

ORDINANCE 2022-29

ORDINANCE AMENDING CHAPTER 14, ARTICLE III, SECTION 14-66 THRU 14-75 – NOISE OF THE CODE OF ORDINANCES FOR THE TOWN OF WAKE FOREST, NORTH CAROLINA

WHEREAS, the current Noise Ordinance was last updated in 2010 through Ordinance No. 2010-03, adopted March 16, 2010; and

WHEREAS, previous adoption occurred in 2005 through Ordinance No. 2005-53 adopted November 15, 2005; and

WHEREAS, Updates to Chapter 14, Article 14-66 thru 14-75- Noise, of the Code of Ordinances for the Town of Wake Forest, North Carolina provide clarity, update quiet hours, simplify the permitting process, update enforcement and penalties, and terminate Resolution 2021-136 and which temporarily waived the noise ordinance permitting process in the downtown area.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Wake Forest, to amend the Code of Ordinances as follows:

Sec. 14-66. Purpose

Noise exceeding certain levels or durations and during specific times of day may negatively impact the health, safety, and welfare of people living in, working in, or visiting the Town, to the detriment of their peaceful and quiet enjoyment of daily life. The purpose of this article is to regulate noises that tend to annoy, disturb, or frighten people by prohibiting or restricting noise from certain sources or exceeding certain sound levels, pursuant to the authority granted to the Town under N.C.G.S. 160A-174 and 160A-184.

Sec. 14-67. Applicability

Unless exempted by section 14-72, all sound, vibration, and other noise originating within the corporate limits of the Town of Wake Forest shall be subject to this article. 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 noise.

Sec. 14-68. Definitions

For the purposes of this article, the following words and phrases shall have the following meanings:

Amplified sound: Any sound using electronic amplifying equipment, whose source is outside or whose source is inside, and the sound propagates to the outside or to other dwellings or interior locations under separate ownership or occupancy. Televisions or radios operating with no amplification other than their internal speakers and background music systems operated at a low amplification and not intended for entertainment shall not be deemed amplified sound.

ANSI: The American National Standards Institute or its successor body.

Authorized emergency vehicle: Any vehicle used in an official capacity in the performance of emergency work. Emergency vehicles typically include bright coloring on their exteriors, flashing lights that may be turned on, official insignia, or similar distinguishing features.

A-weighted sound level: The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A). A-weighted decibels are an expression of the relative loudness of sounds in air as perceived by the human ear. In the A-weighted system, the decibel values of sounds at low frequencies are reduced, compared with unweighted decibels, in which no correction is made for audio frequency.

dB(A): The sound level in decibels, determined by the "A" weighting scale of a standard sound level meter having characteristics defined by the ANSI, Publication ANSI, § 1.4-1983, for a Type 2 instrument.

Decibel (dB): The unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

Disturbing noise: Noise which is perceived by a human being of ordinary sensibilities as interrupting the normal peace and calm of the area. Factors can include, but are not limited to, the following: volume of noise, intensity of noise, unusual noise, natural versus unnatural noise, duration of the noise, and the time of day/night that the noise occurs.

Dwelling: Any building or structure that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or that are occupied for living purposes.

Emergency work: Any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

Golf Course Greens: A smooth grassy area on a golf course at the end of a golf fairway as well as the fairway itself.

Mixed Use, Residential: Any use of a parcel or activity where a nonresidential use is vertically or horizontally integrated in one building.

Motor vehicle or vehicle: Any vehicle propelled on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, automobiles, motorcycles, or buses. It shall exclude trains and emergency response vehicles such as police, fire and rescue vehicles.

Noise control officer: The Chief of Police or their designee, Planning Director or their designee, or other person designated by the Town Manager.

Nonresidential use or activity: Any use of a parcel or activity where the principal use does not consist of a dwelling.

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

Residential use or activity: Any use of a parcel where the principal use consists of a dwelling.

Responsible individual: For purposes of section 14-71, the individual who shall be in control of all sound producing or sound amplification equipment during activities subject to a permit issued in accordance with section 14-71.

Slow response: The measuring technique to obtain an average value when measuring a noise level that fluctuates over a range of four dB or more. By way of illustration only, a sound level meter set on "slow response" would record a sound level between two and six decibels less than the reading for a steady signal of the same frequency and amplitude when a tone of 1,000 Hz and for duration of 0.5 seconds is applied.

Sound: An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression, and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

Sound level: The weighted sound pressure level obtained using a sound level meter and frequency weighting network, such as A, B, or C as specified in the ANSI Specifications for sound level meters (ANSI S1.41971 or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound level meter: An instrument used to measure sound levels.

Sound pressure level: 20 times the logarithms to the base 10 of the ratio of the root mean squared (RMS) sound pressure to the reference pressure of 20 micronewtons per square meter.

