

ARTICLE II. - OFFENSES AGAINST PUBLIC PEACE^[2]

Footnotes:

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Editor's note—Ord. No. 07-06, adopted February 6, 2007, amended the Code by, in effect, repealing former art. II, §§ 15-31—15-33 and 15-35—15-57, and adding a new art. II. Former art. II pertained to similar subject matter, and derived from the Code of 1968, §§ 16-2 and 17-6; Ord. No. 89-26, adopted May 16, 1989; Ord. No. 91-21, adopted June 20, 1991; Ord. of January 2, 1979; Ord. No. 94-14, adopted May 4, 1994.

Cross reference— Disturbing the quiet at cemeteries, § 6-4; noise control, § 14-26 et seq.

DIVISION 1. - GENERALLY

Sec. 15-27. - Definitions.

Motor vehicle means any vehicle that is propelled other than by human or animal power on land.

Multifamily dwelling means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

Plainly audible means any sound that can 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.

Public right-of-way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

Public place means 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.

(Ord. No. 07-06, 2-6-07)

Sec. 15-28. - General prohibitions.

Subject to the provisions of this article, the creation of any unreasonably loud, disturbing and unnecessary noise in the city is prohibited. Noise of such character, intensity, and duration as to be detrimental to the life or health of any individual is prohibited.

(Ord. No. 07-06, 2-6-07)

Sec. 15-29. - Discharge of firearms.

It shall be unlawful for any person to needlessly fire any rifle, gun or revolver within the city limits; provided that this section shall not apply to any officer while in the discharge of the duties of his office.

(Ord. No. 07-06, 2-6-07)

Cross reference— Possess firearm/weapon/fireworks, § 16-24.

Sec. 15-30. - Discharging dangerous instruments.

It shall be unlawful for any person to discharge any air rifle, pellet gun, BB-gun, slingshot, bow and arrow or any other similar weapon within the city.

(Ord. No. 07-06, 2-6-07)

Cross reference— Possess firearm/weapon/fireworks, § 16-24.

Sec. 15-31. - Fireworks, firearms.

The firing or discharging of a gun, squibs, crackers, gunpowder or other combustible substances in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the police department, provided; however, that this section shall not prohibit the possession, sale, use or firing of paper caps and paper cap pistols so long as the same shall not constitute a willful breach of the peace, shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Cross reference— Possess firearm/weapon/fireworks, § 16-24.

Sec. 15-32. - Hunting and trapping.

It shall be unlawful for any person to engage in the hunting or trapping within five hundred (500) feet of any dwelling or place of business within the city limits. Hunting will be permitted in those unpopulated areas of the city limits traditionally used for hunting purposes. Trapping will not be permitted in any area of the city limits unless conducted by animal control officers or under the supervision of wildlife officers.

(Ord. No. 07-06, 2-6-07)

Cross reference— Animals and fowl, Ch. 4.

Secs. 15-33, 15-34. - Reserved.

Sec. 15-35. - 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 shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Cross reference— Traffic generally, Ch. 25.

Sec. 15-36. - Sirens.

The use of any gong or siren upon any vehicle other than police, fire or other emergency vehicle shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Sec. 15-37. - Bells, gongs.

The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Sec. 15-38. - Blowing steam whistles.

The blowing of any steam whistles attached to any stationary boiler, except as a warning of danger or to give notice of the time to begin or stop work, shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Secs. 15-39—15-42. - Reserved.

Sec. 15-43. - Use of vehicles.

The use of any automobile, motorcycle, or 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 shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Sec. 15-44. - Discharge of exhaust.

The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, boat motor or engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Sec. 15-45. - Compressed air devices.

The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced, shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Sec. 15-46. - 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 shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Sec. 15-47. - Loading, unloading operations.

The creation of loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and containers shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Sec. 15-48. - Malfunctioning 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 shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Sec. 15-49. - Garage, filling stations.

The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m. shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Sec. 15-50. - 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 shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Cross reference— Animals and fowl generally, Ch. 4.

Sec. 15-51. - Quiet zones.

