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# *NORTHAMPTON COUNTY NOISE CONTROL ORDINANCE*

**Section 1. TITLE.**

This ordinance shall be known and may be cited as the Northampton Noise Control Ordinance.

**Section 2. PURPOSE.**

It is recognized that excessive and unnecessary noise endangers the physical and emotional health and welfare of the people, interferes with legitimate business and recreational activity, increases construction costs, depresses property values, offends the senses, creates public nuisances and in other respects reduces the quality of life.

Because the regulation of excessive and unnecessary noise that may jeopardize human health or welfare or substantially degrade the quality of life is well within the purview of the governing body's police powers, it is declared to be the purpose of this ordinance is to prevent, prohibit and provide the regulation and abatement of excessive and unnecessary noise which may injure the physical and emotional health and welfare of its citizens or degrade the quality of life.

**Section 3. DEFINITIONS.**

In addition to the common meaning of words, the following definitions shall be used in interpreting this article:

*"A" Weighing 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 section 4 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 the land, earth moving, blasting and landscaping.

*Daytime Hours*. 7:00 a.m. to 9:00 p.m., local time.

*dB(A)*. Sound level in decibels determined by the "A" weighing scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication ANSI, S1.4-1971, 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 section 8 (a) and (e) 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.* 9:00 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 omni directional 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 section 8 (a) and (e) respectively.

*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.

*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.

**Section 4. 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 multifamily or multitenanted 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" weighting network at slow response.
3. Set the omnidirectional microphone in an approximate 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.

**Section 5. 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 Section 4 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 Hours* | *Nighttime Hours* |
|---|---|---|
| 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.

**Section 6. EXCEPTION TO LIMITATIONS STANDARDS.**

The maximum noise limitation standards defined in Section 5 shall not apply to the following sources:

(A) Emergency warning devices or safety signals;

(B) Lawn care equipment used during daytime hours;

(C) Agricultural and horticultural operations conducted in a reasonable manner on property classified as bona fide farms for ad valorem tax purposes and commercial farm related operations;

(D) 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.

(E) Parades, fairs, circuses, amphitheaters, sanctioned sporting events, sporting activities taking place in areas set aside for such activities, or any activities normally associated with any of the above;

(F) Bells, chimes and similar devices which operate during daytime hours for a duration of no longer than five (5) minutes in any given period;

(G) Emergency work;

(H) All noises coming from moving motor vehicles properly equipped with the manufacturer's standard mufflers and noise-reducing equipment, which are operated in accordance with manufacturer's recommendations and safe driving practices;

(I) Non-amplified crowd noises resulting from the activities such as those planned by students, governmental or community groups;

(J) Any other noise resulting from a mechanical sound producing device of a temporary duration permitted by law and for which a license or permit therefor has been granted by the County of Northampton in accordance herewith. Regulation of noises emanating from a sound producing device under permit shall be according to the conditions and limits stated on the permit and contained herein; and

(K) Noises resulting from law enforcement weapons qualifications.

**Section 7. PROHIBITION OF NOISE POLLUTION.**

It shall be unlawful for any person to cause or allow the emission of any unreasonably loud, disturbing and unnecessary noise in the County of Northampton. Specifically, it shall be unlawful to create or emit noise of such character, intensity or duration as to be detrimental to the health of any individual or that is above the sound emission decibel limits set forth herein.

**Section 8. PROHIBITED NOISES.**

In addition to any other violation of this ordinance, the acts enumerated below are specifically declared to be unreasonably loud, disturbing and annoying or unnecessary noise, the creation or 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, except as a danger signal, so as to create any unreasonably loud or harsh sound or the sounding of such device for an unnecessary and unreasonable period of time.

(B) 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.

(C) The use of any gong or siren upon any vehicle other than police, fire, ambulance or other emergency vehicles.

(D) The playing of any sound magnifying device, radio, television, phonograph amplifier system, tape deck, tape recorder or other musical instrument in such a manner or with such volume, between 9:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any person or persons in any dwelling, hotel or other type of residence.

(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 a warning of danger.

(F) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(G) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.