Source of sound or noise: Any animal, device, operation, process, activity, or phenomenon which emits or causes sound.

Substantiated and verified complaint: The complaints of two or more persons, at least one 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 complaint of a noise control officer. The complaint will be reviewed based on the considerations listed in section 14-71(d). If there is sufficient evidence to support a conclusion that there is a failure to comply with this article or with the terms of a permit issued in accordance with section 14-71, the complaint shall be considered substantiated and verified. Factors in determining a violation will include those listed in the “*Disturbing Noise*” definition and may include statements of any complaining witnesses, including any pictures or audio/video documentation produced by complaining witnesses. The designated Town staff (designee) does not have to use a sound level meter in order to take enforcement action under this section.

Unreasonably loud noise: Noise having a volume or intensity that is substantially incompatible with its time and location to the extent that it creates an actual interference with peace or good order. A noise may be unreasonably loud based on the time of day; its proximity to residential structures; whether it is recurrent, intermittent, or constant; its volume and intensity; whether it has been enhanced in volume or range by any type of electronic or mechanical means; the character and zoning (if applicable) of the area; whether it is related to the normal operation of a business or other labor activity; and whether it may be controlled at its point of origin without unreasonable effort or expense.

Sec. 14-69. Noise measurement.

- (a) For the purposes of this article, sound levels shall be measured by the noise control officer on the A-weighting scale on a sound level meter of standard design and

quality having characteristics established by ANSI, using the techniques set out in this section.

(b) Measurement techniques.

- (1) 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 shall be made at the nearest property line of the complaining property. Such noise measurements shall be made at a height of at least four feet above the ground and at a point approximately ten feet away from walls, barriers, obstructions (trees, bushes, etc.) on a sound level meter operated on the A-weighted network. In the case of noises within multi-family or multi-tenanted structures, noise measurements shall be made in the unit occupied by the complainant at a height of at least four feet above the floor and at a point approximately equal-distant from all walls on a sound level meter operated on the A-weighted network.
- (2) No individual other than the meter operator(s) shall be within ten feet of the sound level meter during the sample period.
- (3) Sound measurements shall be conducted at a time of day when the source of the noise that gave rise to the complaint is emitting sound.
- (4) The meter operator(s) shall determine the sound level measurement as follows:
 - a. Calibrate the sound level meter before use.
 - b. Set the sound level meter on the A-weighted sound level scale at a slow response.
 - c. Set the omnidirectional microphone in an approximately seventy-degree position in a location which complies with subsections (b)(1) and (2) 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 100 readings are obtained.
- (5) It shall be unlawful for any person to interfere, through the use of sound or otherwise, with the taking of sound level measurements.

Sec. 14-70. Prohibited Acts and Activities

It shall be unlawful for any person to make, permit, or continue any unreasonably loud and disturbing noise in the Town. A person shall be deemed to make, permit, or continue noise if that person owns, manages, or operates any residence, business, or other location at which the noise is generated. The following acts and activities are

hereby declared to be unreasonably loud and disturbing noise in violation of this section, but shall not be construed as exhaustive of all activities or acts which violate this section:

- (1) Residential Use or Activity: Any noise exceeding 65 dB(A)
- (2) Mixed Use, Residential: Any noise exceeding 65 dB(A)
- (3) Non-Residential Use or Activity: Any noise exceeding 75 dB(A) except where a permit is issued for greater sound levels in accordance with section 14-71. Permits allow for dB(A) increases, but not a change in hours.

Use	Noise Limits	Permit Allowed to exceed dB(A)
Residential Use or Activity	Max 65dB(A)	No
Mixed Use, Residential	Max 65dB(A)	No
Non-Residential Use or Activity	Max 75dB(A)	Yes

- (4) The sounding of a railroad locomotive whistle or horn for the period of time exceeding that which is required by law beyond that which is reasonably necessary to warn or alert others at road crossings at grade level of real or potential danger.
- (5) The use of a gong, bell, or siren upon any motor vehicle, except for items listed in sections 14-72(2) and 14-72(3).
- (6) The keeping of a bird or other animal which makes frequent or long continued sounds, such that a reasonably prudent person would recognize as likely to unreasonably disturb the comfort or repose of persons in the vicinity.
- (7) The blowing of a steam whistle attached to a stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.
- (8) The discharge into the open air of the exhaust of a steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which effectively prevents unreasonably loud and disturbing or explosive sounds there from.
- (9) The use of a mechanical device operated by compressed air unless the sounds created are effectively muffled and reduced.

