

GENERAL PROVISIONS

§ 92.01 NOISE CONTROL.

(A) It shall be unlawful for any person, firm or corporation to create or assist in creating any unreasonably loud, disturbing sound levels in the town, taking into consideration volume, duration, frequency and other characteristics of the sound. For the purposes of this section, a noise disturbance shall be presumed to exist where the sound or noise caused by any activity described herein is plainly audible within any occupied structure not the source of the sound or noise, such that a reasonably prudent person would recognize as likely to unreasonably disturb persons in the vicinity.

(B) The following activities are hereby declared to be unreasonably loud, disturbing sound levels; this enumeration shall be deemed to be illustrative and shall not be deemed to be exclusive:

(1) *General prohibitions.* It shall be unlawful to create, cause, or allow the continuance of any unreasonably loud, disturbing, or frightening noise, which substantially interferes with neighboring businesses and/or residents' reasonable use and enjoyment of their properties and plainly audible from any distance from the property on which the sound originates.

(2) *Instruments; sound amplifiers.* The playing of any musical instrument or electronic sound amplification equipment including any reverberation caused by such instruments are prohibited during the hours between 11:00 p.m. and 7:00 a.m. on Friday and Saturday except legal holidays and between 9:00 p.m. and 7:00 a.m. Sunday through Thursday except legal holidays.

(3) *Garbage disposal.* The dumping or emptying of garbage containers into garbage trucks; operating exterior mechanical trash compactor; or placing or removing of garbage containers with motor vehicles shall be prohibited between the hours of 9:00 p.m. and 7:00 a.m.

(4) *Horns and signaling devices.* The intentional sounding of any horn or signaling device of a motor vehicle on any street, public right-of-way or public place of the town.

(5) *Animals.* The keeping of any animal or bird which makes frequent or long, continued sounds that would unreasonably disturb persons of ordinary and reasonable sensibilities in the vicinity.

(6) *Construction activities.* The erection (including excavation), repair, assembly, alteration, landscaping or demolition of any building in a residential or business district and use of any power equipment from other than between the hours of sunset to 7:00 a.m., except in the case of emergency work or urgent necessity in the interest of public safety.

(7) *Vehicles.* The use of any automobile, motorcycle or vehicle so out of repair, or in such a condition as to create unreasonably loud, disturbing sounds.

(8) *Garages.* The operating of any garage or service station in any residential area so as to cause unreasonably loud, disturbing sounds to be emitted on any day.

(9) *Explosives.* The use of firing of explosives, firearms, fireworks, or similar devices which create an explosive sound.

(10) *Power equipment.* Operating or permitting the operation of any power saw, sander, drill, grinder, leaf blower, lawn mower, or other garden equipment, or tools of a similar nature, outdoors from sunset until 7:00 a.m.

(11) *Specific locations.* The creation of unreasonably loud, disturbing sound levels adjacent to any school, educational facility, church or court during normal operating hours or adjacent to any hospital which a person of ordinary and reasonable sensibilities would recognize as likely to unreasonably interfere with the working of such institutions; provided that, conspicuous signs are displayed indicating that such area is a school, educational facility, church, court or hospital area.

(C) *Scope.* This subchapter shall apply to all sound, vibration and noise originating within the corporate limits of the town. Nothing in this subchapter shall be construed to limit or prevent the town or any person from pursuing any other legal remedies for damages or the abatement of noises in the town.

(OC, § 8-6-1) (Am. Ord. passed 12-17-96; Am. Ord. 2019-O2, passed 2-12-19) Penalty, see § 10.99

§ 92.02 PURPOSE OF NOISE CONTROL.

(A) It is recognized that excessive and unnecessary noise endangers the physical and emotional health and welfare of the people, interferes with legitimate business and recreational activity, increases construction costs, depresses property values, offends the senses, creates public nuisances and in other respects reduces the quality of life.

(B) Furthermore, control of excessive and unnecessary noise that may jeopardize human health or welfare or substantially degrade the quality of life is well within the purview of the town police powers, it is declared to be the purpose of this subchapter to prevent, prohibit and provide for the control and abatement of excessive and unnecessary noise which may injure the physical and emotional health or welfare of its citizens or degrade the quality of life.

(Ord. 2019-O2, passed 2-12-19)

§ 92.03 NOISE DEFINITIONS.

(A) For the purpose of §§92.01 through 92.06 (which sections are referred to herein as "this subchapter"), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMPLIFIED SOUND. Any sound or noise, including the human voice that is increased in volume or intensity by means of electrical power.

