

**AN ORDINANCE TO AMEND CHAPTER 11 OF THE CITY CODE  
REGARDING NOISE CONTROL AND ABATEMENT.**

#3919

Sponsor:

Council  
Member  
Williams

**WHEREAS**, the City Council recognizes that excessive levels of sound are detrimental to the physical, mental and social well-being of the citizens of the city as well as to their comfort, living conditions, general welfare and safety; and

**WHEREAS**, the City Council further recognizes that loud and raucous sounds created by the human voice or other means may constitute a noise disturbances when the sounds emanate from within a structure or dwelling; and

**WHEREAS**, the City Council seeks to amend Chapter 11 of the Wilmington Code entitled Noise Control and Abatement to address noise disturbances emanating from within a structure or dwelling.

**THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:**

**SECTION 1.** Chapter 11 of the City Code is hereby amended by amending Section 11-60 by deleting the under-stricken language and by adding the underlined language to read as follows:

Section 11-60. Plainly audible sounds and unmeasured noise disturbances prohibited

- (a) *Enforcement.* This section shall be enforced by the police department.
- (b) *General prohibitions.* It shall be unlawful for any person to make, continue, or cause to be made, or to create a noise disturbance within the boundaries of the city, except as provided in this article.
- (c) *Specific prohibitions.*
  - (1) *Horns and signaling devices.* The use of motor vehicle horns and warning or signaling devices shall be limited to the emergency situations for which they are designed.

(2) *Radios, television sets, phonographs and similar devices.*

- a. Operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum, sound amplifier, auto- mobile radio, automobile stereo or high fidelity equipment, or other device which produces, reproduces, or amplifies sound:
  1. In such a manner as to create a noise disturbance within a receiving property;
  2. In such a manner as to create a noise disturbance within any receiving property when operated in or on a motor vehicle on a public right-of-way or public space, or in a boat on public waters;
  3. In such a manner as to create a noise disturbance to any person other than the operator of the device when operated by any passenger on a common carrier or when operated by any pedestrian on a public street or sidewalk or on any public space; or
  4. In such a manner, at any time during any 24-hour day, and so as to be plainly audible across real property boundaries or through partitions common to two parties within a building, or plainly audible at a distance of 50 feet from such device when operated within a motor vehicle on a public right-of-way or on a public space.
- b. Removal and impoundment; procedures and penalties. In the enforcement of the provisions of subsection (2) a. of this section, police officers may remove and impound at police headquarters any such set, instrument, phonograph, equipment or device being used or operated in violation of such subsection and, in such instances, shall issue to the owner or operator of the same a form of receipt identifying the name and residence address of such owner or operator and clearly describing the set, instrument, phonograph, equipment or device impounded. Upon final adjudication of charges of violation of such subsection, the police department shall forthwith return such device to the owner or operator upon presentation of the issued form of receipt to the police department.
- c. Penalties. The penalties for violations of this section shall be those penalties as set forth in section 11-59 of this article.

- (3) *Exterior loudspeakers.* Using or operating any mechanical device or loudspeaker in a fixed or movable position exterior to any building, or mounted upon any aircraft, motor vehicle or amphibious craft, such that the sound therefrom causes a noise disturbance or is plainly audible at or beyond the property boundary of the source, or on a public way, except as provided below.
- (4) *Street sales.* Selling anything by shouting or by outcry within any residence district. Selling ice cream, popsicles, or any other perishable commodities, if any other commodities are otherwise lawful, from a motor vehicle accompanied by the amplification of sound from an automobile radio, automobile stereo or high fidelity equipment, or other device which reproduces, or amplifies sound between the hours of 9:00 p.m. and 7:00 a.m. the following morning, between June 1 and August 31, and between the hours of 8:00 p.m. and 7:00 a.m. the following morning during the school year, between September 1 and May 31 of each calendar year. A violation of the provisions of this subsection shall be punishable by a fine of not less than \$50.00.
- (5) *Animals and birds.* Owning, possessing, harboring or controlling any animal or bird which barks, bays, cries or squawks or makes any other noise continuously or incessantly for a period of ten minutes or makes such noise intermittently for one-half hour or more thereby causing a noise disturbance within a receiving property; provided, however, that at the time the animal or bird is making such noise no person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or that there is no other act by persons which teased or provoked the animal or bird.
- (6) *Loading operations.* Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage cans, or other similar objects between the hours of 10:00 p.m. and 7:00 a.m. the following day, in such a manner as to create a noise disturbance within a residence district, except during an emergency.
- (7) *Construction noise.* Operating or causing to be operated any equipment or construction tools used in commercial or noncommercial construction, repair, alteration, or demolition work on buildings, structures, streets, alleys, or appurtenances thereto, in the following manner:
  - a. With sound control devices which have been tampered with;