- (10) The sounding of a chime, bell, or gong attached to a building or premises which disturbs the quiet or repose of any human being in its vicinity, except as otherwise provided in section 14-72.
- (11) The shouting and crying of peddlers, barkers, hawkers, or vendors which disturbs the quiet and peace.
- (12) The firing or discharging of firearms, gun powder, or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance.
- (13) Operating a front-end loader or other truck for trash or recycling collection on Sundays or outside the hours of 5:00 a.m. to 9:00 p.m. on any other day.
- (14) Operating a commercial garage, vehicle washing station, or service station in a manner that causes unreasonable loud, disturbing sound outside the hours of 7:00 a.m. to 9:00 p.m.
- (15) Operating a lawnmower or other motor-driven domestic tool creating a similar or greater sound level outside the hours of 7:00 a.m. to 9:00 p.m.
 - a. Mowing of golf course greens and town-maintained recreational playing fields are prohibited outside the hours of 6:00 a.m. and 9:00 p.m.
- (16) Operating or allowing the operation of a motor vehicle:
 - a. By engaging in fast starts, spinning tires, racing engines or other operations which create unreasonably loud and disturbing noises.
 - b. Off the boundaries of a public street for racing or other operations which create unreasonably loud and disturbing noises.
 - c. To amplify sound from within the motor vehicle so that the sound is plainly audible outside the vehicle, except when used for business or political purposes which, in the normal course of conducting business, use sound-making devices.
 - d. By using devices that increase the engine sounds of an automobile, truck, motorcycle or other motor vehicle or conveyance, or the absence of a working muffling device for such engine sounds.

Sec. 14-71. Permit to Exceed Maximum Sound Levels

- (a) An applicant may request, and the Planning Director or the Planning Director's designee may grant, a permit for a nonresidential use or activity to exceed the maximum sound levels set out in paragraph (1) of section 14-70, during the hours of 8:00 a.m. to 9:00 p.m. Sundays through Thursdays and 8:00 a.m. to 10:00 p.m.

Fridays and Saturdays only. No permit shall be issued for activities outside these time periods, no event to exceed 85 dba.

- (b) An application for a permit under this section shall be submitted to the Wake Forest Planning Department at least seven business days in advance of the commencement of the use or activity for which the permit is required. The application shall designate a responsible individual who shall be in control of the sound producing or sound amplification equipment. The responsible individual shall ensure that all sound during the event complies with the terms of the permit.
- (c) The period of validity of a permit issued under this section shall not exceed 365 days, provided such activity is of a temporary duration lasting no longer than six hours during any 24-hour period.
- (d) A single permit may be issued for multiple days of events, consecutive or otherwise.
- (e) The Planning Director or the Planning Director's designee shall issue a permit under this section on determining the proposed use or activity will not generate unreasonably loud and disturbing noise, based on the following considerations:
 - (1) The use and activities permitted by the zoning regulations in the surrounding area;
 - (2) The intensity of sound levels regularly produced by activities and devices in the surrounding area;
 - (3) The time and duration of any proposed sound amplification;
 - (4) The proximity of the requested activity to commercial buildings and dwellings, and the density and intensity of development in surrounding commercial and residential areas;
 - (5) The history of verified complaints generated by previous activities similar in nature and context;
 - (6) Whether the sounds produced by such devices and activities are plainly audible, recurrent, intermittent, impulsive, or constant;
 - (7) Failure to complete the application properly; and
 - (8) The necessity of any requested amplification.
- (f) An applicant that is denied a permit under this section may submit a copy of the denied permit application, together with a brief statement of the reasons the applicant believes the applicant is entitled to a permit, to the Town Manager, within a reasonable time after the permit is denied. The Town Manager shall have the discretion to grant an exception permit waiving location, time, and/or

maximum sound level requirements, if the Town Manager determines that the applicant has made a substantial showing of legal entitlement to the waiver. The Town Manager shall promptly report the granting of any such exception permit to the Board of Commissioners.

- (g) Any permit issued under this section may be revoked in accordance with Sec. 14-73.

Sec. 14-72. Exceptions

The following acts and activities are exempt from the provisions of this article:

- (1) 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.
- (2) Noise of safety signals, warning devices, emergency pressure relief valves.
- (3) Noise resulting from an authorized emergency vehicle.
- (4) Chimes, bells, gongs, and other unamplified sounds generated by a religious institution, as defined in the Unified Development Ordinance.
- (5) Noise resulting from parades, lawful picketing or other public demonstrations protected by the U.S. Constitution or federal law. Regulation of noise emanating from activities for which a permit has been issued in accordance with section 14-71 shall be according to the conditions and limits stated in this article and according to any additional conditions stated on the permit.
- (6) Sporting events.
- (7) Unamplified and amplified sound at community concerts conducted, sponsored, or sanctioned by the Town.
- (8) Noise from noisemakers on holidays and fireworks on holidays or at times allowed under a pyrotechnics permit issued pursuant to N.C.G.S. 14-410 et seq.
- (9) All noises coming from the normal operations of properly equipped aircraft, but not including scale model aircraft.
- (10) Practice sessions or performances by marching bands.
- (11) Noise from trains and associated railroad rolling stock when operated in proper repair and manner.
- (12) Small motors. The running of a motor not exceeding one horsepower on a refrigeration truck for the purpose of keeping perishable fruits, vegetables and all other perishable meats and foods contained in such a truck from spoiling,

shall not constitute an unnecessary noise or disturbance within the meaning of this section.

