

CHAPTER 5. - NOISE

Sec. 12-5001. - DEFINITIONS.

In addition to the common meanings of words, the following definitions shall be used in interpreting §§12-5001 through 12-5011 of this Code.

"A" weighting scale. The sound pressure level, in decibels, as measured with the sound level meter using the "A" weighted network (scale). The standard unit notation is dB(A).

Ambient base noise level. The average sound pressure level in dB(A) during a reasonable period of time, as determined by employing a sound level meter as described in §12-5002 and excluding impulsive sounds.

ANSI. American National Standards Institute or its successor bodies.

Construction. On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility or addition thereto, including all related activities, including, but not restricted to, clearing of land, earth moving, blasting and landscaping.

Daytime hours. 7:00 a.m. to 11:00 p.m., local time.

)dB(A). Sound level in decibels, determined by the "A" weighting scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication ANSI, S 1.4-1971, for a Type 2 instrument.

)Decibel (dB). A unit of measure, on a logarithmic scale, of the ratio of the magnitude of a particular sound pressure to a standard reference pressure, which for purposes of §§12-5001 through 12-5011 shall be 0.0002 microbars.

Emergency work. Work made necessary to restore property to a safe condition, work required to protect, provide or prevent persons or property from danger or potential danger; or work by private or public utilities when restoring utility service.

Nighttime hours. 11:00 p.m. to 7:00 a.m., local time.

Person. Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other state or political subdivision or agency thereof or any legal successor, representative, agent or agency of the foregoing.

Sound level. In decibels, a weighted sound pressure level determined by the use of a sound level meter whose characteristics and frequency weightings are specified in ANSI standards.

Sound level meter. Any instrument certified to meet or exceed ANSI standards which includes an omnidirectional microphone, an amplifier, an output meter and frequency weighting network(s) for the measurement of sound level.

Sound-magnifying device. Any device or machine for the magnification of a human voice, music or any other sound. "Sound-magnifying device" shall not include emergency warning devices on police, fire, ambulance or other emergency vehicles, nor shall it include horns or steam whistles which are used for purposes authorized by §12-5007.

Sound pressure level. In decibels, twenty (20) times the logarithm to the base 10 of the ratio of the magnitude of a particular sound pressure to the standard reference pressure. The standard reference pressure is 0.0002 microbars.

Sound source. Any person, animal, device, operation, process, activity, or phenomenon which emits or causes sound.

Unnecessary noise. Any excessive or unusually loud sound or any 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 person or causes damage to property or business.

(Ord. No. 1977-580, §1, 7-5-77; Ord. No. 1978-773, §1, 4-18-78; Ord. No. 1980-508, §1, 10-21-80; Ord. No. 1993-240, §2, 7-20-93)

State law reference: Authority to regulate noise, G.S. 160A-184.

Sec. 12-5002. - MEASUREMENT TECHNIQUES.

- (a) Noise measurements shall be made at the property line of the property where the noise to be measured is being generated. If measurement on private property is not possible or practical, noise measurements may be made at the boundary of the public right-of-way which adjoins the complaining property. Such noise measurements shall be made at a height of at least four (4) feet above the ground and at a point approximately ten (10) feet away from walls, barriers, obstructions (trees, bushes, etc.) on a sound level meter operated on the "A" weighting network (scale). In the case of noises within multi-family or multi-tenanted structures, noise measurements shall be made in the complaining unit at a height of at least four (4) feet above the floor and at a point approximately equi-distant from all walls on a sound level meter operated on the "A" weighting network (scale).
- (b) No individual other than the operators shall be within ten (10) feet of the sound level meter during the sample period.
- (c) Sound measurements shall be conducted at that time of day or night when the suspect noise source is emitting sound.
- (d) The sound level measurement shall be determined as follows:
 - (1) Calibrate the sound level meter within one (1) hour before use.
 - (2) Set the sound level meter on the "A" weighted network at slow response.
 - (3) Set the omnidirectional microphone in an approximately seventy-degree position in a location which complies with subsections (a) and (b) above. The operator of the sound level meter shall face the noise source and record the meter's instantaneous response (reading) observed at consecutive ten-second intervals until one hundred (100) readings are obtained.
 - (4) Recalibrate the sound level meter after use.
- (e) It shall be unlawful for any person to interfere, through the use of sound or otherwise, with the taking of sound level measurements.

