



THE TOWN OF

# Holly Springs

**Ordinance No.:** 18-08

**Date Adopted:** June 19, 2018

**Effective Date:** June 19, 2018

## **AN ORDINANCE TO AMEND PUBLIC SAFETY, CHAPTER 12, ARTICLE VI, DIVISION 2, SECTIONS 12-311 – 12-317 OF THE TOWN OF HOLLY SPRINGS CODE OF ORDINANCES**

**BE IT ORDAINED** by the Holly Springs Town Council of the Town of Holly Springs, North Carolina, that the Code of Ordinances of the Town is amended as follows:

### Part 1:

#### DIVISION 2. - NOISE<sup>[5]</sup>

**State Law reference**— Authority to regulate noise, G.S. 160A-184.

#### Sec. 12-311. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Emergency work* means any work performed for the purposes of preventing, or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

*Nighttime* means between 11:00 p.m. and 7:00 a.m.

**Daytime means between 7:00 a.m. and 11:00 p.m.**

*Outdoor amplified sound* means any sound emitted from amplifying equipment positioned outside or where the sound source is inside and the sound permeates to the outside through open doors or windows or other openings or through the walls in a building or vehicle.

*Sound amplifying equipment* means any device for the amplification of the human voice, music or any other sound including, but not limited to, jukeboxes, stereos and radios.

**ANSI means the American National Standards Institute or its successor bodies.**

**"A" weighting scale** means 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).

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

**Decibel (dB)** means 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 sections 12-311 through 12-317 shall be 0.0002 microbars.

**Sound level** means, 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** means any instrument which meets the requirements for an ANSI Type I or Type II sound level meter.

(Ord. No. 00-21, § 1(8-6001), 10-17-2000)

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Sec. 12-312. - Noises prohibited

(a) Unless otherwise specifically indicated, it shall be unlawful for any person to cause or allow the emission of sound from any source or sources which exceeds the maximum decibel limits specified in table 1 when measured pursuant to section 12-313,.

Table 1. Maximum Noise Limitations dB(A)

Zoning Districts/ Conditional Use Zoning Districts	Daytime (7:00 a.m. to 11:00 p.m.)	Nighttime (11:00 p.m. to 7:00 a.m.)
Residential	60	55
Business, Downtown Business, Shopping Center, Highway Commercial	70	65
Industrial	75	65
Vehicle	75	55

(b) 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.

(c) Any noise emanating by or from a vehicle audible within 50 feet of the vehicle shall be considered a violation.

(d) For businesses, the person who has apparent authority over the business operation at that time of the violation shall be personally responsible for any violation of this ordinance by the business.

(e) Engine Braking prohibited

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated any engine brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in breaking or deceleration in such a manner as to emit more than 80 decibels of noise when it drives by, as measured at 50 feet, shall constitute evidence of a prima facie violation of this section.

Sec. 12-313 - Measurement techniques.

(a) Except for multifamily or multi-structured properties, noise measurements shall be taken at the property line of the alleged violator. When measurements in these locations are not practical, noise measurements may be made at the property line of the public right-of-way adjacent to 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, and other obstructions (trees, bushes, etc.) on a sound level meter operated on the "A" weighting network (scale). Within multifamily or multi-structured zoning districts, noise measurements shall be made in the complaining unit at a height of at least four feet above the floor and at a point approximately equidistant from all walls on a sound level meter

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operated on the "A" weighting network (scale); if such measurement is not practical, measurement shall be made in accordance with the standard measurement technique.

- (b) No individual other than the operator shall be within ten feet of the sound level meter during the sample period.
- (c) The sound level measurement shall be taken by the operator as follows:
  - (1) Set the sound level meter on the "A" weighted network.
  - (2) The operator of the sound level meter shall face the noise source and record the meter's instantaneous response (reading).
  - (3) Readings shall be observed on a consecutive minute-by-minute basis not to exceed 10 minutes. If during any of the following are observed by the operator, it is prima facie evidence of a violation of this ordinance:
    - a. Within any consecutive 60 seconds, the sound level meter indicates at least four (4) readings exceeding the applicable noise level in section 12-312(a);
    - b. Within any consecutive three (3) minutes, the sound level meter indicates at least ten (10) readings exceeding the applicable noise level in section 12-312(a); or
    - c. Within any consecutive ten (10) minutes, the sound level meter indicates at least twenty (20) readings exceeding the applicable noise level in section 12-312(a);
- (d) It shall be unlawful for any person to interfere, through the use of sound or otherwise, with the taking of sound level measurements.
- (e) If the operator witnesses a meter reading exceeding the maximum noise limitation a Town citation may be issued by the operator. Issuance of the citation is evidence that the operator witnessed the violation.

Sec. 12-314 - Specific acts requiring permit.

- (a) **Acts Requiring Permit.** The following acts are prohibited and shall be considered nuisance acts, unless a permit has been issued by the **Holly Springs Police Department, includes, but is not limited to:**
  - (1) *Horns and signaling devices.* The intentional sounding of any horn or signaling device of a motor vehicle on any street or public place continuously or intermittently, except as a danger or emergency warning.
  - (2) *Engine noise.* Operating or permitting the operation of any motor vehicle, motorboat, motorcycle or any internal combustion engine not equipped with a muffler or other device in good working order so as to effectively prevent loud or explosive noises therefrom.
  - (3) *Overloaded vehicles.* The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise.
  - (4) *Exterior loudspeakers.* Operating or permitting the operation of any mechanical device or loudspeaker, without a permit to do so, in a fixed or movable position exterior to any building or any motor vehicle.
  - (5) *Amplified sound.* The use or operation of any radio, loudspeaker, or any other instrument or sound amplifying device within a building or motor vehicle in a manner that disrupts or interferes with an individual's enjoyment of his property. The town

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department of public safety, however, may permit musical programs, speeches or general entertainment as exception to this provision for limited time periods.

