frequent, habitual or prolonged discharge of firearms in a place, at a time or in such a manner as to disturb unreasonably the use and enjoyment of other properties by the owners or inhabitants thereof. This provision would not apply to the lawful hunting of game or to shooting ranges operating in compliance with a special exception issued under the Zoning Ordinance.

Ordinance No. 08-24 would also amend the provisions of Section 16-4 to clarify the provisions related to enforcement and to specify that for alleged violations of the provisions governing barking dogs and discharge of firearms, the Sheriff's Office will advise complainants of the process for submission of a citizen's complaint to the magistrate.

**County**

**Administrator's Recommendation:**

Consider public hearing comments and recommendations of Weapons Safety Committee to determine whether Ordinance No. 08-24 is appropriate to address the concerns that caused the Board to establish the Committee

**Requested Action:**

Conduct public hearing; adopt or reject proposed ordinance amendments  
MRGhee  
Stanley - Absent

ORDINANCE NO. 08-24

**AN ORDINANCE AMENDING THE HANOVER COUNTY CODE, CHAPTER 16, "NOISE," SECTION 16-9, "SPECIFIC ACTS AS NOISE DISTURBANCES," TO INCLUDE A PROVISION RELATING TO THE FREQUENT, HABITUAL OR PROLONGED DISCHARGE OF FIREARMS AND TO CLARIFY THE PROVISIONS RELATED TO ENFORCEMENT.**

WHEREAS Virginia Code § 15.2-1200 authorizes localities to enact ordinances which are appropriate to promote the health, safety and general welfare of its citizens, and

WHEREAS Hanover County Code § 16-8 establishes a general standard which prohibits "any unreasonably loud, disturbing and unnecessary noise", and Hanover County Code § 16-9 enumerates certain specific acts that are declared to be noise disturbances, and

WHEREAS the Hanover County Board of Supervisors finds that, under certain circumstances, the frequent, habitual or prolonged discharge of firearms can unreasonably disturb the use and enjoyment of other properties and constitute a noise disturbance that is detrimental to the public health, safety and general welfare;

NOW, THEREFORE, BE IT ORDAINED by the Hanover County Board of Supervisors that the Hanover County Code Section 16-9 shall be amended to add a new paragraph (11) and shall read in its entirety as follows:

**Sec. 16-9. Specific acts as noise disturbances.**

The following acts are declared to be noise disturbances in violation of this chapter, provided that the acts so specified shall not be deemed to be an exclusive enumeration of those acts which may constitute a noise disturbance under section 16-8:

(1)(a) Operating or causing to be operated any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys, drainage or public utility systems or parts thereof, and appurtenances thereto in the outdoors between the hours of 9:00 p.m. and 7:00 a.m. the following day, except as provided in section 16-5.

(2)(b) Repairing, rebuilding or modifying any motor vehicle or other mechanical device in residential use districts between the hours of 9:00 p.m. and 7:00 a.m. the following day.

(3)(c) The collection of trash or refuse in residential use districts between the hours of 9:00 p.m. and 6:00 a.m. the following day.

(4)(d) Loading or unloading trucks in the outdoors within one hundred (100) yards of a residence between the hours of 9:00 p.m. and 6:00 a.m. the following day.

(5)(e) Sounding the horn or warning device of a vehicle, except when necessary as a warning during the operation of the vehicle.

(6)(f) Operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph or any other device for the production of sound, between the hours of 10:00 p.m. and 8:00 a.m. the following day, in such a manner as to be plainly audible across property boundaries or through partitions common to two (2) residences within a building.

(7)(g) Operating or permitting the operation of any radio, tape player, compact disc player or other device for the production of sound on a public right-of-way or in a public place in such a way that the sound is plainly audible at a distance of fifty (50) feet from such device, whether or not the device is situated within a motor vehicle.

(8)(h) Owning, keeping, possessing or harboring any animal which frequently or habitually howls, barks, meows, squawks or makes such other noise as is plainly audible across property boundaries or through partitions common to two (2) residences within a building.