The creation of any excessive noise on any street adjacent to any school, institution of learning, library, or sanitarium, or court while the same is in session, or within one hundred fifty (150) feet of any hospital, which unreasonably interferes with the working of such institutions; provided, that conspicuous signs are displayed in such streets indicating that the same is a school, court or hospital street, shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Sec. 15-52. - Hawkers, peddlers, etc.

The shouting and crying of peddlers, hawkers, vendors, which disturbs the quiet and peace of the neighborhood shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Cross reference— Peddlers generally, Ch. 17.

Sec. 15-53. - Noises to attract attention.

The use of any bell, 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 shall be deemed a violation of this article.

(Ord. No. 07-06, 2-6-07)

Cross reference— Advertising generally, Ch. 3.

DIVISION 2. - AMPLIFIED SOUND^[3]

Footnotes:

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Cross reference— Loud music in parks, § 16-25.

Sec. 15-54. - Measurement and terminology.

(a) *Measurement.* For the purpose of determining dB(A)'s as referred to in this division, the noise shall be measured on the "A" weighting scale on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute.

For the purpose of determining dB(C)'s as referred to in this division, the noise shall be measured on the "C" weighting on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute.

(b) *Terminology.* Major terminology used in this article is defined below. Terms not defined herein shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- (1) *A-weighted sound level:* The sound pressure level in decibels as measured on a sound level meter using the A-frequency-weighted network. The level so read is designated dB(A).
- (2) *C-weighted sound level:* The sound pressure level in decibels as measured on a sound level meter using the C-frequency-weighted network. The level so read is designated dB(C).
- (3) *Decibel (dB):* Unit of level when the base of the logarithm is the tenth root of ten (10) and the quantities concerned are proportional to power. Unit symbol, dB.

- (4) *Sound pressure level*: Ten (10) times the logarithm to the base ten (10) of the ratio of the time-mean-square pressure of a sound, in a stated frequency band, to the square of the reference sound pressure in gases of twenty (20) micro Pa. Unit decibel (dB); abbreviation, SPL; symbol, Lp.
 - (5) *Sound level meter*: Device used to measure sound pressure levels with a standardized frequency weighting and indicated exponential time weighting for measurements of sound level, or without time weighting for measurement of time-average sound pressure level or sound exposure level.
 - (6) *Sound level weighted sound pressure level*: Ten (10) times the logarithm to the base ten (10) of the ratio of the squared A-frequency-weighted sound pressure to the squared reference sound pressure of twenty (20) micro Pa, the squared sound pressure being obtained with slow (S) (1,000 ms) exponentially weighted time-averaging selected. Unit decibel (dB). [However, herein the unit for A-frequency weighted measurements will be referred to simply as dB(A).]
 - (7) *Time-interval equivalent continuous A-frequency-weighted sound pressure level*: Ten (10) times the logarithm to the base ten (10) of the ratio of the time-mean-square instantaneous A-frequency-weighted sound pressure during a stated time interval T, to the square of the standard reference sound pressure. Unit, decibel (dB); abbreviated as $L_{Aeq,T}$
 - (8) *Time-interval equivalent continuous band sound pressure level*: Sound pressure level for sound contained within a restricted frequency band during a stated time interval T. Unit, decibel (dB); abbreviated as $L_{b,eq,T}$.
 - (9) *Filters*: Herein refers to either an octave-band or one-third (1/3) octave-band frequency filter as defined in ANSI S1.1-1994. Measurements with the A-frequency weighting filter provide a single overall sound level for a noise source after the contribution of the low frequencies has been significantly reduced. Octave-band and one-third (1/3) octave-band filter measurements provide more accurate information about the frequency pitch characteristics of the noise source.
 - (10) *Steady-state sound*: A steady-state sound is one that exists twenty-five (25) percent of any one (1) measurement interval. A measurement interval is a continuous period of fifteen (15) seconds. Examples would include music sources, PA sounds, exhaust fan noise, heating and air-conditioner noise, etc.
 - (11) *Adjoining property*: Property which shares a contiguous boundary with another.
- (Ord. No. 07-06, 2-6-07; Ord. No. 2011-09, 3-22-11)

Sec. 15-55. - Amplified sound prohibitions.