- b. In violation of any regulations of the United States Environmental Protection Agency; or
  - c. In business and industrial districts at any time before 7:00 a.m. and after 10:00 p.m., Monday through Friday; before 9:00 a.m. and after 10:00 p.m. on Saturday, Sunday or the day of a legal, national or state holiday which creates a noise disturbance. In residence districts at any time before 8:00 a.m. and after 7:00 p.m., Monday through Friday; before 9:00 a.m. and after 7:00 p.m. on Saturday; and before 10:00 a.m. and after 5:00 p.m., on Sunday or the day of a legal, national or state holiday which creates a noise disturbance.
- (8) *Explosives, firearms and similar devices.* The use or firing of explosives, firearms, or similar devices which create impulsive sound so as to cause a noise disturbance within a residence district or on a public right-of-way.
  - (9) *Powered model vehicles.* Operating or permitting the operation of powered model vehicles between the hours of 9:00 p.m. and 7:00 a.m. the following morning.
  - (10) *Refuse compacting vehicles.* The operation of or permitting the operation of any motor vehicle which can compact refuse and which causes a noise disturbance between the hours of 10:00 p.m. and 7:00 a.m. the following day in residence districts, except such vehicles engaged in municipal services.
  - (11) *Yelling, shouting, hooting, whistling* or generally creating a racket on public streets between the hours of 10:00 p.m. and 8:00 a.m. so as to annoy and disturb the quiet comfort or repose of persons or to cause a noise disturbance in any business or residence districts, or of any persons in the vicinity.
  - (12) Noise disturbances within dwellings. Making or generating any noise disturbance by yelling, shouting, hooting or whistling, or otherwise making or generating any loud and raucous sound within a dwelling or structure at any time during any 24-hour day so as to be plainly audible across real property boundaries or through partitions common to two parties within a building, or plainly audible at a distance of 50 feet or more from the property boundary, and said noise disturbance unreasonably annoys and/or disturbs persons of normal sensitivities living or located on adjacent parcels or in adjacent dwelling units.

~~(12)~~(13) *Power equipment.* Operating, or permitting to be operated, any power saw, sander, drill, grinder, garden equipment or other construction tools of a similar nature, outdoors in residence districts between the hours of 8:00 p.m. and 7:00 a.m. the following day, in such a manner as to create a noise disturbance.

~~(13)~~(14) *Stationary emergency signaling devices.*

- a. Testing of only the electrical, mechanical functioning of a stationary emergency signaling device shall occur at the same time each day that a test is performed, but not before 8:00 a.m. or after 8:00 p.m. Any such testing shall only use the minimum cycle test time. In no case shall such test time exceed ten seconds.
- b. Testing of the complete emergency signaling system, including the electromechanical functioning of the signaling device and the personnel response to the signal, shall not occur more than once each calendar month. Such testing shall not occur before 8:00 a.m., or after 8:00 p.m. The ten-second time limit on the electro-mechanical functioning of the signaling device shall not apply to such system testing.
- c. Stationary emergency signaling devices shall be used only for testing in compliance with applicable provisions of this chapter and for emergency purposes where personnel and equipment are mobilized.

~~(14)~~(15) *Tampering.*

- a. No person shall operate any equipment unless all noise and/or vibration control devices installed thereon are in full operation.
- b. No person shall tamper with, circumvent or remove any sound level monitoring instrument, meter or device positioned by or for the police or licenses and inspections.
- c. No person shall remove or deface a noise label on any product.

~~(15)~~(16) *Weekends and holidays.* Unless otherwise expressly provided, in residence districts each of the prohibitions in this subsection shall be applicable during the periods of time from the hour of the prior evening as provided until 9:00 a.m. of the following day whenever that day is a Saturday, a Sunday or a legal national or state holiday.

**SECTION 2.** This ordinance shall become effective upon passage by City Council and approval by the Mayor.

First Reading .... April 17, 2014  
Second Reading ... April 17, 2014  
Third Reading ..... June 19, 2014

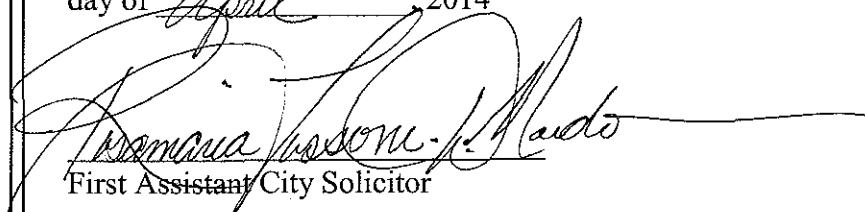
Passed by City Council, June 19, 2014

  
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President of City Council

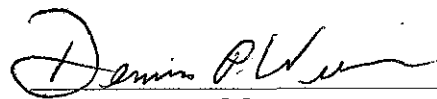
ATTEST:

  
\_\_\_\_\_  
Deputy City Clerk

Approved as to form this 9<sup>th</sup>  
day of April, 2014

  
\_\_\_\_\_  
First Assistant City Solicitor

Approved this 27 day of  
June, 2014

  
\_\_\_\_\_  
Mayor

**SYNOPSIS:** This ordinance amends Chapter 11 of the Wilmington City Code entitled Noise Control and Abatement, specifically Section 11-60, to address noise disturbances emanating from within a dwelling or structure which annoys and disturbs persons living or located in adjacent parcels or dwellings.