(9)(i) The use of any automobile, motorcycle or vehicle so out of repair, so loaded or operated in such a manner as to create loud and unnecessary grating, grinding, rattling or other noises.

(10)(j) The discharge of the exhaust of any internal combustion engine into the open air except through a device which will effectively prohibit loud and explosive noises.

(k) The frequent, habitual or prolonged discharge of firearms in a place, at a time or in such a manner as to disturb unreasonably the use and enjoyment of other properties by the owners or inhabitants thereof. This provision shall not apply to the lawful hunting of game or to rifle and pistol ranges operating in compliance with a Special Exception issued pursuant to the Hanover County Zoning Ordinance.

BE IT FURTHER ORDAINED that Section 16-4 shall be amended to read in its entirety as follows:

**Sec. 16-4. Enforcement of chapter.**

~~The provisions of this chapter shall be enforced by the sheriff, who may issue orders and regulations and prescribe measurement procedures for such enforcement.~~

The Hanover County Sheriff's Office will, where circumstances permit, respond to and investigate complaints of violations of Section 16-8, *Prohibited noise generally*, and Section 16-9, *Specific acts as noise disturbances*. After an initial response by the Sheriff's Office, complaints involving barking dogs and other animal noise may be referred to the Department of Animal Control. Complaints related to Section 16-11, *Maximum permissible sound pressure levels from noise sources*, shall be referred to the Department of Planning during business hours. For any alleged violation of Section 16-8 or Section 16-9 (h) or (k), the officer will advise the complainant of the process for submission of a citizen's complaint to the magistrate.

This ordinance shall be effective on the date of adoption.

On motion of \_\_\_\_\_ seconded by \_\_\_\_\_, the members of the Board of Supervisors voted to approve Ordinance No. 08-24, as follows:

Vote:

- Aubrey M. Stanley
- John E. Gordon, Jr.
- Deborah B. Coats
- Charles D. McGhee
- Robert R. Setliff
- G. E. "Ed" Via III
- Elton J. Wade, Sr.

This is to certify that the above is a true copy of Ordinance 08-24 adopted by the Hanover County Board of Supervisors on \_\_\_\_\_.

Public Hearing: \_\_\_\_\_

Adopted: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Cecil R. Harris, Jr., Clerk  
County Administrator  
Hanover County Board of Supervisors

DRAFT

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	Vote:
Aubrey M. Stanley	Absent
John E. Gordon, Jr.	Aye
Deborah B. Coats	Aye
Charles D. McGhee	Aye
Robert R. Setliff	Aye
G. E. "Ed" Via, III	Aye
Elton J. Wade, Sr.	Aye

Resolution Adopted.

Mr. Sterling Rives, County Attorney, came forward to present Ordinance No. 08-23 and Ordinance 08-24.

The Vice-Chairman and Mr. Rives advised that the following two items would be presented concurrently for a combined public hearing.

**Ordinance No. 08-23 – Amending Hanover County Code Section 24-4 to Prohibit Generally the Discharge of Weapons within the Urban Services Area and within 200 Yards of a Residence or Public Gathering Place Outside of the Urban Services Area**

**Ordinance No. 08-24 - Amending Hanover County Code Chapter 16 "Noise" to Include a Provision Relating to the Frequent, Habitual or Prolonged Discharge of Firearms and to Clarify the Provisions Related to Enforcement**

Mr. Rives reviewed the background of this item:

