

ORDINANCE #2024-O-36

**AN ORDINANCE TO AMEND THE TOWN OF ROLESVILLE
NOISE REGULATIONS**

WHEREAS, N.C. Gen. Stat. § 160A-174 grants to the Town the authority to define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town, and may define and abate nuisances consistent with the laws of the State of North Carolina and the protections of the United States Constitution and North Carolina Constitution; and

WHEREAS, N.C. Gen. Stat. § 160A-184 grants to the Town the authority to regulate, restrict, or prohibit the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens; and

WHEREAS, the Town Board of Commissioners finds that loud and raucous noise is harmful to the health, safety, and welfare of its residents and visitors; interferes with the comfortable enjoyment of life and property; interferes with the wellbeing, tranquility, and privacy of the home; and causes and aggravates certain health problems; and

WHEREAS, the Town Board of Commissioners finds that both the effective control and the elimination of loud and raucous noise are essential to the health and welfare of the Town's residents and visitors, and to the conduct of the normal pursuits of life, including recreation, work and communication; and

WHEREAS, the Town Board of Commissioners finds that the use of amplification equipment may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of the Town's residents and visitors; and

WHEREAS, the Town Board of Commissioners finds that short-term easing of noise restrictions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the Town; and

WHEREAS, the obligation to draft regulations that affect speech in a content-neutral fashion is of paramount importance to protect the freedom of expression guaranteed by the First Amendment to the United States Constitution and by Article I, Sections 12, 13, and 14 of the North Carolina Constitution, such that this ordinance enacts narrowly drawn, content-neutral regulations that are to be interpreted as such so as not to infringe upon constitutionally protected rights; and

WHEREAS, the Town Board of Commissioners endeavors to find a balance between the activity that has become an integral part of the Town's culture and the continuing promise of comfortable enjoyment of life and property.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF COMMISSIONERS OF THE TOWN OF ROLESVILLE, NORTH CAROLINA that:

SECTION 1. Section 130.04 of the Rolesville Town Code, titled “Unnecessary Noise” is hereby repealed in its entirety.

SECTION 2. The following language is hereby adopted as a new “Chapter 132. – Noise” to the Rolesville Town Code:

CHAPTER 132. – NOISE

§ 132.01. DEFINITIONS.

In addition to the common meanings of words, for the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Blasting. Activity involving the use of any explosive for the purpose of demolishing a structure or blasting out rock, gravel, earth, trees, or any other substance or material.

Construction. 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 (not to include Blasting activity), and landscaping.

Daytime Hours. – NOISE

- 7:00 a.m. to 11:00 p.m., local time, Monday through Friday, except Federal Holidays.
- 8:00 a.m. to 11:00 p.m., local time, Saturday, Sunday, and Federal Holidays.

Emergency. Any occurrence or set of circumstances demanding immediate attention to engage in Emergency Work.

Emergency Work. Work made necessary to restore property to a safe condition, work required to protect, provide, or prevent Persons or property from danger or potential danger; or work by private or public utilities when restoring utility service.

Federal Holidays. Those days designated by Congress as paid holidays from work for non-essential federal workers as published annually by the U.S. Office of Personnel Management.

Nighttime Hours.

- 11:00 p.m. to 7:00 a.m., local time, Monday through Friday, except Federal Holidays.
- 11:00 p.m. to 8:00 a.m., local time, Saturday, Sunday, and Federal Holidays.

Noise Sensitive Area. Areas that include, but are not limited to, real property normally used for sleeping or normally used as a school, church, healthcare facility providing treatment requiring patient recovery, or public library.

Plainly Audible. Any sound or vibration caused by sound that can be detected by a Reasonable Person using his or her unaided hearing faculties.

Person. Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other state or political subdivision or agency thereof or any legal successor, representative, agent, or agency of the foregoing.

Public Place. All walks, alleys, streets, boulevards, avenues, lanes, roads, highways, or other ways or thoroughfares dedicated to public use or owned or maintained by public authority; all grounds and buildings owned or leased by, maintained or operated by public authority.

Reasonable Person. A Person of normal and ordinary sensitivities who is within the area of the audibility or perceptibility of the noise or vibration that transmits sounds that disrupt the reasonable conduct of basic human activities, such as conversation, sleep, work, and other such activities.

Sound Source. Any Person, animal, device, operation, process, activity, or phenomenon that emits or causes sound.

Special Event. Activity operating pursuant to and in accordance with Chapter 113 of this Code.

Unreasonable Noise. “Unreasonable Noise” shall mean:

- (a) The unreasonable making of, or knowingly and unreasonably permitting to be made, any sound that is an unreasonably loud, boisterous, or unusual noise, disturbance, commotion, or vibration due to bass levels or other sources from any dwelling, building, other structure, or privately-owned outdoor property, or upon any public street, park or other place or building.
- (b) Any sound that is ordinary and normal to the operation of these places when conducted in accordance with the usual standards of practice, including standards for noise mitigation, and in a manner that will not unreasonably interfere with the peace and comfort of neighbors or their guest, or operators or customers in places of business, or detrimentally or adversely affect such residences or places of business, shall not be enforced as an Unreasonable Noise.