(a) It shall be unlawful to:

- (1) Operate or allow the operation of any sound amplification equipment in a residential area so as to create sounds registering 70 dB between 9:00 a.m. and 10:00 p.m. or 60 dB between 10:00 p.m. and 9:00 a.m., as measured anywhere within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the city police department.
- (2) As to multifamily structures including apartments, condominiums, or other residential arrangements where boundary lines cannot readily be determined, operate or allow the operation of any sound amplification equipment so as to create sounds registering 55 dB(A) between 9:00 a.m. and 10:00 p.m. or 50 dB(A) between 10:00 p.m. and 9:00 a.m., as measured from any point within the interior of another residential unit in the same complex or within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the city police department. When conducting indoor sound level measurements the measurements shall be taken at least three (3) feet from any wall, floor or ceiling and all exterior doors and windows shall be closed prior to conducting measurements. When measuring total sound level all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.
- (3)

Operate or allow the operation of any sound amplification equipment in any business, office, commercial, shopping center, or industrial zoned area so as to cast amplified sounds which are unreasonably loud and disturbing or which register more than 70 dB(A) at or on the boundary of the nearest public place or adjacent property.

- (4) Operate or allow the operation any sound amplification equipment in the public right-of-way:
 - a. Without a permit issued by the city police department; or
 - b. So as to produce sounds registering more than 70 dB ten (10) feet or more from any electromechanical speaker between the hours of 9:00 a.m. and 10:00 p.m. or 60 dB ten (10) feet or more from any electromechanical speaker between the hours of 10:00 p.m. and 9:00 a.m. or so as to be plainly audible at a distance of twenty-five (25) feet in any direction from the operator.
- (b) Maximum permissible increase in total sound levels within a residential property.
 - (1) No person shall cause, suffer, allow, or permit the operation of any amplified sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits when measured within the residence of a complainant. These sound level measurements shall be conducted with the sound level meter set for "C" weighting. The officer will take four (4) consecutive readings of thirty (30) seconds each. If of all four (4) of these readings exceeds the allowed limits, a violation of the ordinance has occurred.
 - (2) When conducting indoor sound level measurements the measurements shall be taken at least three (3) feet from any wall, floor or ceiling and all exterior doors and windows shall be closed prior to conducting measurements. When measuring total sound level all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

(Ord. No. 07-06, 2-6-07; Ord. No. 2011-19, 3-22-11)

Sec. 15-56. - Motor vehicles.

Personal vehicular music amplification equipment shall not be operated in such a manner as to be plainly audible at a distance of twenty five (25) feet in any direction from the operator or registering more than 70 dB(A) ten (10) feet or more from the vehicle.

(Ord. No. 07-06, 2-6-07)

Sec. 15-57. - Permits for additional amplification.

- (a) *Application.* The application for a permit for additional amplification under section 15-55 shall be submitted to the city police department at least ten (10) working days but not more that one hundred eighty (180) days in advance of the planned use except in an emergency. The application shall designate an individual person who shall be in control of the sound amplification equipment and ensure that its use compiles with the terms of the permit.
- (b) *Application review.* The chief of police or his designee shall review the application for permit and make determinations as to the granting or denial of the requested permit based upon the following criteria:
 - (1) The use and activities permitted by the zoning regulations in such zones;
 - (2) The intensity of sound levels produced by activities and devices in such zones;
 - (3) The time at which such sounds levels occur;
 - (4) The duration of such sound levels;
 - (5) The proximity of such activities and devices to buildings and to dwellings;
 - (6) The history of complaints generated by previous activities similar in nature and context;
 - (7) The history of complaints against the applicant for unreasonable noise;

