

CITY OF LOCUST, NC NOISE ORDINANCE

Revised – 06/2016

90.15 PURPOSE AND GENERAL PROHIBITION OF LOUD, DISTURBING NOISES

- (A) It is recognized that excessive, unnecessary, and unreasonably loud or disturbing noise can endanger the physical and emotional health and welfare of the people, can interfere with legitimate business and recreational activity, can depress property values, can offend the senses, can create a public nuisance, and can in other respects reduce the quality of life. It is the purpose of this chapter to prevent, prohibit, and provide for the regulation and abatement of excessive, unnecessary, and unreasonably loud or disturbing noise which may injure the physical and emotional health and welfare of its citizens and visitors, or otherwise diminish the quality of life.
- (B) Generally, it shall be unlawful for any person(s), commercial business, firm, or corporation to create or assist in creating, permit, continue, or permit the continuance of any excessive, unnecessary, and unreasonably loud or disturbing noise in the city.

90.16 PROHIBITED ACTS

The following acts, among others, are declared to be excessive, unnecessary, and unreasonably loud or disturbing noise in violation of this chapter, but shall not be deemed to be an exclusive enumeration:

- (A) The sounding of any horn, signal device, or any other sound making device on any automobile, motorcycle, bus, or other vehicle or conveyance while in motion or otherwise stationary. If the sound making device is being utilized as a danger or warning signal it shall not be considered as a violation of this section. Utilization of a sound making device that is normally recognized as a danger or warning signal but is utilized for what is deemed as an unnecessary and unreasonable period of time is considered a violation of this section.
- (B) The use of any siren or siren-like device upon any vehicle other than police, fire, or other authorized emergency vehicles.
- (C) 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 of the noise.
- (D) The use of any automobile, motorcycle, or other vehicle or conveyance so out of repair, overloaded, or utilizing equipment or accessories that as a result creates a loud or unnecessary grating, grinding, rattling, or any other noise deemed as excessive, unnecessary, unreasonably loud or disturbing. This also includes the use of any automobile, motorcycle or other vehicle or conveyance operated in such a manner as to cause squealing or screeching of tires or causing tires to propel rock or gravel.

- (E) The construction, alteration, repair, excavation, and/or demolition of any building or structure within a residential or business area other than between the hours of 7:00 am and 9:00 pm on weekdays (Monday-Friday) and 8:00 am and 9:00 pm on weekends (Saturday-Sunday). Exceptions to this section is provided in the case of urgent necessity in the interest of public safety or by issuance of an applicable permit by the planning and zoning/code administrator.
- (F) The creation, production, or emission of any noise deemed to be excessive, unnecessary, unreasonably loud or disturbing emanating from any person, residence, business, or device including but not limited to vehicles, conveyances, or equipment adjacent to or in the vicinity of any school, institution of learning, or medical facility while the same are in session or open for activity. Schools, institutions of learning, and medical facilities would be identifiable by signs designating them as such and/or if already previously approved or accepted as such facilities.
- (G) The creation, production, or emission of any noise deemed to be excessive, unnecessary, unreasonably loud or disturbing emanating from any person, residence, business, or device including but not limited to vehicles, conveyances, or equipment adjacent to or in the vicinity of any place of assembly. Places of assembly would be identifiable by signs designating them as such or if already previously approved or accepted as such places.
- (H) The use of any mechanical loudspeakers, amplifiers, or similar equipment on trucks, or other moving vehicles or conveyances for advertising or other purposes unless previously approved by license/permit received from the Chief of Police or if deemed necessary in the interest of public safety.
- (I) Any noise deemed to be in violation of Sections 90.17 and/or 90.18 utilizing approved time periods and/or decibel measurements and/or the standards applied regarding what a reasonable person would believe and/or plainly audible noise at a distance of 50 feet or less from complaining party.