- January 9, 2008, Board Meeting - Presentation regarding issues related to discharge of firearms in proximity to residential property.
- Board established advisory committee of three residents who participate in target shooting and three residents concerned with noise and safety issues.
- Committee charged with defining issues and concerns and making recommendations.
- Mr. Charles Utley, Ms. Pat Webb, Mr. K. C. Young, Mr. Clarence Hunter, Mr. Anthony Labrador and Mr. Thomas Raper appointed by Chairman.
- Supervisors Charles McGhee and Bob Setliff appointed to be Board representatives.
- Captain Tom Woody from the Hanover Sheriff's Office provided valuable information and law enforcement perspective.
- Committee met five times, engaged in extensive discussions of the issues and considered numerous proposals.
- Committee recommended three ordinances to the Board:
  - (1) Prohibit outdoor shooting in Urban Services Area (6-0) Map of Urban Services Area was displayed. Mr. Rives clarified that that the Urban Services Area is not the Suburban Services Area which a lot of people confuse it with. The Suburban Services Area is where the County intends or plans to at some point in the future extend utility service. The Urban Services Area is more tightly designated than that and is intended to reflect those areas which are already substantially

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developed. In looking at the roads within this area you can see this is an area that is substantially developed but there are some places within this area that are not developed and those include most notably areas in the Chickahominy Swamp.

(2) Increase from 100 to 200 yards the required distance from other persons' homes (6-0)

(3) Amend noise ordinance to prohibit "frequent, habitual or prolonged discharge of weapons in a place, at a time or in such a manner as to disturb unreasonably the use and enjoyment of other properties by the owners or inhabitants thereof." (4-0)

- Board of Supervisors received Committee recommendations and conducted workshop on July 23, 2008.
- After making a number of adjustments on proposed ordinances, Board authorized public hearing for October 8, 2008.
- Additional modifications to proposed ordinances have been made in response to comments from residents, Board members and Sheriff.

Proposed changes were reviewed.

~~Sec. 24-4 Discharging weapons in or along roads, etc.~~ Regulations concerning the discharge of weapons.

~~If any person discharges or shoots any firearm or other weapon in or along any public road or street or within one hundred (100) yards thereof or within one hundred (100) yards of any building occupied or used as a dwelling or place where the public gathers, not his own person or property or that a member of his family, he shall be guilty of a Class 1 misdemeanor.~~

Mr. Rives reviewed the following would replace the stricken language:

(a) It shall be unlawful for any person to discharge any firearm in or along any public road or street or within one hundred (100) yards thereof or within two hundred (200) yards of any building occupied or used as a dwelling or place where the public gathers, not his or her own dwelling or residence, unless he or she has written permission to do so by the owner of the building.

(b) It shall be unlawful for any person to discharge any firearm or bow within the Urban Services Area of Hanover County, as designated and delineated in Section 3 (A) of the Hanover County Subdivision Ordinance, unless that person is engaged in the lawful hunting or target practice with a bow or lawful hunting with a shotgun loaded with multiple shot shells on one or more contiguous parcels comprising twenty (20) or more acres with the written permission of the owner(s).

(c) For purposes of this section, "bow" includes compound bows, crossbows, long bows and recurve bows having a peak draw weight of ten (10) pounds or more. This does not include bows that have a peak draw of less than ten (10) pounds or that are designed or intended to be used principally as toys.

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Mr. Rives advised one proposal that has been brought forward but is not reflected here that he and Mr. Setliff discussed today would amend this exception for lawful hunting to add in skeet shooting or hunting with muzzle loaded rifles. Mr. Rives advised that is not reflected in the draft ordinance and if members of the public would like to comment on that proposal that would be appropriate.

(d) The provisions of this ordinance shall not apply to (1) a person discharging a firearm on property zoned A-1, Agricultural, in compliance with the provisions of a permit issued by the Department of Game and Inland Fisheries for the control of animals damaging fruit trees, crops, livestock or personal property, (2) a person discharging a firearm on property zoned A-1, Agricultural, for the purpose of controlling "nuisance animals" as defined by the Department of Game and Inland Fisheries, (3) law enforcement officers in the performance of official duties, including training, (4) a person engaged in the lawful defense of his own person or property or that of a member of his family, (5) the discharge of firearms using blank ammunition as a part of historical re-enactments and demonstrations or ceremonial and patriotic displays; (6) the discharge of starter pistols to initiate athletic competitions, (7) the discharge of firearms at any pistol and rifle shooting range operated in compliance with a Special Exception issued pursuant to the Zoning Ordinance and (8) the shooting of arrows from bows when part of an organized college, high school or middle school program under the supervision of an employee of the school or the county.