(H) The creation or emission of excessive noise associated with the erection, alteration, substantial repair or demolition of any building, earth moving activities, street paving or utility construction, in a residential or business district other than between the hours of 7:00 a.m. and 9:00 p.m., except in the following instances:

1. Where the construction as stated above is one thousand (1,000) feet from the nearest dwelling, hotel, motel or other type of residence or business establishment.
2. When the residents of all dwellings, hotels, motels or other types of residences or business establishments located less than one thousand (1,000) feet from the construction as stated above give their written permission for the construction to continue at all hours.
3. Where the construction as stated above, because of the very nature of the construction, must be continuous at all hours, or because of either federal or state law or regulation must be continuous at all hours.
4. Emergency work or construction for the preservation of public health or safety is permitted at any time.

(I) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in session, or within one hundred fifty (150) feet of any hospital which unreasonably interferes with the working of such institution or which disturbs or duly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, church, court or hospital street.

(J) The creation of loud and excessive noise in connection with loading or unloading any vehicles, or the opening, closing or destruction of bales, boxes, crates and containers.

(K) The shouting and crying of peddlers, barkers, hawkers or vendors which disturbs the quiet and peace of the neighborhood.

(L) 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. However, this section does not apply to noise created by devices, bands or musical instruments used in any public parade or public procession, nor to a public fair, public circus or public athletic event or amphitheaters.

(M) 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 9:00 p.m. and 7:00 a.m.

(N) The firing or discharging of firearms in the streets or elsewhere for the purpose of making noise or disturbance, with the exception of noises resulting from law enforcement weapons qualifications.

(O) The conducting of contests of "turkey shoots" where firearms are discharged in trials of skill and the contestants shoot for turkeys or other prizes, except between the hours of 7:00 a.m. and 9:00 p.m.

(P) The keeping of any bird, livestock, dogs or other animal which by causing frequent or long continued noise disturbs the comfort or repose of individuals in the vicinity.

**Section 9. PRESUMPTION IN PROSECUTION FOR NOISE VIOLATIONS.**

The complaints of two (2) or more persons, at least one of whom resides in a different home from the other complaining person or persons, when combined with the complaint of a duly authorized investigating person, shall be prima facie evidence that such sound is unreasonably loud, disturbing and annoying or unnecessary noise. Sound emission decibel measurements shall not be required for establishment of a prima facie case.

**Section 10. BURDEN OF PERSUASION REGARDING EXCEPTIONS TO NOISE RESTRICTIONS.**

In any proceeding pursuant to this ordinance, if an exception may be applicable to limit an obligation to comply with the regulations herein, 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.

**Section 11. PENALTIES FOR VIOLATION OF NOISE RESTRICTIONS.**

(A) *Civil Penalties*:

1. Any person violating any of the provisions of sections 5 through 8 shall be subject to a civil penalty of not more than one hundred dollars ($100.00). No penalty shall be assessed until the person alleged to be in violation has been notified of the violation. Each day of a continuing violation shall constitute a separate violation under this section.

2. The County Board of Commissioners shall determine the amount of the civil penalty to be assessed under the section, shall make written demand for payment upon the person responsible for the violation and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within sixty (60) days after demand for payment is made, the matter shall be referred to the County Attorney for institution of a civil action in the name of the County in the appropriate division of the general court of justice of Northampton County for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this ordinance.

3. As an additional remedy, whenever the Board of Commissioners has reasonable cause to believe that any person causes or allows the operation or maintenance of

any noise source, in violation of any provisions of sections 5 through 8, or which causes any unreasonably loud, annoying, frightening, loud and disturbing or unnecessary noise, it may, either before or after the institution of any other action or proceeding authorized by this section, institute injunctive relief to restrain the violation. The action shall be brought in the appropriate division of the general court of justice of Northampton County. 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 ordinance.

(B) *Criminal penalties*:

Any person who violates any provision of this ordinance 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 section.

**Section 12. PERMIT FOR MECHANICAL SOUND PRODUCING DEVICE**

(A) *Application*. Each applicant for a permit to use or operate a sound producing device, instrument or apparatus within the county and outside the corporate limits, shall complete and sign an application on a form supplied by the county and file the same with the Sheriff's Office at least seven (7) days prior to the date upon which the sound producing equipment is to be used or operated. Where good cause is shown, or in the judgment of the Sheriff, the activity would involve significant political or religious features and therefore be entitled to enhanced deference or protection under the state or federal constitutions, the Sheriff shall consider applications filed after the deadline. The application shall describe the sound producing equipment, state the specific location at which such sound producing equipment is to be used or operated and such other pertinent information as is necessary for the Sheriff to carry out his duties under this section. If the sound producing equipment is to be used or operated on private property, the owner of such property must consent in writing.

