

Revising Sections 130.05 and 130.99
Removing Sections 91.15, 91.16, 91.17 and 91.99(E)

**AN ORDINANCE AMENDING
LOUD, DISTURBING AND UNNECESSARY NOISE**

In pursuance of authority conferred by G.S. '' 160A-174, 160A-175 and 160A-184, and for the purpose of protecting the health, safety or welfare of the people of the Town of Waxhaw.

Now, Therefore, the Board of Commissioners of the Town of Waxhaw do ordain that: (i) the duplication of certain noise enforcement provisions in Sections 91.15, 91.16, 91.17 along with the enforcement in 91.99(E) are deleted and removed in their entirety; and (ii) Sections 130.05 and 130.99(F) are replaced with the provisions set forth on **Exhibit A**.

Effective Date: This ordinance shall be effective on this ___⁹th day of December 2014.

Melody Shuler, Town Clerk

Daune Gardner, Mayor

Exhibit A

§ 130.05 LOUD, DISTURBING AND UNNECESSARY NOISE.

(A) It shall be unlawful for any person to create or assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing and excessive noise in the town. The following acts, among others, are declared to be unreasonably loud, disturbing and excessive noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

- (1) The sounding of any horn or signal device or any noise-making device on any automobile, motorcycle, bus or other vehicle, except as a danger signal or as required by law, so as to create any unreasonable, loud or harsh sound, or sounding of the device for any unnecessary and unreasonable period of time;;
- (2) The use of any siren upon any vehicle, other than police, fire or other emergency vehicle;
- (3) The keeping of any animal which by causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity of a residential district between the hours of 6:00 p.m. and 7:00 a.m. (this provision supplements § 90.06 pertaining to dogs and cats);
- (4) The use of any automobile, motorcycle, boat or other vehicle so out of repair, so loaded or in such manner as to create loud or excessive grating, grinding, rattling, or other noise;
- (5) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;
- (6) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced;
- (7) The erection (including excavation), demolition, alteration, or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 7:00 p.m. Monday through Saturday and 12:00 p.m. and 7:00 p.m. on Sunday, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Town Manager, which permit may be renewed for a period of three days or less while the emergency continues;
- (8) The shouting and crying of peddlers, barkers, hawkers, and vendors which disturbs the quiet and peace of the neighborhood; or anyone shouting within the corporate limits so as to disturb the peace and quiet of the neighborhood;
- (9) The use or operation of mechanical yard equipment including but not limited to chain saws, chippers, edgers, tillers, lawn mowers, weed eaters, leaf blowers, or hedge trimmers except between the hours of 7:00 a.m. and 7:00 p.m. (9:00 p.m. during Daylight Savings time);
- (10) The use or operation of any radio, loudspeaker, or any other instrument, or sound amplifying devices unreasonably loud and excessive as to disturb persons in the vicinity thereof, or in such a manner as renders the same a public nuisance;
 - a. Playing or permitting to be played any device described in subsection 10 above so loudly as to be plainly audible at a distance of fifty (50) feet between the hours of 11:00 p.m. and 7:00 a.m. from the building, structure, outdoor area or vehicle in which the device is located shall be prima facie evidence of a violation of this section.

- b. Playing or permitting to be played any device described in subsection 10 above so loudly as to be plainly audible at a distance of one hundred (100) feet between the hours of 7:00 a.m. and 11:00 p.m. from the building, structure, outdoor area or vehicle in which the device is located shall be prima facie evidence of a violation of this section.

(B) Factors. In determining whether a violation of this section has occurred, the following characteristics and conditions may be considered: (i) the volume and intensity; (ii) the duration; (iii) the time of the day or night; (iv) the general characteristics of the area where the noise occurs; and (v) the nature of the noise, whether usual or unusual and produced naturally or unnaturally.

(C) Exemptions. The provisions set forth in this ordinance shall not apply to sound generated which is a part of (i) a permitted event, (ii) emergency, military or law enforcement operations; or (iii) reasonable recreational, cultural or leisure activities conducted on public property such as athletic events or town-sponsored special events.

§ 130.99 PENALTY.

(F) In addition to the other penalties specified in § 10.99, violations of § 130.05 shall subject the offender to the following civil penalties:

First citation	\$50
Second citation for same offense within any 12 month period	\$250
Third and subsequent citations for same offense within any 12 month period	\$500

If the offender fails to pay the civil penalty within 10 days after receipt of the citation, the civil penalty may be recovered by the Town in a civil action in the nature of a debt. Each occurrence of a noise violation that continues after or occurs separately and anew after issuance of a citation shall be considered a separate offense for purposes of the above civil penalties regardless of whether on the same day or on subsequent days. The other penalties in § 10.99 reference above include enforcement by injunctions and the right to summarily abate.