(e) The violation of the provisions of this section shall constitute a misdemeanor punishable by a fine of up to \$1,000.

**Sec. 16-9. Specific acts as noise disturbances.**

The following acts are declared to be noise disturbances in violation of this chapter, provided that the acts so specified shall not be deemed to be an exclusive enumeration of those acts which may constitute a noise disturbance under section 16-8:

(1) (a) Operating or causing to be operated any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys, drainage or public utility systems or parts thereof, and appurtenances thereto in the outdoors between the hours of 9:00 p.m. and 7:00 a.m. the following day, except as provided in section 16-5.

(2) (b) Repairing, rebuilding or modifying any motor vehicle or other mechanical device in residential use districts between the hours of 9:00 p.m. and 7:00 a.m. the following day.

(3) (c) The collection of trash or refuse in residential use districts between the hours of 9:00 p.m. and 6:00 a.m. the following day.

(4) (d) Loading or unloading trucks in the outdoors within one hundred (100) yards of a residence between the hours of 9:00 p.m. and 6:00 a.m. the following day.



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(5) (e) Sounding the horn or warning device of a vehicle, except when necessary as a warning during the operation of the vehicle.

(6) (f) Operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph or any other device for the production of sound, between the hours of 10:00 p.m. and 8:00 a.m. the following day, in such a manner as to be plainly audible across property boundaries or through partitions common to two (2) residences within a building.

(7) (g) Operating or permitting the operation of any radio, tape player, compact disc player or other device for the production of sound on a public right-of-way or in a public place in such a way that the sound is plainly audible at a distance of fifty (50) feet from such device, whether or not the device is situated within a motor vehicle.

(8) (h) Owning, keeping, possessing or harboring any animal which frequently or habitually howls, barks, meows, squawks or makes such other noise as is plainly audible across property boundaries or through partitions common to two (2) residences within a building.

(9) (i) The use of any automobile, motorcycle or vehicle so out of repair, so loaded or operated in such a manner as to create loud and unnecessary grating, grinding, rattling or other noises.

(10) (j) The discharge of the exhaust of any internal combustion engine into the open air except through a device which will effectively prohibit loud and explosive noises.

New Language Proposed:

(k) The frequent, habitual or prolonged discharge of firearms in a place, at a time or in such a manner as to disturb unreasonably the use and enjoyment of other properties by the owners or inhabitants thereof. This provision shall not apply to the lawful hunting of game or to rifle and pistol ranges operating in compliance with a Special Exception issued pursuant to the Hanover County Zoning Ordinance.

Sec. 16-4. Enforcement of chapter.

~~The provisions of this chapter shall be enforced by the sheriff, who may issue orders and regulations and prescribe measurement procedures for such enforcement.~~

The Hanover County Sheriff's Office will, where circumstances permit, respond to and investigate complaints of violations of Section 16-8, *Prohibited noise generally*, and Section 16-9, *Specific acts as noise disturbances*. After an initial response by the Sheriff's Office, complaints involving barking dogs and other animal noise may be referred to the Department of Animal Control. Complaints related to Section 16-11, *Maximum permissible sound pressure levels from noise sources*, shall be referred to the Department of Planning during business hours. For any alleged violation of Section 16-8 or Section 16-9 (h) or (k), the officer will advise the complainant of the process for submission of a citizen's complaint to the magistrate.

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**IMLA Model Noise Ordinance  
Reasonable Person Standard**

Mr. Rives advised that he has heard concerns that the ordinance is subjective and is not objective. That is not correct. The Noise Ordinance language embodies the Reasonable Person Standard and is a common feature of noise ordinances in Virginia and across the nation. The key language was reviewed: as to disturb unreasonably means not that the noise is disturbing to the person who is complaining, the test is whether that noise would be a disturbance to a reasonable person under same or similar circumstances.

