

**HYDE COUNTY
NOISE ORDINANCE**

CHAPTER 16

ARTICLE II (NOISE)

Sec. 16.19 PURPOSE OF NOISE REGULATIONS.

1. (A) It is recognized that excessive and unnecessary noise endangers the physical and emotional health and welfare of the people, interferes with legitimate business and recreational activity, increases construction costs, depresses property values, offends the senses, creates public nuisances and in other respects reduces the quality of life.

(B) It is further recognized that a substantial body of science and technology exists by which excessive sound may be measured and substantially abated. Because the regulation of excessive and unnecessary noise that may jeopardize human health or welfare or substantially degrade the quality of life is well within the purview of the Hyde County Sheriff, or his designee, it is declared to be the purpose of this subchapter to prevent, prohibit and provide for the regulation and abatement of excessive and unnecessary noise which may injure the physical and emotional health or welfare of its citizens or degrade the quality of life.
(Ord. 10:____, passed ____-____-2011)

Sec. 16.20 DEFINITIONS.

(A) For the purpose of § 16.19 through 16.25 (which sections are referred to herein as “this subchapter”), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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).

DAYTIME. As used in this subchapter DAYTIME shall mean the time period between the hours of 7:00 a.m. and 7:00 p.m.

DECIBEL (dB). A 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.

EMERGENCY WORK. Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

EVENT. A gathering of people for the purpose of recreation, entertainment, worship, fundraising, or cultural activity outdoors on a zoning lot, or other property, where amplified sound is emitted from the property.

NIGHTTIME. As used in this subchapter NIGHTTIME shall mean the time period between the hours of 10:00 p.m. and the following 7:00 a.m.

NOISE. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

OUTDOOR AMPLIFIED SOUND. Any sound using amplifying equipment whose sound is generated outside, or whose sound is inside and the sound propagates to the outside through open doors or windows or other openings in the building.

SOUND AMPLIFYING EQUIPMENT. Any device for the amplification of the human voice, music, or any other sound, including televisions, electronic loud speakers, jukeboxes, stereos, compact disc players and radios.

SOUND LEVEL METER. An instrument which includes a microphone, amplifier, IRS detector, integrator or time averages, output meter and weighting network used to measure sound pressure levels.

UNNECESSARY NOISE. Any excessive or unusually loud sound which disturbs the peace and quiet of any neighborhood or which does annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of any reasonable person of ordinary sensibilities or causes damage to property.

(B) All terminology not defined in this section but used in this subchapter shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

Sec. 16.21 SOUND LEVEL, ALLOWANCES.

(A) *General Standards.* Except as set forth herein, it shall be unlawful for any person to cause or allow the emission of sound from any source or sources which, when measured pursuant to the procedure outlined by this subchapter, exceed the maximum decibel limit of 55 dB(A) when said sound is non-amplified at anytime unless otherwise permitted as specified herein.

(1) Any business may have amplified or non-amplified sound up to 80 dB(A) if said sound is totally confined within the building.

(2) On Saturday nights it shall be lawful for any person to create sound, either non-amplified or amplified inside or outside at a level not to exceed 65 dB(A) starting at 7:00 p.m. and ending at 10:00 p.m.

(B) Amplified Sound Permit Standards.

(1) The amplified sounds authorized by the amplified sound permit under § 16.25 shall not exceed 70 dB(A).

(2) All outdoor amplified sound permits unless specified otherwise herein shall expire at 10:00 p.m. each night with the following exception. Any non-profit or not-for-profit organization sponsoring a cultural event open to the general public on a fee or nonfee basis may be issued up to three (3) outdoor amplified sound permits per calendar year that expire at 12:00 a.m. This shall also apply to all business and homeowners who shall also be eligible for three (3) such permits per calendar year that expire at 12:00 a.m.

Sec. 16.22 NOISE MEASUREMENT STANDARDS AND DETERMINATIONS.

(A) Sound level measurements shall be made with a sound level meter using the Aweighting scale set on low response.

