

City of Saluda, NC

Noise Ordinance

*State law reference--Authority to regulate Noise, G.S. § 160A-184.

Sec. 1.0. Statement of purpose and intent; unreasonably loud, disturbing sounds prohibited, generally.

The provisions hereinafter contained are enacted for the purpose of preventing Noise disturbances or unreasonably loud sound and are enacted pursuant to the authority granted in G.S. § 160A-184. Above certain levels or durations and during specific times of day, unreasonably loud sound or sound disturbance is detrimental to health, safety and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. It is the policy of the city to prohibit sound disturbances or unreasonably loud sound from all sources, subject to its police power, in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of Saluda. Nothing in this Ordinance is intended to deter individuals from lawfully exercising the individual right of freedom of speech and commerce, or any other freedom guaranteed under the Constitutions of the United States of America or of the State of North Carolina, and nothing in this Ordinance is intended to unreasonably limit or restrain commercial or industrial enterprise.

Subject to the provisions of the current Zoning Ordinance, Special Event Ordinance and this Ordinance, it shall be unlawful for any person to create or assist in creating any unreasonably loud or disturbing sound in the city which does frighten, annoy, disturb, injure, or endanger the comfort, repose, health, peace or safety of citizens within the City of Saluda or causes damage to property or business within the City of Saluda. Such sounds do not include the ordinary and usual sounds, sounds, commotion or vibration incidental to residential living or operation of business or commercial establishments when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences, or which will not detrimentally affect the operators of adjacent places of business.

Sec. 2.0. Definitions.

For the purpose of this ordinance, the following words and phrases are defined below unless it shall be apparent from the context that a different meaning is intended:

Construction shall mean on-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility, or addition thereto, including all related activities including, but not restricted to, clearing of land, earth moving, blasting, landscaping, mixing or pouring concrete, and the operation of vehicles or equipment in connection with such activities.

District, Commercial shall mean any area within the following zoning designations: CH - Commercial Historic, C1 - Downtown Restricted Commercial, C2 – Restricted Commercial, C3 – Multiple Use Commercial, and GSN - Greenville Street Neighborhood District and OMU – Ozone Mixed Use.

District, Residential, shall mean any area within the following zoning designations: R1 - Single Family Residential, R2 – Multi-Family Residential, R3 – Multi Family and Clustered Single Family Residential.

District, Abutting, shall mean those areas where districts herein designated as commercial and those herein designated as residential abut one another notwithstanding the presence of a street, roadway, alley or right of way separating the districts.

Emergency work shall mean any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

Motor vehicle or vehicle shall mean any vehicle propelled on land by a motor, including, but not limited to, passenger cars, trucks, truck trailers, semi-trailers, campers, go-carts, automobiles, motorcycles, or buses. It shall exclude trains and emergency response vehicles such as police, fire, and rescue vehicles.

Noise control officer shall mean any police officer or other person so designated by the city manager.

Person shall mean any individual, association, partnership, or corporation, including any officer, employee, department, agency or instrumentality of the United States, the state or any political subdivision thereof.

Unreasonably loud or disturbing sound shall mean sound which is substantially incompatible with the time and location where created or heard to the extent that it brings about an actual or imminent interference with peace, rest, or good order.

Sec. 2.1 Technical Terms.

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).

Amplified sound: Speech, music or other sound projected or transmitted by sound amplifying equipment including, but not limited to, amplifiers, loudspeakers, microphones, bull horns or similar devices or combinations of devices which are intended to increase the volume, range, distance or intensity of speech, music or other sound and are powered by electricity or other sources of energy. Amplified Music and Other Entertainment Sound, as used in this Ordinance, is a subset of Amplified sound and is to be included within this definition.

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.

Sound: An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression, and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound level meter: An instrument which includes a microphone, amplifier, RSM detector, integrator or time average, output meter and weighting network used to measure sound pressure levels.

Sound level: The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute Specifications for sound level meters (ANSI S1.41971 or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sec. 3.0. Sound measurement.

For the purpose of determining dB(A)s as referred to in this Ordinance, sound levels shall be measured on the A-weighting scale on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute (ANSI) or its successor body. The sound measurement shall be averaged over a period of one minute for purposes of determining the sound level (the "measurement period"). It shall be a violation of this Ordinance for: 1) the averaged sound measurement to exceed the prescribed dB(A), or 2) any sound or sound to exceed the prescribed dB(A) level by ten or more decibels at any time during the measurement period.