- (8) Whether the sound levels produced by such devices and activities are recurrent, intermittent, constant; and
 - (9) The density of habitation of such zones.
- (c) *Notice of tentative approval.* Upon tentative approval, the applicant for a permit shall be responsible for mailing or otherwise delivering to the occupants of each property within a five hundred-foot radius of the facility for which the permit has been granted, as shown on the tax maps of the county, a notice stating the date and hours of the event. The notice shall be delivered at least seventy-two (72) hours in advance of the event. The permit shall not be actually granted and issued until the applicant submits a notarized affidavit to the city police department that such notices have actually been mailed or otherwise delivered.
- (d) *Prohibited in residentially occupied boundaries.* In no event shall a permit be granted which allows the creation of sounds registering more than 70 dB(A) anywhere within the boundary line of the nearest residentially occupied property.
- (e) *Denial; issuance of exceptional permit.* If an applicant has been denied a permit under this section and believes the denial is illegal by virtue of applicable state or federal law, he shall promptly submit a copy of the denied permit application together with a short statement of the reasons he believes he is entitled to a permit to the city manager or his designee. The city manager or designee shall have the discretion to grant an exceptional permit waiving location, time, and/or dB(A) requirements, upon his determination that the applicant has made a substantial showing of legal entitlement. Any such exceptional permit shall be promptly reported to the city council.

(Ord. No. 07-06, 2-6-07)

Sec. 15-58. - Enforcement and penalties.

- (a) Any person who violates any provision of this division shall be subject to the following criminal penalties for violations. The first offense for violating any section of chapter 15 shall be a fine of no more than one hundred dollars (\$100.00). The second offense shall be a fine of no more than two hundred fifty dollars (\$250.00). The third and subsequent offense shall be a fine of no more than five hundred dollars (\$500.00) or imprisonment for up to thirty (30) days or both at the discretion of the court.
- (b) Each calendar day during which the violation occurs shall constitute a separate and distinct offense.
- (c) No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.

(Ord. No. 07-06, 2-6-07)

DIVISION 3. - CURFEWS

Sec. 15-59. - Curfews for minors.

- (a) The purpose of this section shall be to establish a curfew for minors in the city, thus assisting the parents and guardians of minors in the ever-increasingly difficult task of child rearing, and to promote the health, safety, and welfare of both minors and adults in the city by creating an environment offering protection and security for all concerned.
- (b) As used in this section the following definitions shall apply:
 - (1) *Public place:* Areas such as, but not limited to, all common areas open to all for common use; alleys, streets, or public places, or places of business and amusement; public vehicular areas, highways, and parks; establishments open to the public for the conduct of business.
 - (2) *Guardian:* One who legally has the care and management of the person of a child defined as a minor by this section.
 - (3) *Minor:* A person who has not reached his/her sixteenth birthday and is not married, emancipated, or a member of the armed services of the United States.