BASS. Sound considered at the lower half of the whole vocal or instrumental tonal range; vocal or instrumental that produces a very deep sound.

CONSTRUCTION. Erection, repair, assembly, alteration, landscaping or demolition of any building or buildings in sight.

DISTURBING. Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.

EMERGENCY WORK. Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

EVENT. A gathering of people for the purpose of recreation, entertainment, worship, fundraising, or cultural activity outdoors on a zoning lot, or other property, where amplified sound is emitted from the property.

NOISE. Any sound that is undesirable because it interferes with speech and hearing, or is intense enough to damage hearing, or is otherwise annoying. Any sound that is unwanted and/or unwanted sound not occurring in the natural environment and that causes or tends to cause an adverse psychological or physiological effect on human beings. Noise can also be one or a group of loud, harsh, non-harmonious sounds or vibrations that are present and irritating to the ear and any undesired plainly audible sound.

NOISE IMPACT. The extent to which a level of noise interferes with the full utilization of land.

NOISE POLLUTION. Continuous or episodic excessive noise in the human environment; any sound which endangers or injures the safety or health of human beings or annoys or is objectionable to a reasonable person of normal sensitivity.

NOISE SOURCE. The activity responsible for the noise in question or noise which in fact exceeds [said] standards.

PERSON. Any individual, association, firm, partnership or corporation.

PERSON RESPONSIBLE. An owner, occupant, employee, agent or any other person who is or appears to be responsible for a premises, dwelling, or business or a noise-producing machine or device.

PUBLIC RIGHT-OF-WAY. Any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

PUBLIC PLACE. Any public way, park, cemetery or open space adjacent thereto; any public lake or stream; and any place or business open to the use of the public in general, open to public view or to which the public has access.

OFFENDER. A person who commits an illegal act.

OUTDOOR AMPLIFIED SOUND. Any sound using sound amplifying equipment where such equipment is located outside of a residential or commercial structure or within such structures where it is obvious that the sound emitted from the amplifying equipment is intended to be transmitted to the outside through open doors or windows or other openings in the structure.

PLAINLY AUDIBLE. Able to be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The officer need not determine the title, specific words, or the artist performing the song. Simply, words or phrases need not be discernible and bass reverberations are included.

REVERBERATION. Created when a sound or signal is reflected causing a larger number of reflections to build up and then decay as the sound is absorbed by the surfaces of objects in the space which could include furniture, people and air.

SOUND AMPLIFYING EQUIPMENT. Any device for the amplification of the human voice, music, or any other sound, including televisions, electronic loud speakers, jukeboxes, stereos, compact disc players and radios.

UNNECESSARY NOISE. Any excessive or unusually loud sound which disturbs the peace and quiet of any neighborhood or which does annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of any reasonable person of ordinary sensibilities or causes damage to property.

UNREASONABLY LOUD, DISTURBING OR EXCESSIVE NOISE. 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 or good order. Any sound which because of its volume, level, duration or character disturbs, discomforts, injures or endangers the health, peace or safety of a reasonable person with normal sensitivities.

(Ord. 2019-02, passed 2-12-19)

§ 92.04 NOISE EXCEPTIONS.

(A) *Generally.* The following exceptions may be considered from the provisions of this chapter.