(B) Sound level meters shall be at least Type II meeting the American National Standard Institute (ANSI) S1.4-1971 requirements and shall be operated according to the manufacturer's standards. Person(s) using the sound level meters shall be trained in sound level measurement and the operation of sound level measurement equipment.

(C) The measurement shall be made on the public street right-of-way adjoining the property where the noise is being produced, using sound measuring equipment. The measurement shall not be made on the private property where the noise is being produced. At the discretion of the Hyde County Sheriff, or his designee, the sound measurement may be taken on the property of the person complaining about the noise.

(D) Sound measurements shall be conducted at the time when the suspect noise or sound is being emitted.

Sec. 16.23 NOISES PROHIBITED.

(A) *General Prohibitions.* In addition to the unlawful acts set forth in § 16.21 it shall be a public nuisance and therefore unlawful to create, cause or allow the continuance of any excessive or unusually loud noise which disturbs the peace and quiet of any neighborhood of which does annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of any reasonable person of ordinary sensibilities or causes damage to property particularly during the nighttime. The following are deemed to be examples of a violation of this section when the noise from such activity is of such character, intensity, and duration as to be a public nuisance, and any violation of this ordinance shall be a misdemeanor and shall be punished by a fine up to five hundred dollars (\$500.00) or imprisonment of thirty (30) days or both fine and imprisonment. Each day on which the violation of this Ordinance shall continue shall constitute a separate and distinct violation and offense.

(1) *Yelling, shouting, whistling, singing.* Yelling, shouting, whistling or singing on the public streets or private property particularly at nighttime.

(2) *Noisy parties.* Congregating or participating in any party or gathering of people particularly at nighttime.

(3) *Loading operations.* Loading, unloading, opening or otherwise handling boxes, crates, containers, or other similar objects during nighttime.

(4) *Repair of motor vehicles.* The repair, rebuilding or testing of any motor vehicle during nighttime.

(5) *Radio, phonograph, television, musical instruments.* The playing of any radio, phonograph, musical instrument, television or any similar device, particularly at nighttime.

(6) *Power equipment.* Operating or permitting the operation of any power saw, sander, drill, grinder, leaf blower, lawnmower or other garden equipment or tools of a similar nature outdoors during the nighttime.

(B) *Special Prohibitions.* The following acts are declared unlawful.

(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. The intentional sounding of any horn or signaling device on any boat located at a private or public dock or on a public water continuously or intermittently, except as a danger or emergency warning or as required by United States Coast Guard regulation.

(2) *Motor vehicles.* Operating or permitting the operation of any motor vehicle or motorcycle not equipped with a muffler or other device in good working order so as to effectively prevent loud or explosive noises therefrom.

(3) *Explosives.* The use or firing of explosives, fireworks or similar devices unless pursuant to a lawfully issued permit.

(4) *Outdoor Amplified Sound.* Outdoor amplified sound exceeding the standards set forth in § 16.21.

(5) *Garbage Disposal at Night.*

(a) Any of the following acts during the nighttime:

(1) The dumping or emptying of garbage containers into garbage trucks;

(2) The operating of exterior mechanical trash compactors; or

(3) The placing or removing of garbage containers with motor vehicles.

(b) Excepted from the prohibitions in this division (B)(5) are garbage removal activities during events or festivals that have been specifically approved by the Board of Commissioners.

(6) *Loading and Unloading Activities at Night.*

(a) Any of the following acts from 11:00 p.m. until 7:00 a.m.:

- (1) Loading or unloading of a vehicle with more than 6 wheels;
- (2) The parking of a motor vehicle with more than 6 wheels with its engine running;
- (3) The parking of a vehicle with more than 6 wheels with a refrigerated cargo compartment while the refrigeration unit is operating;
- (4) The loading or unloading of cargo from a motor vehicle with the use of mechanical or hydraulic lifts; or
- (5) The outdoor dumping of bottles or cans from one container into another.

(b) Excepted from the prohibitions in this division (B)(6) are activities during events or festivals that have been specifically approved by the Board of Commissioners and agricultural and trash removing activities.

(C) *Incidental Factors.* In determining whether a noise is a public nuisance, the following factors incident to such noise are to be considered.