Sec. 4.0. Exceptions from Ordinance.

The following acts and activities are exempt from the provisions of this Ordinance unless such acts produce a risk of serious and unnecessary bodily harm:

Aircraft. All sounds coming from the normal operations of properly equipped aircraft, but not including scale model aircraft.

Emergency Sirens and Emergency Response Vehicles. Sound resulting from any authorized emergency response vehicle or emergency siren.

Emergency Work. Emergency work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

Generators. Sound created by generators during power outages.

Government Services. Sounds resulting from the provision of government services.

Railroads. Sound from trains and associated railroad rolling stock when kept in proper repair and operated in a proper manner.

Sound, Ceremonial Services and Observances. Sound emanating from ceremonial services and observances including but not limited to bells, chimes, musical instruments and gun salutes.

Sec. 5.0. Prohibited Sounds and Noises.

The following are hereby declared to be unreasonably loud and disturbing sound in violation of this Ordinance:

Compressed air devices, Un-muffled. The use of any mechanical device operated by compressed air unless the sounds created are effectively muffled and reduced.

Exhaust discharge, Un-muffled. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device which effectively prevents unreasonably loud and disturbing or explosive sounds therefrom.

Gongs, bells, and sirens. The use of any gong, bell, or siren upon any non-emergency motor vehicle.

Horns or signal devices. The sounding of any horn or signal device for an unnecessary and unreasonable period of time.

Motor Vehicles. Engaging in motor vehicle operations which create unreasonably loud or disturbing sounds substantially incompatible with the time and location where created or heard to the extent that it brings about an actual or imminent interference with peace, rest, or good order.

Motor Vehicle Sound Systems. Playing any sound-system from a motor vehicle that is plainly audible 30 feet from the vehicle.

Peddlers. The shouting and crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of a residential neighborhood.

Pyrotechnics and Noisemakers, Unpermitted. The firing, discharge or ignition of squibs, firecrackers, gunpowder or other pyrotechnics and noisemakers without a valid permit or in violation of permit conditions and requirements.

Raucous parties. Any party or assembly of persons in dwelling units or on residential premises producing loud and raucous sound that tends to disturb the comfort, quiet, or repose of persons in other dwelling units or on other residential premises. The person in possession of the premises where such a party or assembly of persons takes place shall be deemed responsible for the emission of loud and raucous sounds under this subsection.

Steam whistles. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.

Sec. 6.0. Sound and Noises with Restrictions.

Sound and noises from the following sources are only permitted with the following restrictions:

Athletic Events. Sounds emanating from outdoor athletic events scheduled by the city, educational, religious or other institutions, and organized sports leagues are permitted between the hours of 9:00 a.m. and 9:00 p.m.

Construction Work. Sounds created by performing construction work or operating construction machinery are permitted Monday through Saturday between the hours of 7:00 a.m. and 7:00 p.m.

Garages. Sounds created by the ordinary business activities of garages or service stations are permitted between the hours of 7:00 a.m. and 7:00 p.m.

Generators, Mobile Food Vendors. Sounds not to exceed of 65 dB(A) created by generators servicing mobile food vendors are permitted from 9:00 a.m. to 9:00 p.m.

Lawn Mowers, Pressure Washers, Chain Saws, Landscaping and Agricultural Equipment, Weekday. Sounds created by lawn mowers, pressure washers, chain saws, landscaping equipment, and agricultural equipment when operated with all the manufacturer's standard mufflers and sound reducing equipment in

use and in proper operating condition are permitted Monday through Friday between the hours of 7:00 a.m. and 9:00 p.m.

Lawn Mowers, Pressure Washers, Chain Saws, Landscaping and Agricultural Equipment, Weekend. Sounds created by lawn mowers, pressure washers, chain saws, landscaping equipment, and agricultural equipment when operated with all the manufacturer's standard mufflers and sound reducing equipment in use and in proper operating condition are permitted Saturdays and Sundays between the hours of 9:00 a.m. and 9:00 p.m.

Marching Bands. Sounds created by practice sessions or performances by marching bands are permitted between the hours of 9:00 a.m. to 9:00 p.m.