(Ord. No. 1977-580, §2, 7-5-77; Ord. No. 1978-773, §2, 4-18-78; Ord. No. 1980-508, §§2—5, 10-21-80; Ord. No. 1981-725, §§1—3, 8-4-81; Ord. No. 1003-240, §1, 7-20-93)

Sec. 12-5003. - SOUND EMISSION STANDARDS AND LIMITATIONS.

- (a) Unless otherwise specifically indicated, it shall be unlawful for anyone to cause or allow the emission of sound from any source or sources which when measured pursuant to §12-5002 exceed the maximum decibel limits specified in Table 1. Ten (10) readings above the allowed decibel limits attributed to the sound source or sources shall constitute prima facie evidence of a violation of this ordinance. The sound meter operator may cease taking readings as soon as the readings already

taken show a violation of this ordinance. It shall not be necessary to complete all one hundred (100) readings if a fewer number have already indicated a violation of the ordinance.

**Table 1. Maximum Noise Limitations
dB(A)**

Zoning districts	Daytime (7:00 a.m. to 11:00 p.m.)	Nighttime (11:00 p.m. to 7:00 a.m.)
Residential	55	45
Residential Business Office and Institution, Buffer Commercial, Shopping Center and Neighborhood Business	60	55
Thoroughfare, Industrial	70	65

- (b) When a noise source can be identified and its sound is measured in more than one district, the average of the noise limitations of the two (2) districts shall apply.
- (c) Notwithstanding the location of hospitals, rest homes, family care homes, group care facilities, public or private or parochial school or day care facilities, it shall be unlawful for any person to cause or allow the emission of sound onto the structures of such uses which exceeds the maximum noise limitations for residential zoning districts.
- (d) For activities which are necessary for railroad operations it shall be unlawful for any person to cause or allow the emission of sound from the boundaries of railroad rights-of-way which exceeds eighty (80) dB(A) for daytime and seventy-five (75) dB(A) for nighttime, without regard for the zoning district of the abutting property.

(Ord. No. 1977-580, §3, 7-5-77; Ord. No. 1980-508, §§6—10, 10-21-80; Ord. No. 1983-153-TC-190, §15, 7-19-83; Ord. No. 1988-291-TC-327, §14, 12-13-88; Ord. No. 1993-240, §§3—5, 7-20-93)

Sec. 12-5004. - EXCEPTION TO LIMITATION STANDARDS.

The maximum noise limitation standards defined in §12-5003 shall not apply to the following sources:

- (a) Emergency warning devices or safety signals;
- (b) Lawn care equipment and agricultural field equipment used during the daytime hours;
- (c) Equipment being used for construction, provided that all equipment is operated with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.

- (d) Parades, fairs, circuses, other similar public entertainment events, sanctioned sporting events, sporting activities taking place in areas set aside for such activities, or any activities normally associated with any of the above;
- (e) Bells, chimes and similar devices which operate during daytime hours for a duration of no longer than five (5) minutes in any given period;
- (f) Emergency work;
- (g) Sixty-cycle electric transformers; or
- (h) Emission of sound from any source or sources on public rights-of-way.
- (i) Excavation and loading of spoil and excavation materials from sites located within the boundaries of the secondary fire district as described in §5-2034.
- (j) Excavation and loading of spoil and excavation materials from sites located on City owned sanitary landfill sites.
- (k) Properly installed and operating residential heating, ventilating, and air conditioning systems.

(Ord. No. 1977-580, §3, 7-5-77; Ord. No. 1980-508, §§11, 12, 10-21-80; Ord. No. 2005-785, §1, 3-1-05; Ord. No. 2011-867, §1, 4-19-11)

Sec. 12-5005. - VEHICULAR NOISE LIMITS.

(Reserved)

Sec. 12-5006. - UNLAWFUL NOISE.

In addition to any other violation of this Code, it shall be unlawful to emit any unreasonably loud, annoying, frightening, loud and disturbing or unnecessary noise. Specifically, it shall be unlawful to emit noise of such character, intensity or duration as to be detrimental to the life or health of any individual.