- (1) The time of day;
- (2) Whether the noise is recurrent, intermittent or constant;
- (3) The volume and intensity;
- (4) Whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; and
- (5) Whether the noise is related to the normal operation of a business or other labor activity.

(D) *Enforcement.* The Sheriff of Hyde County or designee shall have the authority to order those person(s) determined to be in violation of this subchapter to cease producing the sound in excess of that authorized. Such order shall not affect other enforcement methods available to the County for violation of this subchapter.

Sec. 16.24 EXCEPTIONS.

The following are exempt from the provisions of this subchapter;

- (A) Any bell or chime from any building clock, school or church;
- (B) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation, provided that burglar alarms not terminating within 30 minutes after the owner or tenant of the property has been notified shall be unlawful;
- (C) Noise created as a result of or relating to an emergency;
- (D) Warning devices required by OSHA or any local, County, state or federal safety regulations;
- (E) Noise created by any aircraft flight operations which are specifically preempted by the Federal Aviation Administration;
- (F) Noises resulting from the provision of municipal sanitation services;
- (G) Commercial construction operations from the daylight hours between 7:30 a.m. and 7:00 p.m. for which building permits have been issued or for which permits are not required due to ownership of the project by an agency of government, providing all equipment is operated in accordance with the manufacturer's specifications and with all the manufacturer's standard mufflers and noise-reducing equipment in use and operating properly;
- (H) All noises coming from motor vehicles properly equipped with the manufacturer's standard mufflers and noise-reducing equipment;
- (I) Noise from lawful fireworks on legal holidays from dawn until the following midnight;
- (J) Commercial lawnmowers and agricultural equipment used when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and operating properly;
- (K) Sound amplification equipment used in conjunction with a telecommunications system on business properties to notify employees of that business of incoming phone calls; providing that this system be used only between the hours of 7:00 a.m. and 10:00 p.m. and that any speakers attached to the system be oriented toward the interior of the property;
- (L) Sound emanating from regularly scheduled, outdoor athletic events held by schools or local government recreation departments;
- (M) Yard maintenance and construction activities by the occupations of private residences between 7:00 a.m. and 7:00 p.m.;

(N) Noises resulting from the provision of government services;

(O) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster; to restore public utilities; or to protect persons or property from an imminent danger;

(P) Sounds emitted by manufacturing operating of less than 75 dB(A) at the property line; and

(Q) Notwithstanding any provision to the contrary in this subchapter, noise pursuant to a permit issued under § 16.25 and within the decibel limit of 80 d(B)A shall not be a violation of this chapter.

(R) The sound of a person's voice at an event transmitted over a public address system prior to 8:30 p.m.; provided, however, that the noise from such public address system shall not exceed the dB(A) limits provided in division (A) of this section, and this exemption is only available during two (2) days during a calendar year.

Sec. 16.25 AMPLIFIED SOUND PERMIT.

(A) Permit Required.

(1) It shall be unlawful for any person to sponsor, promote, supervise, participate in or produce outdoor amplified sound in the County exceeding the dB(A) levels established in § 16.21 (A) for allowable dB(A) without amplified sound permit without having first secured an amplified sound permit under this section.

(2) Permits issued under this section shall allow sound limits within the standards of 65 d(B)A.

(3) A minimum of 14 days before an event where outdoor amplified sound is to be used, the person, business or nonprofit organization sponsoring or promoting the event shall apply to the County for a permit authorizing the outdoor amplified sound. The 14 day period may be waived by the County for applications filed under the expedited process provided in division (A)(4) of this section. The application for the permit shall state the following:

(a) Name of the sponsoring person or organization;

(b) The proposed date or dates and time for the event utilizing outdoor amplified sound;

(c) The proposed location of the outdoor amplified sound;

(d) The estimated number of people who will attend the event;

(e) The type of outdoor amplified sound to be offered;

(f) The location, type and numbers of musical instruments to be involved in the outdoor amplified sound;

(g) The location and orientation of all devices to transmit amplified outdoor sound, including but not limited to loud speakers or any other non-amplified instrument or device, including but not limited to drums and other percussion devices, whether amplified or not, for the purpose of creating noise at an performance, show, sale or display of merchandise involving outdoor amplified sound; and

(h) The direction that the outdoor amplified sound will project.