(B) *Specifically.*

- (1) Sound emanating from regularly scheduled outdoor athletic events on the campuses of local schools and/or permitted sport/local government recreation departments/athletic complexes;
- (2) Construction activities from 7:00 a.m. to sunset for which building permits have been issued or for construction operations not requiring permits; provided that all equipment is operated with mufflers or other noise-reducing equipment as recommended by the equipment manufacturer's instructions;
- (3) Noises of safety signals, warning devices, emergency pressure relief valves, and all church bells;
- (4) Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency;
- (5) Any other noise resulting from activities of temporary duration permitted by law, and for which a license or permit has been granted by the town in accordance with this section. Regulations of noises emitting from operations under permit shall be according to the conditions and limits stated on the permit and consistent with this section;
- (6) Unamplified and amplified sound at street festivals and parades, lawful picketing or other public demonstration protected by the U.S. Constitution or Federal law, or for which a local permit has been granted or sanctioned by the town pursuant to this section;
- (7) All noises coming from the normal operations of properly equipped aircraft (but not scale model aircraft or other types of model flying aircraft);
- (8) All noise coming from normal operation of motor vehicles properly equipped with the mufflers according to the motor vehicle manufacturer's specifications and in good working order;
- (9) Noise from lawful fireworks and noisemakers on legal holidays and at religious ceremonies;
- (10) Lawn mowers, agricultural equipment, and landscape maintenance equipment used between the hours of 7:00 a.m. and sunset when operated with mufflers or other noise-reducing equipment as recommended by the equipment manufacturer's instructions;
- (11) Musical accompaniment or firearm discharge related to military ceremonies;
- (12) Sound amplification equipment used in conjunction with telecommunications systems on business properties to notify employees of that business incoming phone calls, provided that this system be used only between the hours of 7:00 a.m. and 11:00 p.m. and that any speakers attached to the system be oriented toward the interior of the property;
- (13) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, or to restore public utilities, or to protect persons or property from an imminent danger;
- (14) Noises resulting from the provision of government services and military operations and exercise;
- (15) Normal and customary sounds emanating from a non-recurring community event conducted by a governmental entity, school, church or similar noncommercial entity will not be considered noises or activities that violate this ordinance, so long as the event with which the noise is associated begins no earlier than 6:00 a.m. and ends no later than 10:00 p.m. For the purposes of this division, non-recurring shall refer to an event which occurs no more than four times during any calendar year. However, an event can lose its status as a community event under this section if multiple complaints from different sources are received about the noise level emanating from the event, and upon investigation, the police determine that the noise levels at the property boundary of the property upon which the event is conducted closest to the noise source, or with respect to events such as parades which utilize public right-of-way. If an event loses its status as a "community event" it shall no longer enjoy the presumption under this section that it does not violate the chapter.

(Ord. 2019-O2, passed 2-12-19)

§ 92.05 NOISE PERMITS.

(A) Persons wishing to engage in activities regulated by this chapter may do so when a specific permit is approved by the Chief of town Police Department or his designee. Applications shall be submitted on forms supplied by the town. The permit shall not be unreasonably withheld, and may contain appropriate conditions, including maximum decibel levels, designed to minimize the disruptive impact. Permits for such activities, significantly for religious or political purposes, shall be granted, subject only to reasonable time, place and manner restrictions. Permits issued under this section may specify that the permission granted will continue for a stated period or until revoked after actual notice. Persons shall not be held in violation of this section when acting in conformity with permit conditions, but any permit may be revoked if it is determined that the authorized activity has resulted in generation of unreasonably loud, disturbing sound levels.

(B) If any application under § 92.05 is denied, approved with conditions unacceptable to the applicant, or if any permit issued hereunder is revoked, the applicant or permit holder shall be entitled to a prompt, informal hearing with the Town Manager or his designee, upon submission of a written request. Any person aggrieved by a matter regulated in this section may submit to the Town Manager or his designee written comments, including requests for appropriate relief.

(Ord. 2019-O2, passed 2-12-19)

§ 92.06 NOISE PENALTY.

(A) Violation of any provision of this chapter shall be a misdemeanor as provided by G.S. § 14-4.

(B) (1) Any violation of this chapter and sections of this subchapter shall subject the offender to a civil penalty in the amount of \$300 for the first offense; \$400 for second offense; \$500 for third offense and any subsequent offense within the same 12-month period as the first offense.

(2) Each day's continuing violation shall be a separate and distinct offense.

(3) Notwithstanding division (B)(1) above, provisions of this section may be enforced through equitable remedies issued by a court of competent jurisdiction.

(4) In addition to or in lieu of remedies authorized in divisions (B)(1) through (B)(3) above, violations of this chapter may be prosecuted as a misdemeanor in accordance with G.S. § 160A-175.

(5) A property owner shall be liable for the cost of abating the nuisance or remedying the health or safety hazard created by a tenant for a third or subsequent violation of this chapter. A property owner shall be liable for the actual cost of abatement/remedy taking into account the cost of law enforcement personnel salaries, law enforcement equipment, administrative overhead, law enforcement recordkeeping, mailing and notification costs and other costs directly or indirectly attributable to the cost of abating the nuisance or remedying the health or safety hazard. In no case shall the cost assessed under this provision be less than \$100 for the third violation by the tenant (initial assessment of property owner), or less than \$75 for any subsequent assessment for the same-tenant violation. If costs assessed pursuant to this division (B) are not paid by the property owner within 30 days of receipt of a statement of costs from the town, the cost may be placed as a lien on the property the hazard existed.

(Ord. 2019-O2, passed 2-12-19)