



ORDINANCE AMENDMENT

Pursuant to an affirmative vote of 5 yeas and nays by the Board of Commissioners of the Town of Highlands at its regular meeting on the 18th day of April , 2024, and an affirmative vote of yeas to nays by The Board of Commissioners at its regular meeting on the day of , 20 if required, the following ordinances are hereby AMENDED:

Code of Ordinances of Highlands, NC
Chapter 8 – Nuisances, Article 2 – Noise Ordinance, Sec. 8-16 Exemptions

(EXISTING CODE LANGUAGE IN BLACK & PROPOSED AMENDMENTS I
N RED.)

ARTICLE II. NOISE ORDINANCE

Sec. 8-12. Scope.

This article shall apply to all sound and noise disturbances (defined herein) originating within the corporate limits of the Town of Highlands. Nothing in this article shall be construed to limit or prevent the town or any person from pursuing any other legal remedies for damages or the abatement of noises in the town under other provisions of its Code.

(Ord. No. 2011-06-Ord, § I, 7-6-11)

Sec. 8-13. Definitions.

The words and phrases defined in this section shall have the meaning indicated when used in this article unless otherwise specifically provided, or unless otherwise clearly required by the context:

"Amplified sound" means any sound or noise, including the human voice, which is increased in volume or intensity by means of electrical power.

"Construction" means erection, repair, assembly, alteration, landscaping, or demolition of any building or building site.

"Daytime hours" means between 7:00 a.m. and 10:00 p.m. Eastern Standard Time (or daylight savings time, whichever is in effect at the time).

"Holidays" means Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, New Year's Day and Christmas Day.

"Motor vehicle" means any vehicle as defined in G.S. § 20-4.01(49) including, but not limited to:

- (1) Excursion passenger vehicles as defined in G.S. § 20-4.01(27)a.
- (2) Common carriers of passengers as defined in G.S. § 20-4.01(27)c.
- (3) Motorcycles and mopeds as defined in G.S. §§ 20-4.01(27)d. and d.1.
- (4) Truck tractors as defined in G.S. § 20-4.01(48).
- (5) Farm tractors as defined in G.S. § 20-4.01(11).

"Noise disturbance" means any sound that annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities due to its volume level, duration, location, and character, provided that such noise is heard upon the public streets, or in any public park, or in or upon the grounds of any school or public building while in use, or in or upon the grounds of any religious, medical, or convalescent facility, while in use, or upon any parking lot open to members of the public as invitees or licensees, or in or upon the grounds of any occupied residential unit which is not the source of the noise.

"Non-residential district" means the B-1, B-2, B-3, B-4, and G/I zoning districts as established by the Unified Development Ordinance of the town.

"Overnight hours" means between 10:00 p.m. and 7:00 a.m. Eastern Standard Time (or daylight savings time, whichever is in effect at the time).

"Person" means any individual, association, firm, partnership, corporation, or business entity.

"Residential district" means the R-1, R-2, and R-3 zoning districts as established by the Unified Development Ordinance of the town.

"Sound" means any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by reasonable persons of normal sensibilities.

"Working hours," in relation to construction activity, means between Monday through Friday from 7:30 a.m. 6:00 p.m.

(Ord. No. 2011-06-Ord, § I, 7-6-11; Ord. of 4-16-15; Ord. of 10-20-22(1))

Sec. 8-14. General prohibition and prohibition of noise in excess of the allowable decibel levels.

It shall be unlawful for any person or group of persons, regardless of number, to willfully make, allow, or continue, any activity that is or creates a noise disturbance as defined in this article. Without limiting the foregoing prohibition, no person, corporation or other entity shall create, generate or produce, directly or indirectly, sound in such a manner as to create a sound level which at its peak exceeds the allowable decibel levels herein, when measured at or beyond the property line of the

property from which the sound originates. 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.

The allowable decibel levels for the Town of Highlands are as follows:

Zoning District of Property Which Noise Source is to be Located	Maximum Decibel Level Permitted Within the Daytime Hours 7:00 a.m. to 10:00 p.m.	Maximum Decibel Level Permitted Within the Overnight Hours 10:00 p.m. to 7:00 a.m.
Residential	60 Decibels	50 Decibels
Non-Residential	70 Decibels	50 Decibels

(Ord. No. 2011-06-Ord, § I, 7-6-11; Ord. of 4-16-15; Ord. of 10-20-22(1))

Sec. 8-15. Noise producing activities; frequent sources of complaint; noise sensitive areas.

Without limiting the scope of the preceding section, the following activities are generally recognized as tending to create noise disturbances, and it shall be a violation of this article to engage in these activities if such activities create a noise disturbance as defined in this article:

- (1) Creation of amplified sound from any source, including, by way of example, radios, home audio systems, automobile audio systems, televisions, and musical instruments;
- (2) Playing of musical instruments not amplified;
- (3) Keeping of an animal, such as a bird or dog, which frequently or for long periods of time makes noises that are noise disturbances;
- (4) Operation of domestic power tools or mechanical devices, including devices using compressed air, in the overnight hours;
- (5) Repair or testing of any motor vehicle, however fueled or powered;
- (6) Operation of any motor vehicle with an improper muffler system in violation of G.S. §§ 20-128(a) and (b);
- (7) Operation of any motor vehicle in such a state of disrepair, or which is loaded in such a manner as to create grating, grinding, rattling, or other noise;
- (8) Operation of any motor vehicle so as to cause the tires to squeal or screech;
- (9) Operation of model cars, boats, airplanes, go carts, mini-bikes, all-terrain vehicles or other unlicensed toy or recreational vehicles, or devices powered by an internal combustion engine;
- (10) Shouting or other noise in relation to street vending or peddling;