(B) *Issuance of permit*. The Sheriff shall issue a permit for the use of the requested sound producing instrument, device or apparatus to any applicant who complies with the provisions of this section unless he finds in writing that one or more of the restrictions specified in subsection (C) hereof apply, or unless the issuance of a permit for the time and location requested would overlap a previously applied for permit. Each permit issued pursuant to this section shall describe the specific location or locations at which such sound producing equipment may be operated thereunder, the period of time for which the sound producing equipment may be used or operated in such location and shall specify such other terms and conditions as are essential to secure and protect the public safety. The person signing the application shall be required to be present at the time and place the sound producing equipment is operated or used and the permit shall be invalid unless in his possession.

(C) *Special Restrictions*. The Sheriff shall not issue any permit for the use of a sound producing instrument, device or apparatus:

1. At any location within five hundred (500) feet of a school, courthouse, synagogue or other place of worship, during the hours of school, court or worship, respectively, or within five hundred (500) feet of any hospital, nursing home or other institution caring for the sick, aged or infirmed;

2. At any location where the Sheriff, upon investigation, shall determine that the conditions of vehicular or pedestrian traffic or both are such that the use of a sound producing instrument, device or apparatus will constitute a threat to the safety of pedestrian or vehicle operators;

3. At any location where the Sheriff, upon investigation, shall determine that the conditions of overcrowding or of street repair or other physical conditions are such that the use of a sound producing instrument, device or apparatus will deprive the public of the reasonable right to safe and peaceful enjoyment of any public street, park or other public place, or will constitute a threat to the safety of pedestrians or vehicle operators;

4. For a period of continued use exceeding three (3) hours without a thirty (30) minute break, unless the Sheriff, upon investigation, determines that a longer period of time will not annoy or disturb reasonable persons of ordinary sensibilities residing in the area;

5. In or on any vehicle or other device while it is in motion;

6. Between the hours of 12 midnight and 9:00 a.m.; or

7. The permit shall contain a decibel level restriction permitting the applicant to operate or allow the operation of the requested sound producing device, instrument or apparatus up to but not to exceed seventy (70) dB(A) during the time specified in the permit.

(D) *Alternate Permit.* The Sheriff, in denying any application as submitted under this section, may grant a permit for a date, time or place different from that requested by applicant, or subject to different requirements or conditions than requested by an applicant. An applicant desiring to accept an alternate permit shall, within twenty-four (24) hours after notice of the action of the Sheriff, file a written note of acceptance with the Sheriff on a form supplied by the county.

(E) *Processing time, notice, right of appeal.* Applications for permits to use a sound producing instrument, device or apparatus shall be processed and decisions made as expeditiously as possible, and in any event before 5:00 p.m. on the fifth ($5^{th}$) business day following the day of receipt. If the application was submitted more than ten (10) days in advance of the event, the permit, alternate permit or written notice of denial shall be mailed to the applicant. If the application was submitted less than ten (10) days in advance of the event, the Sheriff's Department shall exercise reasonable diligence in attempting to notify the applicant of the action

taken as soon as possible by telephone or other means. Any person aggrieved by action taken on a permit application may file a written notice of appeal first with the County Manager, and then with the Board of Commissioners. The notice of appeal must be filed within seven (7) days from date notice of the action is received by the applicant, regardless of the means used to convey such notice. The County Manager shall act on the appeal as expeditiously as possible. The Board of Commissioners shall hear any appeal taken from the decision of the County Manager at its next regularly scheduled meeting. In hearing any appeal, the County Manager or Board of Commissioners may reverse or affirm, wholly or in part, the action of the Sheriff, or may grant an alternate permit for a date, time or place different from that requested by the applicant or subject to different requirements or conditions than requested by an applicant. An alternate permit must be accepted in writing within twenty-four (24) hours after notice that it is available.

(F) The Sheriff may revoke any permit issued hereunder for the following reasons or causes:

1. The substantial violation of this section or the terms and conditions of a permit; or
2. A material misstatement of any fact on the application for permit.

**Section 13. EFFECTIVE DATE**

This Ordinance shall be effective on the 2 day of Nov., 1998.

ADOPTED this 2nd day of Nov., 1998.

NORTHAMPTON COUNTY BOARD OF COMMISSIONERS

Henry Mercer

Chairman