(Ord. No. 1977-580, §3, 7-5-77)

Sec. 12-5007. - PROHIBITED NOISES.

In addition to any other violations of this Code, the following acts are specifically declared to be unreasonably loud, annoying, frightening, loud and disturbing or unnecessary noise, the emission of which shall be unlawful. Such enumeration shall not be deemed to be exclusive:

- (a) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- (b) The use of any gong or siren upon any vehicle other than police, fire, ambulance or other emergency vehicles.
- (c) The playing of any radio, phonograph, amplifier, television, tape deck, tape recorder, or musical instrument in such a manner or with such volume during the nighttime hours as to annoy or disturb the quiet, comfort or repose of any person or persons in any dwelling, hotel, motel or other type of residence.
- (d) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.

- (e) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as warning of danger.
- (f) The discharge into the open air of the exhaust of any stationary internal combustion engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (g) The erection (including excavating), demolition, alteration or repair of any building or other structure in a residential or business district other than between the hours of 7:00 a.m. and 8:30 p.m., except by permit from the building inspector when, in his opinion, such work will not create objectionable noise; upon complaint in writing of the occupant of property near the location of the work, the building inspector shall immediately revoke the permit and the work shall be immediately discontinued. The building inspector may permit emergency work in the preservation of public health or safety at any time.
- (h) The creation of any excessive noise on any street adjacent to any school, institution of learning or court, while the same are in session, or within one hundred fifty (150) feet of any hospital, which unreasonably interferes with the work of such institution or which disturbs or unduly annoys patients in the hospital.
- (i) The creation of loud and excessive noise in connection with loading or unloading any vehicles or the opening and destruction of bales, boxes, crates and containers.
- (j) The shouting and crying of peddlers, barkers, hawkers or vendors which disturbs the quiet and peace of the neighborhood.
- (k) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise.
- (l) The conducting, operating or maintaining of any garage or filling station, or the repair, rebuilding or testing of any motor vehicle in any residential district, so as to cause loud or offensive noises to be emitted therefrom during the nighttime hours.
- (m) The firing or discharging of firearms in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the Police Department.
- (n) The creation of excessive noise by the operation of an airplane over the City by stunting, diving or otherwise operating an airplane for the purpose of advertising or otherwise.
- (o) No person shall keep or maintain, or permit the keeping of, on any premise, owned, leased; occupied or controlled by such person, any animal or fowl otherwise permitted to be kept which, by habitual or frequent sound, cry, howling, barking, squawking, meowing or other noise, shall disturb the quiet, comfort or repose of any person.
- (p) The operation on public property or on public vehicular areas of any sound amplifier which is part of, or connected to, any radio, stereo receiver, compact disc player, cassette tape player, or other similar device when operated in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located is prohibited and is a violation of this section.

The provisions of this section shall apply neither in the secondary fire district as described in §5-2034 of this Code nor on publicly owned sanitary landfill property.

(Ord. No. 1977-580, §3, 7-5-77; Ord. No. 1980-508, §13, 10-21-80; Ord. No. 1999-538, §1, 4-6-99; Ord. No. 2005-785, §2, 3-1-05)

Sec. 12-5008. - SOUND MAGNIFICATION.

Except for parades and related activities, it shall be unlawful for any person to use or operate on or over any street within the City any radio, phonograph or other similar mechanical device to produce sound or

any mechanical loudspeaker or other sound-magnifying device at a level of volume greater than fifty-five (55) dB(A). Any such operation shall be unlawful unless such loudspeaker or other mechanical sound-magnifying device shall be equipped with a meter by which the power output can be registered and determined, so that the volume shall be limited in accordance with the restrictions hereinbefore specified; and it shall be unlawful to operate any such equipment or device without a license from the City as provided by this Code. **No such equipment or device shall be used or operated on the streets of the City during the period between sunset and 9:00 a.m.** Further, no such equipment or device shall be operated to produce magnified sounds along that portion of any street within the block where there is located any school, institution of learning, or court, while the same are in session, or where any hospital, funeral home, undertaking establishment is located, or where a funeral is being conducted at any place. Further, no such equipment or device shall be operated on the streets of this City on Sunday.