§ 132.02. SCOPE

This Chapter applies to the enforcement and control of all sound originating within the jurisdictional limits of the Town. It is of paramount importance that the enforcement of this Chapter be content-neutral to protect the freedom of expression guaranteed by the First Amendment to the United States Constitution and by Article I, Sections 12, 13, and 14 of the North Carolina Constitution, such that this Chapter enacts narrowly drawn, content-neutral regulations that are to be interpreted as such so as not to infringe upon constitutionally protected rights.

§ 132.03. GENERAL PROHIBITIONS.

(a) No Person shall make or continue to make:

(1) Any Plainly Audible Unreasonable Noise as would be determined by a Reasonable Person;

(2) Any Plainly Audible noise that unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of Reasonable Persons;

(3) Any Plainly Audible noise that is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any Reasonable Persons within the vicinity of the location from which that noise emanates, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

(b) Factors for determining whether a sound is an Unreasonable Noise include, but are not limited to:

(1) The proximity of the sound to sleeping facilities, whether residential or commercial;

(2) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received;

(3) The time of day or night the sounds occurs;

(4) The duration of the sound; and

(5) Whether the sound is recurrent, intermittent, or constant.

(c) Violation of this subsection is a misdemeanor. Any subsection may also be enforced pursuant to Section 132.07 or a combination of remedies.

§ 132.04. EXCEPTIONS.

The general prohibitions as defined in Section 132.03 shall not apply to the following sources:

(a) Emergency warning devices or safety signals;

(b) Lawn care equipment and agricultural field equipment used during the Daytime Hours;

(c) Equipment being used for Construction, provided that all equipment is operated with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition during Daytime Hours;

(d) Fairs, circuses, other similar public entertainment events, sanctioned sporting events, sporting activities taking place in areas set aside for such activities, or any activities normally associated with any of the above;

- (e) Bells, chimes and similar devices that operate during Daytime Hours for a duration of no longer than five (5) minutes in any given period;
- (f) Emergency Work;
- (g) Properly installed and operating sixty-cycle electric transformers;
- (h) Except as provided by Sections 132.05(d) or (f), motor vehicles operating at legal speeds on traffic ways of the Town;
- (i) Properly installed and operating residential heating, ventilating, and air conditioning systems;
- (j) Repairs or excavations of bridges, streets, or highways by or on behalf of the Town, the county, the state or the federal government, during Nighttime Hours when the public welfare and convenience renders it impractical to perform the work during Daytime Hours;
- (k) Stadiums, arenas, and outdoor sports or entertainment facilities;
- (l) Parades permitted as Special Events and spectators and participants in those parades;
- (m) Outdoor events, races, festivals, or concerts on public property or public vehicular areas that are permitted as Special Events;
- (n) Sound associated with the delivery of public services by the Town, county, state or the federal government; and
- (o) Outdoor school and playground activities, including, but not limited to, school athletic and school entertainment events during Daytime Hours.
- (p) This section establishes exceptions only to Section 132.04. The exceptions set out herein do not apply to Section 132.05 and do not authorize any Prohibited Noises regulated by Section 132.05.

§ 132.05. SPECIFIC PROHIBITIONS.

Except when specifically allowed as a part of a permitted Special Event, in addition to any other violations of this Code, the following acts are specifically declared to be prohibited noises, the emission of which shall be unlawful. Such enumeration shall not be deemed to be exclusive of other prohibited Plainly Audible Unreasonable Noises:

- (a) The sounding of any horn or signal device including compression release engine or transmission braking system or any device on any automobile, truck, 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 applied and deceleration of the vehicle is intended; the creation by means of such device of any unreasonable loud or harsh sound; or the sounding of such a device for an unnecessary and unreasonable period of time.

(b) The use of any gong or siren upon any vehicle other than police, fire, ambulance, or other Emergency vehicle.

(c) The playing of any radio, phonograph, amplifier, AV receiver, stereo, tape deck, tape recorder, phone, streaming device, television, musical instrument, or similar device in such a manner or with such volume during the Nighttime Hours as to annoy or disturb the quiet, comfort or repose of any Reasonable Person in any dwelling, hotel, motel, or other type of residence.

(d) The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, so modified, or so driven as to be Plainly Audible at fifty (50) feet from any Reasonable Person so as to create unreasonably loud, grating, grinding, or rattling noise.

(e) 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 warning of danger.

(f) The discharge into the open air of the exhaust of any stationary internal combustion engine or motor vehicle, except through a muffler or other device that will effectively prevent unreasonably loud or explosive noises therefrom.

132.05 (g) Construction activity in a residential or business zoning district other than between the hours of 8:00 a.m. and 6:00 p.m. except as Emergency Work.