The Vice-Chairman advised that we will have a combined public hearing on Ordinance 08-23 and 08-24. The Vice-Chairman also advised that if anyone wished to speak and had not signed up to do so to raise their hand. Staff passed out additional cards as needed to register speakers. (Exhibit 2 of 2). Mr. McGhee advised that each speaker would have three minutes to speak.

NAME	MAGISTERIAL DISTRICT	FAVOR OR OPPOSITION
Colonel V. Stuart Cook	Hanover County Sheriff	Opposition
Trip Chalkley	Hanover County Commonwealth Attorney	Opposition
Hawthorne Davis	Cold Harbor	Opposition
Gilbert M. Elliott	Henry	Opposition
Jerry Sexton	South Anna	Noise Ordinance related to barking dogs and a neighbor who owns a kennel with 200 barking dogs. When issuing licenses to people who want multiple animals on their property there need to be more restrictions of how they will deal with noise. Please make laws that protect citizens and have accurate restrictions.
Philip Van Cleave	President, Virginia Citizens Defense League	Opposition
Donald Talley	South Anna	Opposition
Bruce Blackley	South Anna	Opposition
Julie Nisley	South Anna	Opposition
Steve Hart	South Anna	08-24 – Noise – Seeking support from the Board assist on the matter of BARK – Letter submitted as an exhibit (Item XVII D., Item 1 of 2)
John Ostergren, Jr.	Ashland	Opposition
Tony Labrador	Beaverdam	Opposition
Chris Branson	South Anna	Opposition
Clarence Hunter, Jr.	No District Listed	Support
Clarence Hunter, Sr.	Henry	Support
Victoria Hutto	Henry	Support

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NAME	MAGISTERIAL DISTRICT	FAVOR OR OPPOSITION
Michael D. Clower	South Anna	Opposition
Jack Raybourne	Cold Harbor	Opposition
Tom Willis	South Anna	Opposition
Richard A. Crane	Beaverdam	Opposition
Jan Clement	Beaverdam	Support
Sandy Montgomery	South Anna	Opposition
Brad Johnson	Mechanicsville	Opposition
Dan Osborne	South Anna	Opposition
Maurice Redding	Beaverdam	Opposition
Timothy Rhodes	Beaverdam	Opposition
Daniel Mouer	Mechanicsville	Opposition
Scott Gregg	Henry	Opposition
Mark R. Huffman	Henry	Opposition
Chris Cummins	Chickahominy	Opposition
Walt Glusiec	South Anna	Opposition
David Armstrong	Beaverdam	Opposition
Greg Smithson	Beaverdam	Opposition
Chris Walsh	N/A	Opposition
Charlie Mayes	Henry	Opposition
Steve Dryden	South Anna	Opposition
Ronald L. May	Henry	Opposition
Roy Miller	Chickahominy	Opposition
Silas Nelson Wright	South Anna	Opposition
Richard Barrott	Henry	Opposition
Glenn Millican	Mechanicsville	Sharing Points of Information related to Archery
Roland A. Martin	Henry	Opposition
Wayne Pase	South Anna	Opposition
George Haw	Henry	Opposition

Mr. Haw asked if he will no longer be able to hunt with primitive weapon, black powder, from elevated deer stand from 450 acres.

The Vice-Chairman allowed the County Attorney to answer the question. Mr. Rives advised that several people have raised questions to Mr. Setliff regarding target shooting and skeet shooting with shot guns and using muzzle loaded rifles and those are ordinance amendments that have been drafted and given to Mr. Setliff. If those were incorporated, you could shoot with a rifle either within the Urban Service Area on property greater than 20 acres.

The Vice-Chairman asked if there was anyone else who wished to address the Board regarding this issue. Seeing no one else come forward, the Vice-Chairman closed the public hearing.

Mr. Rives reviewed that the Hanover Commonwealth Attorney and Sheriff noted the noise ordinance provision would be difficult to enforce. Mr. Rives agrees and it was by design. It was the intent of the members of the committee in the discussion to set a very high threshold

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for anyone to be able to demonstrate a violation of that provision because the intent was not to outlaw shooting but the intent was to create a mechanism where in the most egregious of circumstances it would be something that could be used to try to mitigate the behavior that was causing the disturbance.