- (11) Sounding of any motor vehicle horn (including electronic horns that play music) except as a warning or danger signal, or as required by law;
- (12) Construction in a residential district, or within two hundred (200) feet of a residential district, unless during working hours and days that are not holidays as defined herein;
- (13) The use of any siren upon any motor vehicle other than police, fire, ambulance, or other official emergency vehicle;
- (14) The blowing of any steam whistle attached to any stationary boiler, except as a warning of danger;
- (15) The operation of machinery in connection with loading or unloading any vehicles or the opening and destruction of bales, boxes, crates and containers;
- (16) 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;
- (17) The firing or discharge of firearms or use of fireworks in the streets or elsewhere, except by permit from the police department, or otherwise as permitted by law.

(Ord. No. 2011-06-Ord, § I, 7-6-11)

Sec. 8-16. Exemptions.

The following activities are exemptions from the application of this article:

- (1) Emergency work in the preservation of public health or safety at any time;
- (2) Construction activities associated with street and highway construction;
- (3) Construction activity conducted during working hours as defined herein, and non-holiday Saturdays between 9:00 a.m. and 4:00 p.m. provided that All equipment must be is operated in accordance with the manufacturer's specifications and is equipped with appropriate noise-reducing equipment in proper condition;
- (4) Sound or noise of safety signals, warning devices, and emergency pressure relief valves;
- (5) Church bells between the hours of 7:00 a.m. and 7:00 p.m.;
- (6) Sound or noise emanating from street fairs, festivals, or celebrations conducted under the direct supervision by the town, or pursuant to a permit issued by the town;
- (7) Sound or noise emanating from film and video production activities for which permits have been issued by the town; provided all equipment such as generators are properly muffled;
- (8) Sound or noise emanating from properly equipped aircraft operated in accordance with applicable federal rules and regulations;

- (9) Sound or noise from lawful fireworks;
 - (10) ~~Use of Noncommercial~~ lawnmowers, ~~and~~ agricultural equipment, ~~and~~ ~~landscape maintenance equipment~~ operated ~~in~~ during working hours and on non-holiday Saturdays between 9:00 a.m. and 4:00 p.m. Only noncommercial lawnmowers, agricultural equipment, and landscape maintenance equipment may be operated on non-holiday Sundays between 12:00 p.m. and 4:00 p.m. All equipment shall be ~~only if~~ operated in accordance with the manufacturer's specifications and with all standard noise-reducing equipment in place and in proper condition;
 - (11) Musical accompaniment to parades or military ceremonies;
 - (12) Sound emanating from regularly scheduled athletic events at town or county parks, athletic facilities and public schools;
 - (13) Governmental emergency vehicles in the course of performing their official duties;
 - (14) Unamplified noncommercial speeches made from a fixed location in nonresidentially zoned areas;
 - (15) Sound or noise emanating from construction or repair work by public utilities; and
 - (16) Refuse collection vehicles operating during ~~working hours~~ daytime hours.
 - (17) Sounds produced by golf course maintenance or watering equipment.
- (Ord. No. 2011-06-Ord, § I, 7-6-11; Ord. of 4-16-15)

Sec. 8-17. Reserved.

Editor's note(s)—Ord. of 10-20-22(1) , deleted § 8-17 entitled "Amplified sound permits for special events," which derived from: Ord. No. 2011-06-Ord, § I, adopted July 6, 2011; and Ord. of Apr. 16, 2015.

Sec. 8-18. Enforcement and penalties.

- (a) The first violation of any provision of this article, in any twelve-month rolling period, shall subject the offender to a notice of violation and a civil penalty in the amount of one hundred dollars (\$100.00).
- (b) The second violation of any provision of this article, in any twelve-month rolling period, shall subject the offender to a notice of violation and a civil penalty in the amount of two hundred dollars (\$200.00).
- (c) The third violation of any provision of this article, in any twelve-month rolling period, shall subject the offender to a notice of violation and a civil penalty in the amount of five hundred dollars (\$500.00), and a criminal citation and prosecution under G.S. § 14-4. The maximum fine under that statute will be five hundred dollars (\$500.00).

- (d) The town police department shall issue notices of violation and criminal citations for violations of this article. The notice of violation shall set forth the violated provision(s) of this article, and shall be issued to the owner, or lessee, or other person in charge of the property where the noise disturbance originates, or the person responsible for creating the noise disturbance.
- (e) All civil penalties must be paid within thirty (30) days after the receipt of the notice of violation. If the violator does not pay the penalty within thirty (30) days, the town may recover such penalty, and all subsequently accruing penalties, in a civil action. In the event that it is necessary for the town to institute a civil action to collect such penalty, the violator shall be responsible for all court costs and attorney's fees incurred by the town.

(Ord. No. 2011-06-Ord, § I, 7-6-11)

Secs. 8-19—8-30. Reserved.