

Chapter 141. Noise

[HISTORY: Adopted by the Town Board of the Town of Huntington 6-3-1969 as Ch. 58 of the 1969 Code of the Town of Huntington; amended in its entirety 7-9-2013 by L.L. No. 18-2013. Subsequent amendments noted where applicable.]

Article I. GENERAL PROVISIONS

§ 141-1. Legislative intent.

The Town Board of the Town of Huntington in the exercise of its enforcement powers, hereby declares its intent to minimize to the fullest extent possible unreasonably loud and disturbing noises that are prolonged, unusual, or unnatural in their time, place, and operation. Unreasonable noise is detrimental to the life, health, safety and welfare of Town residents; interferes with the quiet use and enjoyment of land; and disturbs the peace, comfort, and good order of neighboring areas and the community-at-large.

§ 141-2. Noise disturbance prohibited.

No person or business entity shall make, continue, allow, permit, cause or maintain any noise disturbance by any means within the Town of Huntington.

§ 141-3. Definitions.

For the purposes of this chapter, the following terms shall have the meanings indicated:

NOISE DISTURBANCE

- A. Any noise, which endangers or injures the safety or health of humans or animals or annoys or disturbs a reasonable person of normal sensitivities or endangers or injures personal or real property.
- B. The noise from any prohibited act that disturbs two (2) or more residents who are in general agreement as to the times and durations of the noise and who reside in separate residences, including apartments and condominiums, located across a property line (boundary) from the property on which the source of noise is generated, shall be prima facie evidence of the existence of a noise disturbance.

SOUND DEVICE OR APPARATUS

Any electronic, acoustic, digital or electrical device, apparatus or equipment, whether fixed or mobile, used for the production, transmission, amplification, intensification or reproduction of the human voice, music or other sounds.

Article II. NOISE DISTURBANCE

§ 141-4. Noise disturbances enumerated.

The following acts, among others, are declared to be noise disturbances in violation of this chapter, but said

enumeration shall not be deemed to be exclusive, namely:

- A. Radios, stereos, musical instruments, MP3 players, television sets and other similar devices. It shall be unlawful to operate, use, or play, or to cause, allow or permit another to operate or use any radio, stereo, television set, musical instrument, MP3 player or other device for producing, reproducing, or transmitting sound in such manner as to disturb the peace, quiet and comfort of the surrounding community; the use and enjoyment of surrounding properties; or, at any time, of louder volume than is necessary or is unreasonably loud for the convenient hearing of those in the room, vehicle, chamber or area in which such device is operated. The operation of any such set, instrument, apparatus or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, vehicle or area where such device is located shall be prima facie evidence of a violation of this section.
- B. Horns and signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle, streetcar or other vehicle on any street or public place of the Town of Huntington except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unreasonable period of time; the use of any signaling device except the one operated by hand or electricity; the use of any horn, whistle or other device operated by engine or exhaust; and the use of any such signaling device when traffic is for any reason held up.
- C. Yelling and shouting. Yelling, shouting, hooting, whistling or singing on any public street, sidewalk, business premises open to the public, office or any public property, when intentionally done to create or recklessly creating a risk of public annoyance, alarm or inconvenience.
- D. Animals and birds. The keeping of any one (1) or more animals or birds whose noise, by virtue of loudness, duration, frequency or intensity, causes public inconvenience, annoyance or alarm; or creates noise disturbance.
 - (1) Any animal or bird noise occurring between 10:00 p.m. and 8:00 a.m., and plainly audible at a distance fifty (50) feet from the place of origination of the noise, shall be prima facie evidence of a violation of this chapter.
 - (2) Any animal or bird noise occurring for any continuous period of five (5) minutes or more, or an aggregate of fifteen (15) minutes or more in any eight-hour period, when such noise is plainly audible inside any portion of a dwelling, residence, office or apartment other than the place where the noise originated, shall be prima facie evidence of a violation of this chapter.
- E. Exhausts. The discharge into the open air of the exhaust of any internal-combustion engine, motorboat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- F. Defect in vehicle or load. The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such a manner as to create loud and grating, grinding, rattling or other noise disturbance.
- G. Pile drivers and hammers. The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, pneumatic hammer, derrick, electric hoist or other appliance, the use of which is creates a noise disturbance.
- H. Loading and unloading. The creation of a loud disturbance in connection with the loading or unloading of any vehicle, boat, barge or train or the opening and destruction of bales, boxes, crates and containers.
- I. Construction or repairing of buildings. The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays except in case of emergency in the interest of public health and safety, and then only with a permit from the Director of the Department of Engineering Services which permit may be granted for a period not to exceed three (3) days or less while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the Building Inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways between the hours of 6:00 p.m. and 7:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done between the hours of 6:00 p.m. and 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work. Weekdays shall not include Saturday, Sunday or legal holidays. Nothing in this section shall prevent or prohibit a property owner from performing minor maintenance or

repair of any building on his property if the work being performed does not require a building permit.