(4) Failure to apply a minimum of 14 days prior to the date of the first proposed use of amplified outdoor sound at an event shall be grounds for denial of the application. Applicants who fail to meet the 14 day minimum may be granted a permit through a special expedited process upon payment of an additional fee to offset the County's staff costs of processing an expedited application.

(5) Annual outdoor amplified sound permit. A business owner or operator may apply for an annual outdoor amplified sound permit if the business provides events with amplified outdoor sound in a consistent manner. The application shall include the information listed in division (A)(3) of this section.

(6) The applicant shall pay a fee of fifty dollars and no/100 (\$50.00) fee for the investigation and processing of each permit and activities hereunder for each application.

(B) Issuance and expiration

(1) The applicant shall be the individual property owner, tenant or appointed agent responsible for the event. The applicant must designate on the application form a natural person who will be responsible for the permit holder's compliance with the terms of this subchapter. This person shall be known in this subchapter as the "monitor" and shall be an agent of the permit holder if he himself or she herself is not the permit holder.

(2) The application for an outdoor amplified sound permit shall be investigated by the Building Inspector and the Sheriff of Hyde County. The County Manager shall issue a permit allowing outdoor amplified sound to the applicant if the Building Inspector and Sheriff of Hyde County find as a fact that the proposed outdoor entertainment meets the following standards:

(a) The location and use of electrical equipment in connection with the outdoor entertainment meets the state's Electrical Code.

(b) Sound speakers will be elevated not more than 10 feet off the ground.

(c) Sound speakers and amplified equipment will be arranged so as to minimize the disturbance to residences resulting from the orientation of amplifying equipment.

(d) The proposed site for the outdoor amplified sound is adequate for the number of people estimated to be in attendance and that adequate safety precautions have been provided for by the person sponsoring or promoting the entertainment.

(e) The proposed outdoor amplified sound will not interfere with the operations and functions of any hospital, rest home, family care home, group care facilities, private or public schools or day care centers.

(3) Any permit issued pursuant to this section shall be valid only for the dates and time indicated in the permit.

(4) A fifty dollars and no/100 (\$50.00) fee per day will be charged for all permits and is due and payable on the date of the issuance of the permit, to be made payable to the County of Hyde.

(C) Conditions.

(1) If the estimated number of people attending the event where an outdoor amplified sound permit is required exceeds 99, the permit holders are required to pay the County a fee calculated by the County Manager to be the cost to the County, including overtime pay, of assigning a Deputy Sheriff full-time to monitor the event.

(2) Permit holders shall agree to cooperate with the Sheriff's Department in enforcing this subchapter by having the monitor available at the site during the entire time for which the permit has been issued and capable of assisting the Sheriff is enforcing this subchapter. Failure of such monitor to be present or to assist the Sheriff in complying with the terms of the permit will be cause for immediate revocation of said permit.

(D) Revocation.

(1) The County Manager shall have the authority to revoke any permit for outdoor amplified sound if he or she finds that the information stated in the application is incorrect, either when originally filed or at the time of the review by the County Manager, or that the terms and conditions of this subchapter are not being complied with by the permit holder.

(2) Upon revocation of the permit, the permit holder shall not thereafter sponsor,

promote, supervise, participate in or engage in any outdoor entertainment in the County without having secured another permit from the County.

(3) The Sheriff of Hyde County or his or her designee shall have the authority to revoke any permit for outdoor entertainment if he or she finds that the noise created during an event exceeds allowable decibel levels or if he or she finds that the noise or a combination of noise and behaviors of participants constitutes a public nuisance, or if he or she notifies the monitor of a violation of this subchapter or the conditions of the permit and the violation is not immediately abated and remains abated for the duration of the event.

Statutory reference:

Authority to regulate mass gatherings, see G.S. § 130A-258

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