

TOWN OF BENSON, NORTH CAROLINA NOISE CONTROL ORDINANCE

Town of Benson Code of Ordinances Chapter 96

Revised – May 11, 2021

§ 96.01 PURPOSE AND GENERAL PROHIBITION OF LOUD, DISTURBING NOISES

(A) It is recognized that excessive, unnecessary, and unreasonably loud or disturbing noise can endanger the physical and emotional health and welfare of the people, can interfere with legitimate business and recreational activity, can depress property values, can offend the senses, can create a public nuisance, and can in other respects reduce the quality of life. It is the purpose of this chapter to prevent, prohibit, and provide for the regulation and abatement of excessive, unnecessary, and unreasonably loud or disturbing noise which may injure the physical and emotional health and welfare of the citizens and visitors, or otherwise diminish the quality of life, of the Town of Benson.

(B) It shall be unlawful for any person(s), commercial business, firm, or corporation to create or assist in creating, permitting, or continuing of any excessive, unnecessary, and unreasonably loud or disturbing noise in the Town of Benson.

§ 96.02 PROHIBITED ACTS ENUMERATED

The following acts, among others, are declared to be excessive, unnecessary, unreasonably loud, or disturbing noise in violation of this chapter, but shall not be deemed to be an exclusive enumeration, namely:

(A) *Horns or signal devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any signal device of any unreasonably loud or harsh sound, the sounding of the device for any unnecessary and unreasonably period of time.

(B) *Sirens or gongs.* The use of any siren or siren-like device upon any vehicle other than police, fire, or other authorized emergency vehicles.

(C) *Animals and fowl.* The keeping of any animal or bird which, by causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity of the noise.

(D) *Vehicles.* The use of any automobile, motorcycle, or other vehicle or conveyance so out of repair, overloaded, or utilizing equipment or accessories that as a result creates a loud or unnecessary grating, grinding, rattling, or any other noise deemed as excessive, unnecessary, unreasonably loud or disturbing. This also includes the use of any automobile, motorcycle or other vehicle or conveyance operated in such a manner as to cause squealing or screeching of tires or causing tires to propel rock or gravel, as well as the open discharge of exhaust from any vehicle and/or engine.

(E) *Construction Noise.* The construction, alteration, repair, excavation, and/or demolition of any building or structure within a residential or business district other than between the hours of 7:00 am and 9:00 pm on weekdays (Monday-Friday) and 8:00 am and 9:00 pm on weekends (Saturday-Sunday). Exceptions to this section are provided in the case of urgent necessity in the interest of public safety or by issuance of a permit by the planning director.

(F) *Adjacent to schools and other institutions.* The creation, production, or emission of any noise deemed to be excessive, unnecessary, unreasonably loud or disturbing emanating from any person, residence, business, or device including but not limited to vehicles, conveyances, or equipment adjacent to or in the vicinity of any school, institution of learning, or medical facility while the same are in session or open for activity, provided conspicuous signs are displayed visible from the street(s) adjacent to such school, institution of learning, or medical facilities identifying them as such.

(G) *Adjacent to churches and places of assembly.* The creation, production, or emission of any noise deemed to be excessive, unnecessary, unreasonably loud, or disturbing emanating from any person, residence, business, or device including but not limited to vehicles, conveyances, or equipment adjacent to or in the vicinity of churches or any place of assembly while worship, civic, or other assemblages are ongoing therein, provided conspicuous signs are displayed adjacent to the streets on the property containing a church or place of assembly designating them as such.

(H) *Loudspeakers and sound trucks.* The use of any mechanical loudspeakers, amplifiers, or similar equipment on trucks, or other moving vehicles or conveyances for advertising or other purposes unless previously approved by license/permit received from the Town Manager.

(I) *Loud sounds and noise.* Any noise deemed to be in violation of Sections § 96.03 or § 96.04 of this Chapter utilizing approved time periods and/or decibel measurements and/or the standards applied regarding what a reasonable person would believe and/or plainly audible noise at a distance of 50 feet or less from complaining party.