- J. Schools, courts, religious institutions, hospitals. The creation of any noise disturbance on any street adjacent to any school, institution of learning, religious institution or court while the same is in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- K. Hawkers, peddlers. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.^[1]
 - [1] *Editor's Note: For provisions pertaining to the licensing and regulation of peddlers, hawkers and vendors generally, see Ch. 149, Peddlers and Solicitors.*
- L. Drums and other instruments. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise at any performance, show or event.
- M. Transportation of metal rails, pillars and columns. The transportation of rails, pillars or columns of iron, steel or other material over and along streets and other public places upon carts, drays, cars, trucks or in any other manner, so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.
- N. Blowers. The operation of any noise-creating blower or 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 from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden the noise. In no event shall any noise from such blower exceed seventy (70) (A-scale) decibel. Notwithstanding the provisions hereof, the operation of any motorized leaf blower device on a weekday prior to 8:00 a.m. or after 7:00 p.m. or on a Saturday, Sunday or legal holiday prior to 9:00 a.m. or after 5:00 p.m. shall be deemed a noise disturbance. Said motorized leaf blower device shall only be operated for two (2) hours of use per property on weekdays and one (1) hour of use per property on Saturdays and Sundays or legal holidays.
- O. Loudspeakers. The operation of any loudspeakers or speaker systems or any device for the production, amplification, intensification or reproduction of sound, in a manner that creates annoyance, alarm, inconvenience or noise disturbance.

§ 141-5. Presumptive evidence.

Unless otherwise stated in this chapter, the use of any sound device, machinery, equipment, or engine so as to cause the sound produced thereby to be audible outside the building or beyond the property lines of where it originates between the hours of 11:00 p.m. and 7:00 a.m. the following day shall be prima facie evidence of a violation of this chapter.

§ 141-6. through § 141-8. (Reserved)

Article III. AMPLIFIERS, LOUDSPEAKERS AND PUBLIC ADDRESS SYSTEMS

§ 141-9. Permit required for use of sound devices other than for advertising purposes.

It shall be unlawful for any property owner or person in possession or in-charge of the property, their designated agents, and any disc jockey, band, entertainer or person performing, appearing or providing services at the event to use or operate, or to cause or allow the use or operation of any sound device or apparatus in, on, near or adjacent to any street, park or place unless a sound permit for such use or operation has been issued by the Town Clerk in the manner hereinafter prescribed.

§ 141-10. Exemptions.

No sound permit shall be required in the following circumstances:

- (A) Any sound device used in a public parade, in the Thimble Theatre and the Harry Chapin Rainbow Theater, or at any event solely sponsored by the Town of Huntington.
- (B) Any sound device or apparatus used by religious institutions on or within its own premises in conjunction with religious services as long as such devices are not unreasonably loud or disturbing or of such character, intensity or duration as to be detrimental to the peaceful and tranquil enjoyment of surrounding properties and the community-at-large.
- (C) Sound devices used solely for the purpose of warning, protecting or altering the public or some segment thereof of the existence of an emergency or danger, including but not limited to the sirens of emergency response vehicles.
- (D) Sound devices, whether fixed or mobile, to be used to direct holiday music outside of buildings and into the streets of the Town of Huntington as approved by the Town Board from the Thanksgiving Holiday up to and including December 31 each year between the hours of 9:00 a.m. and 9:00 p.m.
- (E) Sound devices used by Federal, State and local governmental agencies in furtherance of their governmental duties.
- (F) Sound devices used during organized sporting events by leagues, clubs, and private or public schools.
- (G) Residential property owners or lessees who use a sound device for personal purposes at their residences and not in connection with a special event at the site, as long as such devices are not unreasonably loud or disturbing or of such character, intensity or duration as to be detrimental to the peaceful and tranquil enjoyment of surrounding properties and the community-at-large.

§ 141-11. Application for permit.

- (A) The property owner, a lessee of property or their designated agent shall file a written application with the Town Clerk together with a non-refundable application fee of twenty-five (\$25) dollars no less than three (3) business days before the event. Upon good cause shown, the Town Clerk or the Director of Public Safety, or their designees, may accept an application beyond the period specified.
- (B) If the agent is the applicant, then the application shall be consented to and acknowledged in writing by the owner or lessee of the property, and same shall be bound by the statements in the application; the terms, conditions and restrictions of the permit; and the provisions of this chapter in the same manner as the agent.
- (C) Such application shall contain the name, address and contact numbers of the property owner and the person in possession or in-charge of the property, their designated agents, and the name, address and contact numbers of the disc jockey, band, entertainer or person appearing or providing services at the event, if applicable; shall describe the event; the specific location where the sound device or apparatus is proposed to be used; the date and hours of day during which it will be used or operated; the nature and type of sound apparatus to be used; and such other pertinent information as the Town Clerk may deem necessary to carry out the provisions of this chapter.

§ 141-12. Action on applications.

