

Ordinance No. 2017-015

AN ORDINANCE

**AMENDING CHAPTER 94 OF THE TOWN CODE OF ORDINANCES TO
DEFINE, REGULATE, RESTRICT, AND PROHIBIT UNREASONABLY LOUD,
DISTURBING OR FRIGHTENING NOISES**

WHEREAS, pursuant to Chapter 160A, Article 8 of the North Carolina General Statutes, the Town of Franklin is authorized and empowered 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, the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens, pursuant to G.S. §160A-184;

WHEREAS, the Town Council as legislative body for the Town of Franklin finds that regulation, restriction, or prohibition of such noises within the Town is necessary in order to protect the health, safety and welfare of the Town and its citizens;

WHEREAS, the Town Council has considered adoption of regulations pertaining to noise through its authority to regulate land uses and by other means, and finds that given the geography of the Town and other factors, regulation of noise through the general ordinance-making authority referenced above, setting forth reasonable time, place, and manner restrictions on the production of noise, is the most narrowly-tailored means at its disposal to advance the Town's compelling interest in the health, safety and welfare of its citizens;

WHEREAS, the Town of Franklin, at the regular meeting of the Board of Aldermen on March 4, 2013 duly adopted certain regulations defining, prohibiting and regulating certain nuisances, the same being codified in Chapter 94 of the Town Code of Ordinances; and

WHEREAS, the Town Council now finds it necessary to amend its previous regulations of nuisances to include the regulation, restriction, or prohibition of the production or emission of noise.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Franklin that:

Section 1. Chapter 94 of the Town Code of Ordinances is hereby amended to add the following:

Article II: Noise

§94.51. Article designated Noise Control Ordinance.

This article shall be known as the "Noise Control Ordinance for the Town of Franklin."

§94.52. Noises prohibited.

- (A) General prohibitions. It shall be unlawful to create, cause or allow the continuance of any unreasonably loud, disturbing, or frightening noise, particularly during the nighttime, which substantially interferes with neighboring residents' reasonable use and enjoyment of their properties. For purposes of this chapter, "nighttime" is defined as the time between 11 p.m. and 8 a.m.
- (B) Specific prohibitions. The following acts are prohibited and shall be considered nuisance acts:
- (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.
 - (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) *Exterior loudspeakers.* Operating or permitting the operation of any mechanical device or loudspeaker, without a permit to do so, in a fixed or moveable position exterior to any building, or mounted on any aircraft or motor vehicle in such a manner that the sound therefrom is in excess of the maximum permitted sound level as defined in section 94.54 of this chapter.
 - (4) *Power equipment.* Operating or permitting the operation of any power saw, sander, drill, grinder, leaf blower, lawn mower, or other garden equipment, or tools of a similar nature, outdoors during nighttime.
 - (5) *Explosives.* The use or firing of explosives, firearms, fireworks or similar devices which create impulsive sound.
 - (6) *Security alarms.* The sounding of a security alarm, for more than 20 minutes after being notified by law enforcement personnel that the alarm has been activated.
 - (7) *Dogs and other animals.* Allowing one or more dogs or other animals to bark or make disturbing noises continuously or intermittently for more than 30 minutes.
 - (8) *Motor vehicle speakers or speakers located in or on a motor vehicle.* Operating or permitting the operation of any speaker or sound in or on a motor vehicle in such a manner that the sound therefrom is in excess of the maximum permitted sound level as defined in section 94.54 of this chapter.
 - (9) *Musical instruments or sound amplification equipment.* The playing of any musical instrument or electronic sound amplification equipment outdoors or from a motor vehicle during the nighttime that can be heard from an adjoining property or at a distance of greater than 20 feet from the source of the sound. This prohibition shall also apply to

sounds produced and/or amplified by equipment located indoors, in the event that the sound propagates to the outside through the building so as to be heard as provided in this subsection.

§94.53 Exceptions. The following are exempt from the provisions of this article:

- (1) Sound emanating from regularly scheduled outdoor athletic events on the campus of schools within the Town's corporate limits.
- (2) Construction operations from 7:00 a.m. to 9:00 p.m. weekdays and 8:00 a.m. to 9:00 p.m. on weekends for which building permits have been issued, or construction operations at any time for projects not requiring permits due to ownership of the project by an agency of the government, or any applicable exemption from permitting requirements. Provided, however, that all equipment used in connection with construction operations not requiring a permit shall be operated in accord with the manufacturer's mufflers and noise-reducing requirement is in use and in proper operating condition.
- (3) Noises of safety signals, warning devices, emergency pressure relief valves, and all church bells.
- (4) Noise resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
- (5) Any other noise resulting from activities of a temporary duration permitted by law, and for which a license or permit shall be according to the conditions and limits stated on the permit and contained above.
- (6) Unamplified and amplified sound at festivals and parades permitted pursuant to Chapter 95 of this code.
- (7) Parades and demonstrations exempted from permitting requirements pursuant to Chapter 95 of this code, including funeral processions, any governmental agency acting within the scope of its functions, and students going to or from school classes or participating in educational or recreational activity where the activity is under the supervision and direction of proper school authorities.
- (8) All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft).
- (9) All noises coming from the normal operation of motor vehicles properly equipped with the manufacturer's standard mufflers and in good working order.
- (10) Noise from lawful fireworks and noisemakers on holidays and at religious ceremonies.
- (11) Lawnmowers, agricultural equipment, and landscape maintenance equipment used between the hours of 7:00 a.m. and 10:00 p.m. when operated with all the manufacturer's standard mufflers and noise-regulating equipment in use and proper operating condition.
- (12) Musical accompaniment or firearm discharge related to military ceremonies.