Refuse Collection. Sounds created from refuse collection operations are permitted Monday through Saturday between the hours of 6:00 a.m. and 9:00 p.m.

Other Sounds, Commercial District. Sounds of up to 82 dB(A) are permitted during the following days and times: Monday through Thursday from 9:00 a.m. to 9:00 p.m., Friday through Saturday from 9:00 a.m. to 10:00 p.m. and Sunday from 12:00 p.m. to 5:00 p.m. Sound level shall be measured 30 feet from the source or at property line, whichever is closer; however, if sound is emanating from within a fully enclosed structure, sound level shall be measured 30 feet from the exterior walls of the structure or at the property line, whichever is closer.

Other Sounds, Commercial District Abutting Residential District. For Commercial District properties abutting Residential District properties, sounds of up to 82 dB(A) as measured 30 feet from the source, or up to 70 dB(A) as measured at the property line of the abutting Residential District property are permitted Monday through Thursday from 9 a.m. to 9:00 p.m., Friday through Saturday from 9 a.m. to 10 p.m. and Sunday from 12 p.m. to 5 p.m.

Other Sounds, Residential District. Sounds of up to 70 dB(A) are permitted during the following days and times: Monday through Sunday from 9:00 a.m. to 9:00 p.m. Sound level shall be measured 30 feet from the source or at property line, whichever is closer; however, if sound is emanating from within a fully enclosed structure, sound level shall be measured 30 feet from the exterior walls of the structure or at the property line, whichever is closer.

Sec. 7.0. Amplified Sound, Noises and Activities with Restrictions.

Because certain activities have greater potential to generate sounds whose effects may be incompatible with the time and location where created or heard, the city has determined to set forth reasonable requirements, limitations and conditions to mitigate such effects. The city may impose reasonable restrictions to the frequency of such activities, the time and duration of the activity and other such reasonable conditions designed to protect the quality of life of residents, promote the success of businesses and to ensure ample opportunity for citizens to exercise their First Amendment rights

Amplified Music and Other Entertainment Sound, Outdoors, Emanating from Commercial District. with the following restrictions: Sound levels shall only be allowed up to 82 dB(A) as measured 30 feet from the source, or at the property line, whichever is closest to the source , Friday through Saturday from 9 a.m. to 10 p.m. and Sunday from 12 p.m. to 5 p.m.

Amplified Music and Other Entertainment Sound, Outdoors, Emanating from Commercial District Abutting Residential District.: Sound levels shall only be allowed up to 82 dB(A) as measured 30 feet from the source, or up to 70 dB(A) as measured at the property line of any abutting Residential District property, ., Friday through Saturday from 9 a.m. to 10 p.m. and Sunday from 12 p.m. to 5 p.m.

Background Music and Sounds, Outdoors, Amplified. Sound levels shall only be allowed up to 55 dB(A) as measured 30 feet from the source or the property line, whichever is closer, Monday through Thursday from 9 a.m. to 9 p.m., Friday through Saturday from 9 a.m. to 10 p.m., and Sunday from 9 a.m. to 9 p.m.

Public Demonstrations. A Special Event Permit shall be required for marches, lawful picketing or other public demonstrations, provided such activity is of a temporary duration lasting no longer than two hours during any 24-hour period. Sound emanating from activities under permit shall be according to the conditions, limitations and requirements stated on the permit.

Public Parades, Outdoor Festivals and Concerts. Special Event Permits shall be required for public parades, outdoor festivals, and concerts. Sound emanating from the activities under permit shall be allowed sound levels up to 82 dB(A) as measured 30 feet from the source, or up to 70 dB(A) as measured at the property line of any abutting Residential District property, Monday through Thursday from 9 a.m. to 9:00 p.m., Friday through Saturday from 9 a.m. to 10 p.m. and Sunday from 12 p.m. to 5 p.m.

Pyrotechnics. A Pyrotechnics Permit issued pursuant to G.S. Ch. 14, art. 54 (G.S. 14-410 et seq.) shall be required for fireworks displays.