90.17 OUTDOOR AMPLIFICATION, MUSIC AND NOISE AT COMMERCIAL AND OTHERWISE BUSINESS ESTABLISHMENTS

- (A) Superseding any additional verbiage and parts in this section, it shall be unlawful for any commercial or otherwise business establishment, or the employees and/or patrons of any commercial establishment that is adjacent or in the vicinity of residential properties to emit any unreasonably loud and raucous noise from the premises of the commercial establishment, including any outdoor area which is part of or under the control of the establishment, which is plainly audible at a distance of 50 feet or less from any residential property, between the hours of 10:00 pm and 7:00 am Sunday through Thursday and 11:00 pm and 7:00 am on Friday and Saturday.
- (B) It shall be unlawful for any commercial or otherwise business establishment (including but not limited to restaurants, bars, or nightclubs) to operate or to allow the operation of any sound amplification equipment, music, or any other sound producing equipment out

of doors or directed out of doors other than during the times listed below and at or below the maximum decibel (db(A)) level allowed:

- 1) 80 db(A) Sunday through Thursday between 8:00 am and 10:00 pm.
- 2) 60 db(A) Sunday through Thursday between 10:00 pm and 2:00 am the following day.
- 3) 80 db(A) Friday and Saturday between 8:00 am and 11:00 pm.
- 4) 60 db(A) Friday and Saturday between 11:00 pm and 2:00 am the following day.

A commercial or otherwise business establishment may be cited for violating this section if the authorized enforcing official determines that the sound being produced is unreasonably loud and disturbing to the quiet enjoyment and use of another commercial or otherwise business establishment or residentially occupied property using a standard of what a reasonable person would believe, or the standard applied to plainly audible noise, or the measurement of decibel level above what is listed as acceptable, in addition to taking into consideration the day of week and time of day.

(C) A commercial or otherwise business establishment may also be cited for violation of this section if noise is deemed to be unreasonably loud or disturbing per verbiage set forth in section 90.18 (B).

(D) The decibel limits (db(A)) prescribed in this section shall be measured utilizing the A-weighting scale on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute. The measurement of noise by a sound level meter does not supersede the standards applied to what a reasonable person would believe or what is considered plainly audible noise in regards to noise disturbing to a residentially occupied property and is considered as an additional tool that may be utilized to show a violation has occurred.

(E) For measurement of decibel limits prescribed in this section, measurements shall be taken at or beyond the property line of the commercial or otherwise business property at which the sound is being generated (complainee). For purposes of measurement, the back of the curb, the outside edges of driveways, fences, hedges, or other physical features commonly associated with property boundaries are presumed to be at a point which is at or beyond the property line. Per section 90.17(C), sound measurement guidelines regarding sound measurement from at or beyond the property line of the party making a complaint of a violation of this section (complainant) is provided in section 90.18(D).

90.18 UNREASONABLE SOUND AMPLIFICATION AND UNREASONABLY LOUD NOISE FROM/AT/NEAR RESIDENTIAL PROPERTIES

(A) Superseding any additional verbiage and parts in this section, it shall be unlawful for any residential properties, the occupants and visitors of any residential property, or any other pedestrian that is adjacent or in the vicinity of residential properties to emit any unreasonably loud and raucous noise from the premises of the residence, including any area considered to be the curtilage of the residence, or if adjacent or in the vicinity of a

residential property, which is plainly audible at a distance of 50 feet or less from any residential property between the hours of 8:00 pm and 7:00 am Sunday through Thursday and 9:00 pm and 7:00 am on Friday and Saturday.

(B) It shall be unlawful for any residential property, the occupants and visitors of any residential property, or any other pedestrian to operate or to allow the operation of any sound amplification equipment, music or any other sound producing equipment indoors, out of doors, directed out of doors, or adjacent to or in the vicinity of a residential property other than during the times listed below and at or below the maximum decibel (db(A)) level allowed:

- 5) 60 db(A) Sunday through Thursday between 7:00 am and 8:00 pm.
- 6) 50 db(A) Sunday through Thursday between 8:00 pm and 7:00 am the following day.
- 7) 60 db(A) Friday and Saturday between 7:00 am and 9:00 pm.
- 8) 50 db(A) Friday and Saturday between 9:00 pm and 7:00 am the following day.

A resident, guest, visitor of a residence, or other pedestrian adjacent to or in the vicinity of an occupied residential property or a commercial or otherwise business establishment may be cited for violating this section if the authorized enforcing official determines that the sound being produced is unreasonably loud and disturbing to the quiet enjoyment and use of an adjacent or in the vicinity commercial or otherwise business establishment or residentially occupied property; Using a standard of what a reasonable person would believe, or the standard applied to plainly audible noise, or the measurement of decibel level above what is listed as acceptable, in addition to taking into consideration the day of week and time of day. Commercial or otherwise business establishments adjacent to or in the vicinity of an occupied residential property may also be considered to be in violation of this section per section 90.17(C).