(Ord. No. 1977-580, §3, 7-5-77; Ord. No. 1978-773, §3, 4-18-78)

Cross reference: Sound amplification in mall, 9-7026.

Sec. 12-5009. - PRESUMPTION IN PROSECUTION FOR NOISE VIOLATION.

The complaints of two (2) or more persons, at least one (1) of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons, when combined with the complaint of a duly authorized investigating person, shall be prima facie evidence that such sound is a loud and annoying, frightening, loud and disturbing, unreasonably loud or unnecessary noise.

(Ord. No. 1977-580, §3, 7-5-77)

Sec. 12-5010. - BURDEN OF PERSUASION REGARDING EXCEPTIONS TO NOISE RESTRICTIONS.

In any proceeding pursuant to §§12-5001 through 12-5011 of this Code, if an exception stated in §§12-5001 through 12-5011 would limit an obligation, limit a liability or eliminate either an obligation or a liability, the person who would benefit from the application of the exception shall have the burden of persuasion that the exception applies and that the terms of the exception have been met.

(Ord. No. 1977-580, §3, 7-5-77)

Sec. 12-5011. - PENALTIES FOR VIOLATION OF NOISE RESTRICTIONS.

(a) Civil Penalties:

- (1) Any person violating any of the provisions of §§12-5001 through 12-5009 shall be subject to a civil penalty of one hundred dollars (\$100.00). Each calendar day on which a continuing violation occurs shall constitute a separate violation under this subsection. For each subsequent violation occurring within twelve (12) months of any other violation, the violator shall be subject to a civil penalty of three hundred dollars (\$300.00) per violation. If a person fails to pay any civil penalty within thirty (30) days after it is assessed, the City may recover the penalty, together with all costs allowed by law, by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. The Police Department is authorized to issue civil penalty citations to enforce this section.
- (2) Appeal of civil penalties: Any person issued a civil penalty under the provisions of this section may appeal by filing an appeal in writing with the Police Department within ten (10) calendar days after the civil penalty is issued. The written appeal shall state all reasons that the civil penalty was wrongly applied and shall include all supporting documentation that the appellant contends supports the appeal. If a person files a written appeal within the time provided in this

section, the penalty being appealed shall be stayed pending the decision of the Chief or arbitrator. Unless the Chief of Police, or the delegate of the Chief of Police, decides to allow the requested relief based on the appeal request, the Chief of Police shall send each appeal request to arbitration. The Chief of Police shall select an arbitrator other than an employee of the City of Raleigh. The arbitration shall be conducted, to the extent practicable, in accordance with the Supreme Court Rules for Court-Ordered Arbitration in North Carolina. The arbitrator shall be paid a fee equal to the maximum fee specified in such Rules. The arbitrator shall issue a written determination, within a reasonable time, stating whether the disputed civil penalty will be approved without change or modified or reversed.

All decisions of the Chief of Police and arbitrator shall be served on the petitioner.

(b) Injunctive and Equitable Relief:

As an additional remedy, this chapter may be enforced, either before or after the institution of any other action or proceeding authorized by this subsection, by an action for injunctive relief to restrain the violation. The action shall be brought in the appropriate division of the General Court of Justice. The institution of an action for injunctive relief shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this chapter. This chapter may also be enforced through any appropriate equitable remedy.

(c) Criminal Penalties:

Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor punishable by imprisonment not to exceed thirty (30) days or by fine not to exceed five hundred dollars (\$500.00). Each day of a continuing violation shall constitute a separate violation under this subsection.

(d) [Enforcement:]

This chapter may be enforced by any one, all, or a combination of the remedies set out herein.

(Ord. No. 1977-580, §3, 7-5-77; Ord. No. 1978-773, §4, 4-18-78; Ord. No. 1995-763, §1, 11-8-95; Ord. No. 2009-583, §2, 5-19-09, eff. 7-1-09)

Cross reference: Violations of this Code, §14-1005.

State law reference: Violations of municipal ordinances, enforcement alternatives, G.S. 160A-175.