Sec. 8.0 Exception for Prescribed Amplified Sound Days

The city may allow outdoor amplified sound to occur outside of the days prescribed by this ordinance only through a Special Noise Permit or a Special Event Permit. The city may impose reasonable restrictions on the frequency of such activities, the time and duration of the activity and other such reasonable conditions designed to protect the quality of life of residents, promote the success of businesses and to ensure ample opportunity for citizens to exercise their First Amendment rights

- (a) Permit Requirements and Conditions. Permits are contingent upon the submission of an application and approval by the city of the location and site plan. Substantial departure from the plans submitted must be approved in advance by the city.
- (b) Applicants may obtain up to 15 permits per property and/or location in any given calendar year.
- (c) Permits shall be for one event per one day. Permits shall not be granted for contiguous days. Special Event Permits with outdoor amplified sound will count toward the calendar year total of Special Noise Permits.
- (d) No more than one permit may be granted in any 7-day period, a Special Noise Permit shall not be granted to an applicant who has hosted or provided outdoor amplified sound the three (3) past contiguous calendar days from the date of the requested permit.
- (e) Applicants will be responsible for compliance with the Noise Ordinance and shall ensure those creating the source of the sound are compliant with the Noise Ordinance.
- (f) Hours for all amplified sound under the requested Special Noise Permit shall be limited to , Mon- Thur 9:00 am-9:00 pm.
- (g) A Special Noise Permit issued by the Zoning Administrator shall be required to permit outdoor amplified sound on non-federal holiday dates.
- (h) A Special Event Permit approved by the Board of Commissioners shall be required to permit outdoor amplified sound on federal holidays

Sec. 9.0. Making False (Unsubstantiated) Noise Complaints.

Making false (unsubstantiated) noise complaints can waste valuable time and resources and can be a form of harassment. To ensure emergency responders put their energy and time into situations that genuinely need them and to dissuade the making of noise complaints as a form of harassment, the making of 3 or more unsubstantiated noise complaints within 30 calendar days shall constitute a violation of this ordinance and will subject the complainant(s) to fines.

Sec. 10.0. Responsible party.

- (a) Persons responsible for remedying any violation under this Ordinance or to be held liable for any civil or criminal penalties under section 8.1 shall be any person who creates or assists in creating the unreasonably loud, disturbing sound or other violation or who is responsible for making false noise complaints. A person shall be deemed to create or assist in creating the unreasonably loud, disturbing sound or other violation if that person owns, manages, or operates any residence, business, or location at which the sound is generated.
- (b) When the sound which violates this Ordinance is emanating from a motor vehicle, the violator is the operator of the motor vehicle, and/or the employer of the operator if the motor vehicle is being used for

commercial purposes, and/or the person which possesses or controls the motor vehicle used by the operator if the motor vehicle is being used for commercial purposes.

(c) When the sound which violates this Ordinance is emanating from construction activities, the violator is the individual doing the activity and/or their employer, the general contractor for the site, or the owner of the property.

Sec. 11.0. Enforcement and penalties.

(a) *Civil penalty and Forfeiture of Permit.* Violation of this Ordinance shall subject the offender(s) to a civil penalties. In the event there is more than one violation within any twelve month period, then the civil penalty shall be increased for each additional violation during such period, and will result in the forfeiture of any currently issued Special Event or Noise Permits.

First offense: \$100.00

Second offense within twelve months: \$250.00

Third offense within twelve months: \$500.00

Fourth offense within twelve months: \$750.00

Fifth and any subsequent offense within twelve months: \$1,000.00

(1) Once the 12 month period has run from the "first violation," the next violation shall be considered to be a first violation for the purposes of establishing a new 12 month period.

(2) Violators shall pay any issued penalty within 30 calendar days of the issue date and time. The city attorney, or designee, is authorized to file suit on behalf of the city to collect any unpaid citations, and the police chief, or designee, is authorized to verify and sign complaints on behalf of the city in such suits. A police officer, animal control officer enforcing subject matter jurisdiction, or other employee duly authorized to enforce the Noise Control Ordinances may issue a citation for violations of this Ordinance.

(3) Appeal of a civil penalty amount may be made to the Board of Adjustment within 30 calendar days from the date of issuance by filing an appeal stating with specificity the grounds for the appeal.

(b) *Remedies.* This Ordinance may also be enforced through equitable remedies issued by a court of competent jurisdiction.

(c) *Criminal penalty.* In addition to, or in lieu of, such civil penalties or other remedies, violation of this Ordinance shall constitute a misdemeanor.

State law reference--Civil penalties, G.S. 160A-175(c).