(C) The decibel limits (db(A)) prescribed in this section shall be measured utilizing the A-weighting scale on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute. The measurement of noise by a sound level meter does not supersede the standards applied to what a reasonable person would believe or what is considered plainly audible noise in regards to noise disturbing to a residentially occupied property and is considered as an additional tool that may be utilized to show a violation has occurred.

(D) For measurement of decibel limits prescribed in this section, measurements shall be taken at or beyond the property line of the residential property of the party that initiated the complaint (complainant). For purposes of measurement, the back of the curb, the outside edges of driveways, fences, hedges, or other physical features commonly associated with property boundaries are presumed to be at a point which is at or beyond the property line.

90.19 EXCEPTIONS

The following producers of sound and/or noise are considered as exceptions and not in violation of the guidelines set forth in Sections 90.16, 90.17, and 90.18 within reason. The following exceptions should not be considered as an exclusive enumeration:

- (1) Public safety personnel or other entities deemed as first responders when responding to an emergency call or engaged in other official business.
- (2) Persons engaged in a lawful procession, assemblies, parade or community event previously approved by the city. Lawful processions and assemblies are only considered as exceptions if they do not violate any other established city ordinance or North Carolina general statutes.
- (3) The operator of a public utility vehicle, when utilizing two-way communications equipment.
- (4) The activation of a theft or fire alarm signal device provided the activation of said device is not in violation of any other established ordinance or in violation of any North Carolina general statutes.
- (5) Sound emanating from scheduled and approved outdoor athletic events.
- (6) Construction operations from 7:00 am to 9:00 pm Monday to Friday and 8:00 am to 9:00 pm Saturday and Sunday for which building permits have been issued or construction operations not requiring permits; providing all equipment is operated in accord with the manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.
- (7) Noise of safety signals, warning devices, emergency pressure relief valves, and all church bells provided it is not considered in violation of section 90.16(A).
- (8) Unamplified and amplified sound at street fairs or other similar events conducted, sponsored or approved by the city.
- (9) Unamplified and amplified sound at community concerts or other similar events, conducted, sponsored, or approved by the city.
- (10) All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft or drone like devices).
- (11) Lawn mowers, lawn care equipment, and agricultural equipment used between 7:00 am and 9:00 pm when operated with all of the manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition.

- (12) Any activities or producers of sound or noise that are authorized or approved through any other established city ordinances.

90.99 AUTHORIZATION AND PENALTIES

- (A) Authorization to record, log, investigate, and enforce violations of sections 90.16, 90.17, and 90.18 is given to the Planning and Zoning/Code Administrator, City Administrator, sworn officers with the Police Department, or other persons designated by the City Administrator.
- (B) Any person, owner/operator of a vehicle, conveyance, or device, commercial establishment or owner/operator of any commercial establishment in violation of any section in this chapter for which no specific penalty is prescribed shall be subject to section 10.99.
- (C) Violations of sections 90.16, 90.17, and 90.18 shall constitute either a misdemeanor in violation of NCGS 14-4 or, at the election of the city, shall subject the offender to a civil penalty upon the issuance of a citation for the violation as hereinafter provided.
- (D) In the event that a civil penalty is issued for violations of sections 90.16, 90.17, or 90.18, if the prescribed penalty is not paid it may be recovered by the city in a civil action in the nature of debt.
- (E) Unless otherwise provided by a specific provision of any city ordinance or in this section, the civil penalty for violation of sections 90.16 or 90.18 (excluding commercial or otherwise business establishment deemed to be in violation of section 90.18(B) as well as section 90.17) shall be for an amount not to exceed \$50 for each violation and each time any single violation occurs, it may be considered as a separate violation.
- (F) Specific to commercial and otherwise business establishments, the owners and/or operators of the establishment, establishment management and/or employees, shall be responsible and liable for any violations of this chapter by patrons or guests of the establishment.
- (G) Specific to commercial and otherwise business establishments, violations of sections 90.17 and 90.18(B) may be subject to either civil or criminal penalties or both.
- (H) Specific to commercial and otherwise business establishments, upon receipt of a complaint alleging a violation or the observance of a violation of sections 90.17 and/or 90.18(B), an authorized official as set forth in section 90.99(A) shall investigate and confirm the violation. Upon any confirmed violation, at the discretion of the authorized investigating official a verbal or written warning of the violation with the request for abatement may be issued or may be disregarded in lieu of civil and/or criminal penalties.
- (I) Specific to commercial and otherwise business establishments, within any thirty-day period upon confirmation of any first penalized violation (not including violations where

