

Cherokee County Noise Ordinance

WHEREAS, N.C.G.S. 153A-133 authorizes counties to adopt ordinances regulating, restricting, or prohibiting the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten its citizens; and

WHEREAS, excessive sound and vibration and inadequately controlled noise are serious hazards to the public health, safety, and welfare, and a source of annoyance to the populace; and

WHEREAS, a substantial body of science and technology exists by which excessive or unreasonable noise and sound may be abated or eliminated; and

WHEREAS, it is the policy of Cherokee County to protect the health, safety, and welfare of its citizens and to promote an environment free from sound and noise disruptive of peace and good order.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF CHEROKEE DO TH ORDAIN:

It is the purpose of this Ordinance to establish an effective means of regulating and controlling sound and noise within the County of Cherokee to the ends that (1) the health, safety, and welfare of the population are promoted and maintained through peace and good order; and (2) the rights of individuals are not unreasonably restricted.

1. Offenses Against Public Peace and Order; Generally

- (a) Subject to the provisions of this section, it shall be unlawful for any person or persons to make, permit, continue, or cause to be made or to create any unreasonably loud and disturbing noise in the County. For purposes of this section, the following definitions shall apply:
 - (1) Unreasonably loud: Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace and good order.
 - (2) Disturbing: Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.
- (b) In determining whether a noise is unreasonably loud and disturbing, the following factors incident to such noise are to be considered: Time of day, proximity to residential structures; whether the noise is recurrent, intermittent, or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; the character and zoning (if applicable) of the area; whether the noise is related to the normal operation of a business or other labor activity; whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

2. Offenses Against Public Peace and Order; Specific noises expressly prohibited.

The following acts, among others, are declared to be loud, disrupting and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive, namely:

- (a) 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 such signal device of any unreasonable loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time;
- (b) The use of any gong or siren upon any vehicle, other than police, fire, or other emergency vehicle;
- (c) The use or operation of any piano, manual or automatic, phonographic, radio, loud speaker, or any other instrument, or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in such a manner as renders the same a public nuisance; provided, however, that upon application to the Board of Commissioners, or their designee, permits may be granted to responsible organizations to produce programs in music, speeches, or general entertainment;
- (d) The keeping of any animal or bird which by causing frequent loud continued noise shall disturb the comfort and repose of any person in the vicinity;
- (e) The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded or in any such manner as to create loud or unnecessary, grating, grinding, rattling, or other noise;
- (f) 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;
- (g) The discharge into the open air of the exhausts of any steam engine, motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;
- (h) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced;
- (i) The erection, (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays except in the case of urgent necessity in the interest of public safety and then only with a permit from the Board of Commissioners, which permit may be renewed after a period of three (3) days or less while the emergency continues;
- (j) The creation of any excessive noise on any street adjacent to any school, institute of learning, or court while the same is in session, or interferes with the working of such institution, provided conspicuous signs are displayed on such streets indicating that the same is a school, court, or hospital street;

- (k) The creation of any excessive noise on Sundays on any street adjacent to any church provided, conspicuous signs are displayed in such streets adjacent to churches indicating that the same is a church street;
- (l) The creation of loud and excessive noise in connection with loading or unloading any vehicle, of the opening and destruction of bales, boxes, crates, and containers;
- (m) The sounding of any bell or gong, attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof;
- (n) The shouting and crying of peddlers, barkers, hawkers, vendors and other persons which disturbs the quiet or repose of any persons in the vicinity thereof;
- (o) The use of any drum, loud speaker, or any other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise;
- (p) The use of any mechanical loud speakers or amplifiers on trucks or moving vehicles for advertising purposes or other purposes except where specific license is received from the Board of Commissioners or their designee;
- (q) The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 7:00 p.m. and 7:00 a.m.
- (r) The firing or discharging of squibs, crackers, or gunpowder or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance except by permit from the Board of Commissioners, or their designee;

3. Enforcement

(a) The violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine of fifty dollars (\$50.00) or imprisonment of thirty (30) days or both fine and imprisonment. Each day on which any violation of this Ordinance shall continue shall constitute a separate and distinct violation and offense.

(b) In addition, this Ordinance may be enforced by injunction or other equitable relief by an action brought in the General Court of Justice.

- 4. Farming operations shall be exempt from the operations of this Ordinance.
- 5. Should any section or provision of this Ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.
- 6. This Ordinance shall become effective upon adoption.

Approved and adopted by the Cherokee County Board of Commissioners
on November 1, 1999.