§ 96.03 OUTDOOR AMPLIFICATION, MUSIC AND NOISE AT COMMERCIAL, BUSINESS, AND NON-RESIDENTIAL ESTABLISHMENTS

(A) It shall be unlawful for any commercial, business, or non-residential establishment, or the employees, invitees, owners, and/or patrons of any such establishment that is adjacent to, or in the vicinity of, residential properties, to emit any unreasonably loud noise from the premises of such an establishment, including any outdoor area which is part of or under the control of the establishment, which is plainly audible at a distance of 50 feet or less from any residential property, between the hours of 9:00 o'clock pm and 6:00 o'clock a.m. Sunday through Thursday and 11:00 o'clock pm and 7:00 o'clock am on Friday and Saturday.

(B) It shall be unlawful for any commercial, business, or non-residential establishment to operate or to allow the operation of any sound amplification equipment, music, or any other sound producing equipment whether indoors, directed out of doors, or which is in any event audible without the structure from which such sound emanates from, other

than during the times listed below and at or below the maximum decibel (db(A)) level allowed:

- 1) 80 db(A) Sunday through Thursday between 7:00 o'clock am and 9:00 o'clock pm.
- 2) 60 db(A) Sunday through Thursday between 9:00 o'clock pm and 2:00 o'clock am the following day.
- 3) 80 db(A) Friday and Saturday between 8:00 am and 11:00 pm.
- 4) 60 db(A) Friday and Saturday between 11:00 pm and 2:00 am the following day.

A commercial, business, or non-residential establishment may be cited for violating this section if the authorized enforcing official determines that the sound being produced is unreasonably loud and disturbing to the quiet enjoyment and use of nearby surrounding property using a standard of what a reasonable person would believe, or the standard applied to plainly audible noise, or the measurement of decibel level above what is listed as acceptable, in addition to taking into consideration the day of week and time of day.

(C) The decibel limits (db(A)) prescribed in this Chapter shall be measured utilizing the A-weighting scale on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute. The measurement of noise by a sound level meter does not supersede the standards applied to what a reasonable person would believe or what is considered plainly audible noise in regards to noise disturbing to a residentially occupied property but shall be considered and utilized as additional evidence to show a violation has occurred.

(D) For measurement of decibel limits prescribed in this Chapter, measurements shall be taken at or beyond the property line of the commercial, business, or non-residential property at which the sound is being generated (complainee). For purposes of measurement, the back of the curb, the outside edges of driveways, fences, hedges, or other physical features commonly associated with property boundaries are presumed to be at a point which is at or beyond the property line.

§ 96.04 UNREASONABLE SOUND AMPLIFICATION AND UNREASONABLY LOUD NOISE FROM/AT/NEAR RESIDENTIAL PROPERTIES

(E) It shall be unlawful for any residential properties, the occupants and visitors of any residential property, or any other person that is adjacent to, or in the vicinity of, residential properties to emit any unreasonably loud noise from the premises of a residence, including any area considered to be the curtilage of any residence, or if adjacent or in the vicinity of a residential property, which is plainly audible at a distance of 50 feet or less from any residential property between the hours of 8:00 pm and 7:00 am Sunday through Thursday and 9:00 pm and 7:00 am on Friday and Saturday.

(F) It shall be unlawful for any residential property, the occupants and visitors of any residential property, or any other pedestrian to operate or to allow the operation of any sound amplification equipment, music or any other sound producing equipment indoors, out of doors, directed out of doors, or adjacent to or in the vicinity of a residential property other than during the times listed below and at or below the

maximum decibel (db(A)) level allowed:

- 5) 60 db(A) Sunday through Thursday between 7:00 am and 8:00 pm.
- 6) 50 db(A) Sunday through Thursday between 8:00 pm and 7:00 am the following day.
- 7) 60 db(A) Friday and Saturday between 7:00 am and 9:00 pm.
- 8) 50 db(A) Friday and Saturday between 9:00 pm and 7:00 am the following day.

A resident, guest, visitor of a residence, or other pedestrian adjacent to or in the vicinity of an occupied residential property or a commercial or otherwise business establishment may be cited for violating this section if the authorized enforcing official determines that the sound being produced is unreasonably loud and disturbing to the quiet enjoyment and use of an adjacent or in the vicinity of a commercial, business, or residentially occupied property, using a standard of what a reasonable person would believe, or the standard applied to plainly audible noise, or the measurement of decibel level above what is listed as acceptable, in addition to taking into consideration the day of week and time of day.

