

Sec. 12-1-10 - Offenses against public peace and order.

(a) Subject to the provisions of this section, it shall be unlawful for any person or persons to make, permit, continue or cause to be made or create any unreasonably loud, disturbing and unnecessary noise in the city, with the exception of construction work done pursuant to a federal, state, county, or city contract which requires work to be performed during certain hours. Construction work under these conditions shall be exempt from the provisions of this section. 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 or good order.
- (2) *Disturbing.* Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.
- (3) *Unnecessary.* Any excessive or unusually loud sound or any sound which is of such character, intensity and duration as to disturb the peace and quiet of any neighborhood or which disturbs, injures or endangers the comfort, repose, health, peace or safety of any person, and being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.

In determining whether a noise is unreasonably loud, disturbing and unnecessary, 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 electronic or mechanical means; the character and zoning of the area; whether the noise is related to the normal operation of a business or other labor activity; whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof. A continuing or non-resetting audible burglar or fire alarm shall not be considered a violation of this section, but may be a violation of the false alarm ordinance, city ordinance section 5-1-48.

- (b) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section but this enumeration shall not be deemed to be exclusive:
- (1) *Blowing horns.* The sounding of any horn, whistle or signal device on any automobile, motorcycle, bus or other vehicle or railroad train, except as a danger signal or as required by law, so as to create any unreasonable, loud or harsh sound or the sounding of such device for an unnecessary and unreasonable period of time.
 - (2) *Radios, stereos, etc.* The playing of any radio, television set, record player, stereo or other sound reproduction system, musical instrument or sound-producing or sound-amplifying device on the premises of any dwelling, hotel or motel room, in such manner or with such volume, particularly but not limited to the hours between 11:00 p.m. and 7:00 a.m., if the sound generated is audible at a distance of 30 feet or more from the dwelling's property line, or, in the case of a hotel or motel room, the unit's most outer boundary wall.
 - (2.1) *Sound-producing equipment in vehicles.* The playing of any radio, cassette player, compact disc, video tape or disc, or other similar device for reproducing sound located on or in any motor vehicle on a public street, highway, within any public vehicular area, or on the premises of a private residence, if the sound generated or noise vibration there from is audible or can be felt at a distance of 30 feet or more from the radio, cassette player, compact disc, video tape or disc, or other similar device that is producing the sound.
 - (3) *Pets.* The keeping of any animal or bird, which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.
 - (4)

Use of vehicles. The use of any automobile, motorcycle, dirt bike, go-cart, recreational vehicle or any other vehicle so out of repair, so loaded or operated in such manner as to create loud or unnecessary grating, grinding, rattling, screeching of tires or other noise.

- (5) *Blowing whistles.* The blowing of any steam whistle attached to any stationary boiler except as a warning of danger.
- (6) *Exhaust discharge.* The discharge into the open of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (7) *Compressed air devices.* The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.
- (8) *Building operations.* The erection (including excavation), demolition, alteration or repair of any building in a residential district between the hours of 6:00 p.m. and 7:00 a.m. of any day or in any district other than a residential district between the hours of 10:00 p.m. and 7:00 a.m. of any day, except in the case of urgent necessity in the interest of public safety and then only with a permit from the city manager or his designee, which permit may be renewed for a period of three (3) days or less while the emergency continues.
- (9) *Noises near schools, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, library, or court while the same is in session, or adjacent to any hospital, or any church during services, which unreasonably interferes with the operation or activities of such institution.
- (10) *Loading and unloading operations.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening or destruction of bales, boxes, crates and containers.
- (11) *Bells and gongs.* The sounding of any bell or gong which disturbs the quiet or repose of persons in the vicinity thereof.
- (12) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument for the purpose of attracting attention by creation of noise to any performance, show, sale, display or advertisement of merchandise.
- (13) *Blowers, engines.* The operation of any noise-creating blower, power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise emitting therefrom is sufficiently muffled and the engine is equipped with a muffler device sufficient to deaden such noise, so that the same shall not cause annoyance to the public nor unreasonably disturb the rest and quiet of persons on adjacent premises or within the vicinity thereof.
- (14) *Appliances and other mechanical devices.* The operation of any noise-producing appliance or other mechanical device which, due to operational deficiencies, malfunction or other type of disrepair, causes loud and excessive noises in such a manner as to unreasonably annoy the public or disturb the rest and quiet of persons on adjacent premises or within the vicinity thereof.
- (15) *Loudspeakers or amplifiers.*
 - a. It is prohibited within or from any commercial establishment or private entertainment or recreational venue to allow any loudspeaker or other mechanically-amplified device to be played so that the sound there from may be heard at a distance of 30 feet or more from the facility's property line, between the hours of 2:00 a.m. and 7:00 a.m.
 - b. In the exercise of noncommercial free speech, loudspeakers or amplifiers may be used, subject to the following conditions:
 1. It shall be unlawful for any person to speak into a loudspeaker or amplifier within the corporate limits of the city, when such loudspeaker or amplifier is so adjusted that the voice of the speaker is amplified to the extent that it is audible at a distance in excess of 150 feet from the person speaking; provided that such use in city recreational facilities shall be regulated by the rules of the city parks and recreation commission.

[2. Reserved.]

- (c) Enforcement and repeated violations. Where there is a violation of any provision of this article, the city, at its discretion, may take one (1) or more of the following enforcement actions:
- (1) A police officer may issue a citation as provided herein, subjecting the violator to a civil penalty of \$200.00. A second violation by the same person or business within one (1) year of the first violation shall subject such person or business to a penalty of \$400.00. All subsequent violations by the same person or business within one (1) year of the first violation shall subject such person or business to a civil penalty of \$500.00.
 - (2) Failure to pay a civil penalty imposed under this section within 10 days may subject the offender to an additional \$50.00 delinquency charge. Any unpaid penalty or delinquency charge may be recovered by the city in a civil action.
 - (3) The civil penalties imposed by this section and the proceeds therefrom as collected by payment, civil action or otherwise, shall belong to the city and shall be paid into the general fund of the city under such conditions as prescribed by the annual budget.
 - (4) In the alternative, pursuant to North Carolina General Statutes, section 14-4, a violation of this section may be considered a misdemeanor. Such a misdemeanor is punishable by a fine of not more than \$500.00 or imprisonment designated for a Class 3 misdemeanor.
- (d) Each separate day of a continued violation shall be a separate and distinct offense and shall give rise to a separate and distinct penalty.
- (Ord. No. 84-63, §§ 1, 2, 8-16-84; Ord. No. 93-100, § 1, 10-21-93; Ord. No. 94-7, § 1, 2-17-94; Ord. No. 96-54, § 1, 8-15-96; Ord. No. 95-82, § 1, 9-21-95; Ord. No. 95-89, § 1, 10-5-95; Ord. No. 6155/04-52, § 1, 7-8-04)