Mr. Labrador's comments regarding the layout of the ordinance and consideration of four ordinances, Mr. Rives advised the committee considered four different proposals. It was the ban in the urban service area; the increase to 200 yards – both of those provisions the committee recommended in favor of and both of those were incorporated into No. 08-23. That does not mean you have to approve either of them. It would be the Board's prerogative to approve both provisions, either provision or neither provision as it sees fit. Because they are in one ordinance does not mean you have to approve both of them to approve one of them. The two other provisions that the committee considered were the noise ordinance which because of the structure of the Hanover County Code is in a separate place and the committee also considered an amendment to the zoning ordinance to add a definition of shooting range. Because the committee unanimously decided not to recommend that and it was discussed with the Board it was never drafted out enough to go to public hearing.

Mr. McGhee commented that he chaired the Weapons Safety Committee which was formed at the request of some citizens and several Board Members to address the issue of Fire Arms Discharge and those safety provisions that we could consider here in Hanover County. Mr. Setliff also served on the committee. Two of the incidents that involved prolonged shooting and safety concerns occurred in the Henry District. Both of them within close proximity of Mr. Martin's house on Rural Point Road and also on Fire Lane. Both of those incidents had different endings. The one on Rural Point Road did end up in court and the offender was found with reckless discharge and firing within 100 yards of a building. The other incident off of Fire Lane was resolved amicably when the owner of the property was asked to limit gun fire which he did. Mr. McGhee advised that part of the job the Board does is to address citizens concerns and when we do that, we often sympathize with the parties who have concerns and end up emphasizing with them too and putting ourselves in the place of what if we were effected in this way. Often times as a result to try to find a solution, we tend to over-anticipate and come along and over-regulate. Such may be the case here. We did form a committee, we did try to work up solutions

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that might be amenable to all and then tonight find out it might not be. In an effort to try to come up with a solution to firearms discharge, particularly within the urban service area those areas of the County that are more populated than our rural areas, I have come to the conclusion that what we have on the books now could serve adequately if it is appropriately enforced. I do not think there is a subdivision in the County in the suburban service area where the houses are further than 100 yards apart. They are all closer than 100 yards to each other. I try to put myself to adhere to the 200 yard rule on my own property only to find out if I try to shoot a groundhog I would be in violation of that. The role of a good supervisor is not only to empathize, sympathize and anticipate but also to place himself within the situations that he will be placing others in. With that Mr. McGhee stated he has been very impressed with many of the comments heard tonight and the well reasoned arguments in both directions of support and opposition. It is our job to make popular and sometimes unpopular decisions. Concerning section 24-4, Mr. McGhee recommended and moved that we not adopt any changes that have been proposed to our ordinance, to leave in place that which is black lined on page 2 of our draft ordinance. While it may have served us well in 1964 our county had grown and changed but Mr. McGhee stated he thinks we can still abide by something just as simple as what we have on the books today. Mr. McGhee stated his motion would be that we make no changes to the discharge of weapons, leaving in place that which is already in place and not to add to nor detract from it, seconded by Mr. Setliff.

Mr. Gordon clarified that the motion is to reject proposed ordinance amendment 08-23 and 08-24, seconded by Mr. Setliff.

	Vote:
Aubrey M. Stanley	Absent
John E. Gordon, Jr.	Aye
Deborah B. Coats	Aye
Charles D. McGhee	Aye
Robert R. Setliff	Aye
G. E. "Ed" Via, III	Aye
Elton J. Wade, Sr.	Aye

Ordinance Amendment 08-23 and 08-24 Rejected.

**Announcements**

There were no announcements.

**Adjournment**

At 9:54 p.m., the Chairman adjourned the meeting to October 22, 2008 – Hanover County Administration Building – 6:00 p.m.

*Aubrey M Stanley*  
CHAIRMAN