a warning was issued) as established in section 90.17 and/or 90.18(B), an authorized official may issue the offender as noted in section 90.99(F) a civil penalty in the amount of one hundred dollars (\$100.00). In the event of subsequent violations within any thirty-day period, then the civil penalty shall be increased for each additional violation up to the third penalized violation. Subsequent violations beyond the third within any thirty-day period may be charged as a misdemeanor in violation of NCGS 14-4, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed five hundred dollars (\$500.00) and/or imprisonment not to exceed 30 days.

- (J) Specific to commercial and otherwise business establishments in violation of section 90.17 and/or 90.18(B), the date of the first penalized violation shall establish the beginning date for the initial thirty-day period. The next violation within that thirty-day period shall be considered the second violation. Any violations that follow within that thirty-day period shall be numbered sequentially. The penalty shall be:

Any Violation – Verbal or written warning at discretion of authorized official
1st Penalized Violation – One hundred dollar (\$100.00) civil penalty
(Starts Thirty Day Period)
2nd Penalized Violation – Two hundred dollar (\$200.00) civil penalty
3rd & Subsequent Penalized Violations – Three hundred dollar (\$300.00) civil
Penalty OR misdemeanor

Once the thirty-day period has run from the “first penalized violation”, the next penalized violation shall be considered to be a first penalized violation for the purposes of establishing a new thirty-day period.

- (K) Specific to commercial and otherwise business establishment violations of sections 90.17 or 90.18(B), violators that are issued a civil written code and ordinance violation notice citation must pay the fine issued on that citation within seventy-two (72) hours of the issue date and time, which penalty may provide for an additional fifty dollars (\$50.00) delinquency charge for each 72-hour period thereafter upon nonpayment until paid in full.
- (L) Specific to violations of sections 90.16 or 90.18 (excluding commercial or otherwise business establishment deemed to be in violation of section 90.18(B) or section 90.17), the owners and/or apparent operators of the noise making equipment, device, or entity, or established adult or parental residents or owner of the offending residential property shall be responsible and liable for any violations of these sections or for any violations of these sections by any juveniles or guests under their control.
- (M) Specific to violations of sections 90.16 or 90.18 (excluding commercial or otherwise business establishment deemed to be in violation of section 90.18(B) or section 90.17), upon receipt of a complaint alleging a violation or the observance of a violation of these aforementioned sections, an authorized official as set forth in section 90.99(A) shall investigate and confirm the violation. Upon any confirmed violation, at the discretion of the authorized investigating official a verbal or written warning of the

violation with the request for abatement may be issued or may be disregarded in lieu of civil and/or criminal penalties.

- (N) Specific to violations of sections 90.16 or 90.18 (excluding commercial or otherwise business establishment deemed to be in violation of section 90.18(B) or section 90.17), violators that are issued a civil written code and ordinance violation notice citation must pay the fine issued on that citation within fifteen (15) days of the issue date and time, which penalty may provide for an additional fifty dollars (\$50.00) delinquency charge for each 15-day period thereafter upon nonpayment until paid in full.
- (O) At the discretion of the authorized investigating official, any violation of sections 90.16 or 90.18 (excluding commercial or otherwise business establishment deemed to be in violation of section 90.18(B) or section 90.17) may be charged as a misdemeanor in violation of NCGS 14-4, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed five hundred dollars (\$500.00) and/or imprisonment not to exceed 30 days.
- (P) The city attorney, or their designee, is authorized to file suit on behalf of the city to collect any unpaid citations and any delinquency charge, and the planning and zoning/code administrator, or their designee, is authorized to verify and sign complaints on behalf of the city in such suits. If litigation is required to recover the penalties and delinquency charges, the city attorney or their designee in addition to the penalties and delinquency charges may recover reasonable attorney's fees and other costs incurred in bringing the action and collecting the judgment.
- (Q) Remedies. This chapter may also be enforced through equitable remedies including but not limited to nuisance abatement procedures as issued by a court of competent jurisdiction.