- (6) *Power equipment.* Operating or permitting the operation of any power saw, sander, drill, grinder, leaf blower, lawn mower, or other garden equipment or tools of a similar nature outdoors during nighttime.
  - (7) *Explosives.* The use or firing of explosives, firearms, fireworks, or similar devices which create impulsive sounds.
  - (8) *Security alarms.* The sounding of a security alarm, for more than 20 minutes after law enforcement or emergency response personnel are notified.
- (b) Application and Approval. Application for noise permit shall be submitted at least ten business days before the date of the intended use. Application shall provide the contact information for the individual who shall be in control of the sound and shall provide the location, nature, date, and time period of the event. Upon approval, the individual designated as the one in control of the sound shall be held responsible for compliance with the terms of the permit.**
- (Ord. No. 00-21, § 1(8-6003), 10-17-2000)

Sec. 12-315. - Exceptions.

(a) The following are exempt from the provisions of this division:

- (1) *Construction.* Construction operations from 7:00 a.m. to 9:00 p.m. on weekdays or weekends for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.
- (2) *Community noises.* Noises of safety signals, warning devices, emergency pressure relief valves and all church bells, including simulated church bells **which are played or otherwise created do not exceed 3 minutes continuously and does not exceed 3 times a day.**
- (3) *Emergency noises.* Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
- (4) *Permit issued.* Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the town department of public safety in accordance with the above. Regulations of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained in this section.
- (5) *Street fairs.* Unamplified and amplified sound at street fairs conducted by or for the town.
- (6) *Aircraft.* All noises coming from the normal operations of properly equipped aircraft.
- (7) *Trucks and vehicles.* All noises coming from normal operation of motor vehicles properly equipped with the manufacturer's standard mufflers and noise-reducing equipment.
- (8) *Celebrations.* Noise from lawful fireworks, **parades**, and noisemakers on holidays, religious ceremonies and town festivals.
- (9) *Lawn care.* Lawn mowers, agricultural equipment and landscape maintenance equipment used between the hours of 7:00 a.m. and 9:00 p.m. when operating with all the manufacturer's standard mufflers and noise-reducing equipment in use and proper operating condition.
- (10) *Military ceremonies.* Musical accompaniment or firearm discharge related to military ceremonies.

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- (11) *Businesses*. Sound amplification equipment used in conjunction with telecommunications systems on business properties to notify employees of that business of incoming phone calls, providing that a permit has been issued by the town and that the subject property is located in the midst of a business district and is not in the hearing range of a residential, church or school property and providing that the sound system be used only between the hours of 7:00 a.m. and 11:00 p.m.
- (12) *Emergency work*. Noise resulting from work necessary to restore property to a safe condition following a fire, accident or natural disaster, or to restore public utilities, or to protect persons or property from an imminent danger.
- (13) *Public services*. Noises resulting from the provision of government services or from the provision of sanitation services.
- (14) Sounds emanating from regularly scheduled athletic events at Town parks, stadium, or athletic facilities.**

(Ord. No. 00-21, § 1(8-6004), 10-17-2000)

#### **Sec. 12-316. Evidentiary Standard.**

- (a) If the investigating officer issues a citation, the citation shall indicate they witnessed and measured the alleged noise violation using the proper measuring techniques described in this ordinance; and**

#### **Sec. 12-317. - Violations.**

- (a) Any person found in violation of this Division shall be subject to a civil penalty of one hundred dollars (\$100.00). For continuous violations of this section, multiple citations may be issued after additional measurements are recorded. Should any person accumulate more than 5 violations in any 30 day period they shall be subject to an increased civil penalty of three hundred dollars (\$300.00) per violation for any subsequent violations.**
- (b) After the second citation has been issued, the officer shall have the discretion to charge the violator with a Class 1 misdemeanor or impose a fine of five hundred dollar (\$500.00) depending on the severity of violation.**

(Ord. No. 00-21, § 1(8-6005), 10-17-2000)

Secs. 12-318—12-340. – Reserved

#### **Part 2: REPEAL OF CONFLICTING ORDINANCES**

All ordinances or parts of the Town Code of the Town of Holly Springs conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

#### **Part 3: SEVERABILITY**

If any section, part of a section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

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**Part 4: INCLUSION IN CODE**

It is the intention of the Town Council entered as hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code of Ordinances of the Town of Holly Springs, North Carolina; that the Section(s) of this Ordinance may be renumbered or relettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section, or "Article" or other word.

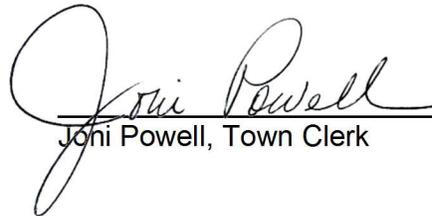
**Part 5: EFFECTIVE DATE**

The provisions of this ordinance shall become effective June 19, 2018 in accordance with the laws of the State of North Carolina.

Adopted this, the 19<sup>th</sup> day of June, 2018.

Attested to:

  
Dick Sears, Mayor

  
Joni Powell, Town Clerk



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