- (13) Sound amplification equipment used in conjunction with telecommunications systems on business properties to notify employees of incoming phone calls, providing that the system may be used only between the hours 7:00 a.m. and 9:00 p.m., and that any speakers attached to the system shall be oriented toward the interior of the property.
- (14) Emergency work necessary to respite property to a safe condition following a fire, accident, or natural disaster, or to restore public utilities, or to protect persons or property from imminent danger.
- (15) Noises resulting from the provision of government services.
- (16) Noises resulting from the provision of utility or sanitation services between the hours 7:00 a.m. and 9:00 p.m.

§94.54 Maximum permitted sound level.

In addition to the requirements of section 94.53 above, and except as otherwise provided herein or in conjunction with special events permits, it shall be unlawful for any person or group of persons, regardless of number, to willfully make, continue or cause to be made or continue any loud, raucous, and disturbing noise. For purposes of this chapter, "loud, raucous, and disturbing noise" shall mean any sound which, because of its volume level, duration, and character, annoys, disturbs, injures or endangers the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities within the corporate limits of the Town of Franklin. The prohibition set forth in this section shall be limited to such loud, raucous, and disturbing noises as are heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise, or upon the grounds thereof.

§94.55 Reserved.

§94.56 Permits to exceed limits.

- (A) A person or group of persons may produce or cause to be produced sound in excess of the levels authorized in section 94.54 of this article, only if a permit to exceed the limit for the time and place of the activity has been obtained.
- (B) Any person or group of persons desiring a permit shall apply as provided herein, and shall provide all the information required. All applications shall be submitted to the Chief of Police or his designee at least five (5) business days prior to the scheduled event. Failure to comply with this requirement shall be grounds for denying the permit.
- (C) The Chief of Police or his designee shall have authority to take final action on all applications for permits specified in this article. In considering acting to approve or deny issuance of permits, the Chief of Police or his designee shall consider, but shall not limit consideration to the following:

the timeliness of the application; the nature of the requested activity; previous experience with the applicant; the nature of the event; other activities in the vicinity of the location proposed; the frequency of the application; the cultural or social benefit of the proposed activity; the effect of the activity on the residential areas of the town; previous violations of the requirements of this article, if any, by the applicant.

- (D) Permits to exceed limits shall specify the duration for which noncompliance shall be permitted and may prescribe the conditions or requirements necessary to minimize adverse effects upon the community or surrounding neighborhood. The Chief of Police or his designee may require, without limitation, the following:
 - (1) That no sound speakers shall be set up more than ten feet above the ground;
 - (2) That the permit holders change the arrangement of loudspeakers or sound instruments so as to minimize the disturbance to others resulting from the position or orientation of the speakers or from atmospherically or geographically caused dispersal of sound beyond the property lines.
- (E) Permit holders shall agree to cooperate with the Police Department in enforcing the Noise Control Ordinance by having signers of the permit available at the site of the event during the entire time for which as permit has been issued and capable of assisting the police in enforcing the noise control ordinance. Failure of the permittee or designees to be present or to assist the police in compliance with this article will result in revocation of the permit.

§94.57 Complaint and investigation.

It is the intent of the Town Council that violations of this ordinance should be investigated and administered by the Police Department in response to citizen complaints. Notwithstanding this intent, this section shall not be interpreted as prohibiting enforcement by the Police Chief or any Police Officer upon finding a violation of the ordinance in the course of official duties. In any event, the Police Chief or Police Officer enforcing this ordinance shall investigate any alleged violation in person, so as to enable the officer to personally attest to the violation.

§94.58 Penalty.

Violation of any provision of this ordinance shall be grounds for immediate revocation of any permit issued pursuant to section 94.56. In addition, a person violating any provision of this ordinance may be charged with either a civil fine or with a criminal misdemeanor.

- (A) In the event the person is charged with a civil fine, the general penalty set forth in §10.99 of this code shall apply, including as provided therein a

warning citation, and monetary fines for the first citation increasing with each additional citation within a period of 365 days. Provided, however, that any person issued a warning citation shall immediately cease violation of the ordinance.

- (B) A criminal misdemeanor may be charged for violations of this chapter, pursuant to G.S. §14-4.

Section 2. This ordinance is effective upon its adoption.

Section 3. This ordinance shall be deemed published as of the day of its adoption and approval by the Town Council and the Clerk of the Town of Franklin is hereby authorized and ordered to file a copy of said ordinance in the Office of the Town Clerk. Said ordinance shall be presumptive evidence in all courts and places of the ordinances and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested recorded and approved and that any public hearings and notices thereof as required by law have been given.

ADOPTED: This 2nd day of January, 2018, upon motion by Council Member _____, seconded by Council Member _____, and having been approved by a vote of ___ in favor and ___ against.

ATTEST:

TOWN OF FRANKLIN

Travis Tallent, Town Clerk

Robert S. Scott, Mayor