(h) Blasting activity other than between the hours of 10:00 a.m. and 6:00 p.m. except as Emergency Work.

(i) The creation of any Plainly Audible Unreasonable Noise within one hundred and fifty (150) feet of a Noise Sensitive Area. This section is only to be applied when an institution or sleeping area in a Noise Sensitive Area is in session or in active use.

(j) The creation of Plainly Audible Unreasonable Noise in connection with loading or unloading any vehicles, equipment, or the opening and destruction of bales, boxes, crates and containers.

(k) The creation of Plainly Audible Unreasonable Noise in connection with the shouting and crying of peddlers, barkers, hawkers, or vendors that would disturb the quiet and peace of Reasonable Persons within a residential zoning district. This section is to be applied only to those situations where the disturbance is not a result of the content of the communication, but due to the volume, location, timing, or other factors not based on content.

(l) The use of any drum, loudspeaker, or other instrument or device for the purpose of attracting attention by creation of Plainly Audible Unreasonable Noise to any performance, show or sale or display of merchandise.

(m) The conducting, operating, or maintaining of any garage or filling station, or the repair, rebuilding or testing of any motor vehicle in any residential zoning district, so as to cause Plainly Audible Unreasonable Noise to be emitted therefrom during the Nighttime Hours.

(n) The firing or discharging of firearms in a Public Place or elsewhere for the purpose of

making noise or disturbance.

(o) The keeping of any animal otherwise permitted to be kept that, by habitual or frequent sound, cry, howling, barking, squawking, meowing, or other Plainly Audible Unreasonable Noise, shall disturb the quiet, comfort or repose of a Reasonable Person.

(p) The use or operation on Public Places, Town rights-of- way, or on public vehicular areas of any sound amplifier, bullhorn, loudspeaker, public address system, or other similar device when operated in such a manner as to be Plainly Audible by a Reasonable Person during Nighttime Hours at a distance of fifty feet (50') from such a Reasonable Person, and during Daytime Hours, at a distance of three hundred feet (300') from such a Reasonable Person.

(q) The operation of any commercial establishment, including any outdoor area that is part of or under the control of the establishment, during Nighttime Hours that creates Plainly Audible noise at a distance of one hundred and fifty feet (150') from the property line of the Sound Source, and during Daytime Hours, that is Plainly Audible at a distance of three hundred feet (300') from the property line of the Sound Source.

Violation of this subsection is a misdemeanor. Any subsection may also be enforced pursuant to Section 132.07 or a combination of remedies.

§ 132.06. [RESERVED]

§ 132.07. PENALTIES FOR VIOLATION OF NOISE RESTRICTIONS.

(a) Civil Penalties:

(1) Any Person violating any of the provisions of Chapter 132 shall be subject to a civil penalty of up to two hundred fifty dollars (\$250.00) for an initial violation. Each calendar day on which a continuing violation occurs shall constitute a separate violation under this subsection. For each subsequent violation occurring within twelve (12) months of any other violation, the violator shall be subject to a civil penalty of five hundred dollars (\$500.00) per violation.

(2) If a Person fails to pay any civil penalty within thirty (30) days after it is assessed, the Town may recover the penalty, together with all costs allowed by law, by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. The Police Department is authorized to issue civil penalty citations to enforce this section.

(b) Injunctive and Equitable Relief:

As an additional remedy, this chapter may be enforced, either before or after the institution of any other action or proceeding authorized by this subsection, by an action for injunctive relief to restrain the violation or to obtain other equitable relief as allowed by law. The action shall be brought in the appropriate division of the General Court of Justice. The institution of an action for injunctive relief shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this chapter. This chapter may also be enforced through any appropriate

equitable remedy.

(c) Criminal Penalties:

Any Person who violates any provision of this chapter shall be deemed guilty of a misdemeanor punishable by imprisonment not to exceed thirty (30) days or by fine not to exceed five hundred dollars (\$500.00). Each day of a continuing violation shall constitute a separate violation under this subsection.

(d) Enforcement:

In addition to other remedies, this chapter may be enforced by any one, all, or a combination of the remedies set out herein.

SECTION 3. All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

SECTION 4. If this Ordinance or application thereof to any Person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. The provisions of this Ordinance shall not affect any act heretofore done, any liability incurred, any right accrued or vested, or any suit or prosecution begun or cause of action accrued prior to the effective date of this Ordinance.

SECTION 6. This ordinance shall be enforced as provided in N.C. Gen. Stat. § 160A-175 and as may otherwise be provided by the Rolesville Town Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty-dollar limit set forth by N.C. Gen. Stat. § 14-4(a) or similar limitations.

SECTION 7. This Ordinance shall become effective upon its adoption.

ADOPTED & EFFECTIVE: May 7, 2024



Ronnie I. Currin, Mayor

ATTEST:



Robin, E. Peyton, CMC, Town Clerk