- (13) Emergency work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril. This emergency exception includes maintenance, backup or upkeep ("maintenance") strictly necessary to keep emergency equipment, such as generators, in operating order as prescribed by the manufacturer.
- (14) Noise created by the normal operations of the parks and recreation, police, public works and utilities departments of the town, including firearms training for police officers.
- (15) The use of lawnmowers and similar domestic tools for periodic and customary landscaping maintenance activities, during the hours of 7:00 a.m. to 9:00 p.m. only.

Sec. 14-73. Enforcement

- (a) The Town Manager, or their designees and noise control officer are authorized to enforce the provisions of this article.
- (b) When it is determined that there is reasonable cause to believe that a person is in violation any of the provisions of this article based on verified complaints, the Town shall immediately notify the person of the violation. The notice shall be delivered to the owner of record and to the property address on which the violation occurs. Notification will be served in any manner permitted by N.C.G.S. Chapter 1A-1 Rules of Civil Procedure.
- (c) Once a verified complaint is confirmed, violators shall be issued a written citation in accordance with paragraph (e) below, which must be paid within 30 days of the issuance. The Town Attorney, or designee, is authorized to file suit on behalf of the Town to collect any unpaid citations, and the noise control officer are authorized to verify and sign complaints on behalf of the Town in such suits.
- (d) It shall be a violation of this Article for any person to communicate a noise complaint to any Town staff or official, using the 911 system or otherwise, for the purpose of harassing the subject of the complaint, and knowing or having reason to know that no noise disturbance exists or existed.
- (e) Civil penalty. Violation of this article shall subject the offender(s) to a civil penalty in the amount of 250.00. If there is more than one violation within any six-month period, then the civil penalty shall be increased for each additional violation over one during such period, as follows. The date of the first violation shall establish the


beginning date for the initial six-month period. The next violation within that six-month period shall be considered the second violation. Any violations that follow within that six-month period shall be numbered sequentially. The penalty shall be:

- (1) Second offense within same six-month period: \$500.00.
 - (2) Third offense within same six-month period: \$750.00.
 - (3) Fourth offense within same six-month period: \$1,000.00.
 - (4) Fifth and any subsequent offense(s) within same six-month period: \$2,000.00 per offense.
- (f) Once the six-month period has expired for a violation in accordance with paragraph (e) above, the next violation shall be a first violation for the purposes of establishing a new six-month period. In the event there are more than five violations within any 12-month period (two six-month cycles), then each violation after the fifth occurrence shall subject the violator(s) to a civil penalty of \$2,000.00, notwithstanding paragraph (e) above.
- (g) Revocation of permit. The Planning Director may revoke a permit issued in accordance with section 14-71 if the Planning Director determines the terms of the permit are not being met or if four or more substantiated and verified complaints related to the use or activity for which the permit was issued are received by the Town. If a permit is revoked under this section, no permit may be issued under section 14-71 to the same applicant or for the same property within 12 months of the date the permit is revoked.
- (h) No new permits. Any residential or nonresidential property that has outstanding civil or criminal penalties will not be issued any new permits until all penalties are paid in full.
- (i) Equitable remedies. This article may also be enforced through equitable remedies issued by a court of competent jurisdiction.
- (j) Criminal penalty. In addition to, or in lieu of, such civil penalties or other remedies, violation of this article shall constitute a Class 3 misdemeanor.

Sec. 14-74 Severability

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

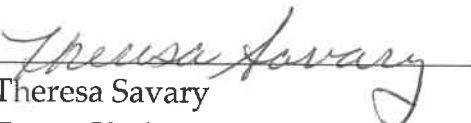
Adopted and effective this 1st day of November 2022.

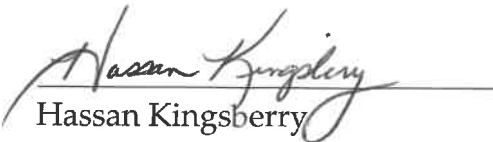


Vivian A. Jones
Mayor

ATTEST:

APPROVED AS TO FORM:


Theresa Savary
Town Clerk


Hassan Kingsberry
Town Attorney