(G) The decibel limits (db(A)) prescribed in this section shall be measured utilizing the A-weighting scale on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute. The measurement of noise by a sound level meter does not supersede the standards applied to what a reasonable person would believe or what is considered plainly audible noise in regards to noise disturbing to a residentially occupied property but shall be considered and utilized as additional evidence to show a violation has occurred.

(H) For measurement of decibel limits prescribed in this section, measurements shall be taken at or beyond the property line of the residential property of the party that initiated the complaint (complainant). For purposes of measurement, the back of the curb, the outside edges of driveways, fences, hedges, or other physical features commonly associated with property boundaries are presumed to be at a point which is at or beyond the property line.

§96.05 EXCEPTIONS

The following producers of sound and/or noise are considered as exceptions and not in violation of the guidelines set forth in Sections 96.01, 96.02, 96.03 and 96.04. The following exceptions should not be considered as an exclusive enumeration:

- (1) Police, Fire, Public safety personnel, and/or other entities deemed as first responders when responding to an emergency call or engaged in other official business.
- (2) Persons engaged in a lawful procession, assemblies, and/or parade or community events previously approved by the Town. Lawful processions and assemblies are only considered as exceptions if they do not violate any other established Town ordinance or General Statutes.
- (3) The operator of a public utility vehicle, when utilizing two-way communication equipment.
- (4) The activation of a theft or fire alarm signal device provided the activation of said device is not in violation of any other established ordinance or in violation of any General Statutes.
- (5) Sound emanating from scheduled and approved outdoor athletic events.
- (6) Construction operations from 7:00 am to 9:00 pm Monday to Friday and 8:00 am to 9:00pm Saturday and Sunday for which building permits have been issued or construction operations not requiring permits; provided all equipment is operated in accordance with the manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.
- (7) Noise of safety signals, warning devices, emergency pressure relief valves, and all churchbells provided such sounds do not exceed an unreasonable period of time.
- (8) Unamplified and amplified sound at street fairs or other similar events conducted, sponsored or approved by the Town.
- (9) Unamplified and amplified sound at community concerts or other similar events, conducted, sponsored, or approved by the Town.
- (10) All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft, drones, or similar devices).
- (11) Lawn mowers, lawn care equipment, and agricultural equipment used between 7:00 am and 9:00 pm when operated with all of the manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition.

(12) Any activities or producers of sound or noise that are authorized or approved through any other established Town ordinances.

96.99 AUTHORIZATION AND PENALTIES

- (A) Authorization to record, log, investigate, and enforce violations of Sections 96.01, 96.02, 96.0, and 96.04 is given to the Town Building Inspector Director and sworn officers with the Police Department, or other persons designated by the Town Manager, which individuals shall be known as “authorized officials” for the purposes of this Chapter. Only sworn law enforcement officers may write criminal citations to any offender.
- (B) Any person, owner/operator of a vehicle, conveyance, or device, commercial establishment or owner/operator of any commercial establishment in violation of any section in this chapter for which no specific penalty is prescribed shall be subject to section 10.99.
- (C) Violations of sections 96.01, 96.02, 96.03, and 96.04 shall constitute either a misdemeanor as provided in § 10.99 and General Statute § 14-4 or, at the election of the Town, shall subject the offender to a civil penalty upon the issuance of a citation for the violation as hereinafter provided.
- (D) Specific to commercial and business establishments, the owners and/or operators of the establishment and/or establishment management and/or employees, shall be responsible and liable civilly for any violations of this chapter by patrons or guests of the establishment.
- (E) *Civil Penalty Enforcement Procedure.* In the event the authorized official proceeds in the nature of a civil penalty enforcement, the procedure shall be as follows:
1. First violation: \$100.00 civil penalty;
 2. Second violation: \$250.00 civil penalty;
 3. Third and subsequent violations: \$500.00 civil penalty;
- Provided, however, that such increases for subsequent violations shall only apply to violations which occur within a period of six (6) months of the first violation by any person or entity. Nothing herein contained shall preclude the Town from issuing a criminal citation to enforce the terms of this Chapter in addition to the civil penalty enforcement procedure set forth herein.