- (A) The Town Clerk may approve an application for a permit in whole or in part subject to such conditions and restrictions deemed necessary by the Town Clerk upon the recommendation of the Director of Public Safety or otherwise, and subject further to compliance with all applicable laws, rules and/or regulations.
- (B) If an application is denied by the Town Clerk, the reason for such denial shall be provided in writing and mailed to the applicant by regular mail to the address shown on the application.

§ 141-13. Issuance of permit.

Each permit issued shall describe the event, the specific location where such sound device may be used or operated, the date and exact period of time such apparatus or device may be operated at the location, and such terms, conditions, and restrictions as may be deemed necessary by the Town Clerk, in order to safeguard and protect the use and enjoyment of neighboring properties, streets, parks and other public places; and the health, welfare and safety of the community-at-large.

§ 141-14. Denial of permit.

(A) No permit shall be issued under the following circumstances:

- (1) In any location within five hundred (500) feet of a school, courthouse or church, during the hours of school, court or worship, respectively, or within five hundred (500) feet of any hospital or similar institutions.
- (2) In any location where the Town Clerk, upon investigation, shall determine that the condition of vehicular or pedestrian traffic, or both, is such that the use of such a device or apparatus will constitute a threat to the safety of pedestrian or vehicular operators.
- (3) In any location where the Town Clerk, upon investigation by the Director of Public Safety or otherwise, determines that because of overcrowding, or the existence of road or street repairs or other physical conditions the use of a sound device or apparatus will be hazardous to human health or safety, or detrimental to the safe, comfortable, convenient and peaceful enjoyment of any public street, park or place.
- (4) In or on any vehicle or other device while it is in transit.
- (5) For events occurring between the hours of 11:00 p.m. and 9:00 a.m.

(B) The Town Clerk may deny a permit under the following circumstances:

- (1) In the discretion of the Town Clerk prior violations by the same applicant or homeowner of (1) the terms or conditions of a prior sound permit, (2) the lawful order of the Director of Public Safety or his designee, or (3) the provisions of this Chapter or any rule or regulation promulgated pursuant to this Chapter, may be cause for denial of future permits.
- (2) The Town Clerk may, in his or her judgment, deny an application for a permit if for any reason the issuance of a permit would be detrimental to the health, welfare and/or safety of the public or neighboring properties, or would create a hazard.

§ 141-15. Acceptance of permit.

The acceptance of a permit shall constitute an agreement by the property owner and permit holder that they will comply in all respects with the terms and conditions of the permit, obey the lawful order of the Director of Public Safety, and all applicable laws and rules. A property owner and/or permit holder who fails to post a permit as required by this section shall be in violation of this article.

§ 141-16. Display of permit.

The permit shall be properly posted in a conspicuous place at the premises for which it was issued. The permit shall be posted at all times during the event and shall not be removed until the event is concluded. A property owner and/or permit holder who fails to post a permit as required by this section shall be in violation of this article.

§ 141-17. Non-transferability of permit.

It shall be unlawful to allow or cause a permit to be posted at a premises other than the premises for which the permit was issued. The property owner and/or permit holder and the owner of the property on whose property the permit is unlawfully posted shall be strictly liable for a violation of this article.

§ 141-18. Alteration of permit.

It shall be unlawful to alter, obscure, deface, change or otherwise tamper with any portion of a permit issued by the Town of Huntington. The property owner and/or permit holder shall be strictly liable for a violation of this section.

§ 141-19. Assignment of permit.

It shall be unlawful to assign or transfer a permit issued pursuant to this Chapter without the expressed consent of the Town Clerk. Any permit transferred without such approval shall be null and void.

§ 141-20. Revocation of permit.

The Town Clerk may revoke a permit, in the reasonable exercise of his/her discretion and pursuant to the recommendation of the Director of Public Safety or otherwise, under the following circumstances. In the event a permit is revoked, the fees for such permit shall be forfeited and shall not be refunded.

- (A) Where there has been a false statement, misrepresentation or incorrect information on the application or in other information provided by the applicant.
- (B) Where it is found that the permit was issued in error and should not have been issued in accordance with the applicable law.
- (C) Where the Town Clerk finds that the property owner, person in possession or in charge of the property, their agent and/or permit holder is not in compliance with the terms and conditions of the permit, or with the lawful order of the Director of Public Safety or his designee, or with the provisions of this chapter or other applicable law or rule.

§ 141-21. through § 141-22. (Reserved)

Article IV. ADMINISTRATIVE REMEDIES AND ENFORCEMENT

§ 141-23. Penalties for offenses.

Any person, firm or corporation who violates any section of this chapter shall be deemed guilty of a violation and, upon conviction thereof, shall be punished by a fine or penalty not less than one hundred (\$100) dollars nor more than two hundred fifty (\$250) dollars for a first violation, by a fine not less than two hundred fifty (\$250) dollars but no more than one thousand (\$1,000) dollars for a second violation of an offense which results in a conviction and occurs within thirty (30) days of the first violation resulting in conviction thereon, and by a fine of not less than one thousand (\$1,000) dollars nor more than five thousand (\$5,000) dollars for a third or succeeding violation occurring within two (2) years of the date of the first violation which resulted in a conviction.