- (c) A curfew applicable to minors is established and shall be enforced as follows:
- (1) *Time limits:* It is unlawful for any minor to be or remain upon any public place as defined in this section in the city between midnight Friday and five o'clock a.m. on Saturday, or between midnight Saturday and five o'clock a.m. on Sunday, or between the hours of eleven o'clock p.m. and five o'clock a.m. of the following morning on Sunday, Monday, Tuesday, Wednesday, or Thursday.
 - (2) *Exceptions:* The restrictions provided by subsection (c)(1) shall not apply to any minor which is accompanied by a guardian, parent or other person charged with the care and custody of such minor, or other responsible person over eighteen (18) years of age, nor shall the restriction apply to any minor who is traveling between his home or place of employment, church, municipal building or school where a function is being held.
 - (3) *Responsibility of adults:* It is unlawful for any parent, guardian, or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon, or remain in or upon a public place within the city within the curfew hours set by subsection (c)(1), except as otherwise provided in subsection (c)(2).
 - (4) *Responsibility of business establishments:* It is unlawful for any person, firm, or corporation operating a place of business or amusement to allow or permit any minor to be in or upon, or to remain in or upon, any place of business or amusement operated by them within the curfew hours set by subsection (c)(1), except as otherwise provided in subsection (c)(2).
 - (5) *Enforcement:*
 - a. When a minor is found to be in violation of this section the officer will, by telephone, check with the records center of the city police department to determine if the juvenile is a first offender. If the juvenile is a first offender, he/she will be taken to the residence of his/her parent or guardian. A written warning will be given to that adult and an information report taken by the officer to include the name of the juvenile and adult, and the time, date, and location of the offense. This report will be turned in to the records center and entered into the police department computer system. A copy of the report will be forwarded to the juvenile officers of the police department.
 - b. If upon checking with the records center, the juvenile is found to be a repeat offender he/she will be taken to the residence of his/her parent or guardian and the adult will be subject to a criminal citation pursuant to subsection (c)(6) of this article. A report will be turned into the records center and entered into the police department computer system. A copy of the report will be forwarded to the juvenile officers of the police department,
 - c. If the juvenile is under twelve (12) years of age a report will be made and a copy forwarded to the county department of social services.
 - (6) *Aiding and abetting by adult, guardian, or parent:* It shall be a violation of this section for an adult, guardian, or parent to allow, permit, encourage, aid or abet a minor in the violation of subsection (c)(1) of this section, except as otherwise provided in subsection (c)(2).
 - (7) *Refusal of guardian or parent to take custody of a minor:* If any guardian or parent refuses to take custody of his/her minor child found in violation of this section, the officers with custody of said minor shall contact the county department of social services and release the minor to that agency, pending further investigation by the police department and the department of social services. The adult will be subject to a criminal citation pursuant to subsection (c)(6) of this section.
 - (8) *Emergency curfew:* Under the authority of N.C.G.S. 14-288-12, whenever the mayor of the city deems that an emergency exists, and there is a clear and present danger to the preservation of the public peace, health, life, or safety or to public or private property in the city necessitating expansion of the curfew provisions set forth in subsection (c)(1), the mayor may effect such expansion effective for the period of the emergency by proclamation. The proclamation shall contain a statement of the reasons for such necessity, the period of the expanded curfew, and provide that no minor under the age of sixteen (16)

shall be upon or about or remain upon or about public places as defined by this section in the city between the hours of 8:00 p.m. and 5:00 a.m. of the following morning unless accompanied by his/her parent, guardian, or responsible adult. Said proclamation may further provide that no parent or guardian of any minor under the age of sixteen (16) shall allow the child to be upon or about or remain upon or about any public place as defined by this section in the city between the hours of 8:00 p.m. and 5:00 a.m. of the following morning unless the child is under direction or protection of some adult person with authority and consent of such parent or guardian for his/her being there. Said proclamation shall become effective thirty (30) minutes after being publicly announced by the mayor for the said period or until rescinded by the mayor or repealed by council in the manner in which ordinances are repealed. As soon as is reasonably possible the proclamation shall be published and reported in the local media and posted conspicuously about the city.

- (9) *Punishment:* The punishment for violation of this section shall be a fine of up to five hundred dollars (\$500.00) and/or imprisonment up to six (6) months.

(Ord. No. 07-06, 2-6-07)

Cross reference— Sales to or purchase of alcoholic beverages by minors, § 10-5; massage parlor provisions concerning minors, §§ 12-8, 12-9.

DIVISION 4. - EXCEPTIONS

Sec. 15-60. - Exceptions.

The operational performance standards established by this article shall not apply to any of the following noise sources:

- (1) Bell, chimes or carillons while being used in conjunction with religious services;
- (2) The operation of horns, sirens, or other emergency warning devices actually being used in emergency circumstances;
- (3) Emergency work to provide electricity, water, or other public utilities when public health or safety is involved;
- (4) School sponsored sporting events or school bands;
- (5) National Warning System (NAWAS) System used to warn the community of attack or imminent public danger such as flooding, hurricanes or explosions;
- (6) Noise of aircraft flight operations;
- (7) The unamplified human voice;
- (8) City- and county-sponsored festivals and events;
- (9) Public sporting events;
- (10) Public fireworks displays;
- (11) Generators having sound attenuating housing located at governmental structures when utilized for load management purposes or during an emergency;
- (12) Any event or activity that is covered by a noise permit granted by the city.

(Ord. No. 07-06, 2-6-07)