

CHAPTER 92A: NOISE CONTROL

Section

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§92A.01 LOUD, DISTURBING NOISES PROHIBITED, GENERALLY

It shall be unlawful for any person to create, or assist in creating, any unreasonably loud and disturbing noise in the Town of Matthews.

§92A.02 NOISE MEASUREMENT

For the purpose of determining decibels [db(A)'s] as referred to in this article, the noise shall be measured on the A-weighting scale slow response on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute.

§92A.03 SOUNDS IMPACTING RESIDENTIAL LIFE

A. It shall be unlawful to carry on the following activities in any residentially-zoned area of the Town, or within three hundred (300) feet of any residentially-occupied structure in any zone of the Town:

- (1) Operate a front-end loader for refuse collection between the hours of 9:00 p.m. and 7:00 a.m.
- (2) Operate construction machinery between the hours 9:00 p.m. and 7:00 a.m.
- (3) Operate garage machinery between the hours of 9:00 p.m. and 7:00 a.m.
- (4) Operate lawn mowers, and other domestic power tools, out-of-doors between the hours of 9:00 p.m. and 7:00 a.m.

B. Any mechanical noise which registers more than sixty (60) db(A) at the nearest complainant's property line will be probable cause for a violation.

C. This section shall not apply to operations which are carried on in such a manner or in such a location as not to create sounds exceeding sixty (60) db(A) and shall not apply to emergency operations designed to protect the public health and safety.

§92A.04 AMPLIFIED SOUND

A. It shall be unlawful to:

(1) Operate or allow the operation of any sound amplification equipment so as to create sounds registering fifty five (55) db(A) between 9:00 a.m. and 9:00 p.m. or fifty (50) db(A) between 9:00 p.m. and 9:00 a.m., as measured anywhere within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the Noise Control Officer.

(2) As to multifamily structures including apartments, condominiums, or other residential arrangements where boundary lines cannot readily be determined, it shall be unlawful to operate or allow the operation of any sound amplification equipment so as to create sounds registering fifty five (55) db(A) between 9:00 a.m. and 9:00 p.m. or fifty (50) db(A) between 9:00 p.m. and 9:00 a.m. as measured from any point within the interior of another residential unit in the same complex or within the interior of another residential unit in the same complex or within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the Noise Control Officer.

(3) As to places of public gathering, including school sports facilities, having a capacity of one thousand (1,000) or more persons, operate or allow the operation of any sound amplification equipment so as to create sounds registering more than sixty five (65) db(A) between 9:00 a.m. and 10:00 p.m. or fifty (50) db(A) between 10:00 p.m. and 9:00 a.m., as measured anywhere within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the Noise Control Officer.

(4) Operate or allow the operation of any sound amplification equipment for advertising purposes or otherwise to attract customers so as to cast sounds

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which are unreasonably loud and disturbing or which register more than sixty (60) db(A) at or on the boundary of the nearest public right-of-way or park.

(5) Operate or allow the operation for personal use of any sound amplification equipment on the public right-of-way, including streets or sidewalks, or in the public parks so as to produce sounds registering more than sixty (60) db(A) fifty (50) feet or more from any electro mechanical speaker between the hours of 9:00 a.m. and 9:00 p.m., or fifty (50) db(A) fifty (50) feet or more from any electro mechanical speaker between the hours of 9:00 p.m. and 9:00 a.m.

(6) Operate or allow the operation for personal use of any sound amplification equipment in the public right-of-way, including streets or sidewalks, or in the public parks: (i) without a permit issued by the Noise Control Officer; or (ii) so as to produce sounds registering more than seventy five (75) db(A) ten (10) feet or more from any electro mechanical speaker between the hours of 9:00 a.m. and 9:00 p.m., or sixty five (65) db(A) ten (10) feet or more from any electro mechanical speaker between the hours of 9:00 p.m. and 9:00 a.m.

An application for a permit pursuant to this subsection shall: (1) be submitted to the Matthews Police Department at least seventy two (72) hours but no more than seven (7) days before the permit time requested; and (2) shall specify the proposed location of the sound amplification equipment and the date and time that the sound amplification will begin and end. Permits will be issued on a first-come, first-served basis. A permit shall not be issued for a location that is within one hundred (100) feet of another location for which a permit has been issued for the same time.

The use of a mobile sound amplification equipment shall be exempt from the permitting requirement of this subsection. Sound amplification produced in conjunction with a Town sponsored event, festival or parade permit shall be exempt from this entire subsection.

B. The limitations on the operation of sound amplification equipment in subsection A of this section shall not apply to the operation of horns, sirens, or other emergency warning devices actually being used in emergency circumstances.

§92A.05 PERMITS FOR ADDITIONAL AMPLIFICATION

A. The Matthews Police Chief or his designee shall serve as the Noise Control Officer. The Police Chief may delegate the Town Safety and Risk Management Coordinator to investigate a noise complaint. The Town Safety Coordinator does not have enforcement power.

B. Application. The application for a permit for additional amplification under section .04 shall be submitted to the Noise Control Officer at least fifteen (15) working days in advance of the planned use except in cases of emergency. The application shall designate an individual person or persons who shall be in control of the sound amplification equipment and assure that its use complies with the terms of the permit.

C. Notice of tentative approval. Upon tentative approval, the applicant for a permit shall be responsible for mailing or otherwise delivering to the occupants of each property within a one thousand (1,000) foot radius of the facility for which the permit has been granted, as shown on the tax maps of the county, a notice stating the date and hours of the event. The notice shall be delivered at least seventy two (72) hours in advance of the event. The permit shall not be actually granted and issued until the applicant submits an affidavit to the Noise Control Officer that such notices have actually been mailed or otherwise delivered.

D. Limits on hours. No permit shall be issued which will have the effect of allowing more than twenty (20) hours of excess amplification per year at any place of public entertainment having a capacity of one thousand (1,000) or more persons or ten (10) hours of excess amplification at any other location. Permits shall be tentatively approved and subsequently granted by the Matthews Police Department in the order of receipt unless permits for twenty (20) or more hours have previously been issued for the same or other locations with a one thousand (1,000) foot radius of the facility in the same calendar year, in which event the applicant shall elect whether to limit his request so as to keep the year's accumulated hours of excess amplification in that location below twenty (20) hours or select another location.

E. Not permitted in residentially occupied

boundaries. In no event shall a permit be granted which allows the creation of sounds registering more than seventy (70) db(A) anywhere within the boundary line of the nearest residentially occupied property.

F. Denial: issuance of exceptional permit. If an applicant has been denied a permit under this section and believes the denial is illegal by virtue of applicable state or federal law, he shall promptly submit a copy of the denied permit application, together with a short statement of the reasons he believes he is entitled to a permit, to the Town Manager. The Town Manager shall have the discretion to grant an exceptional permit waiving location, time, and/or db(A) requirements, upon his determination that the applicant has made a substantial showing of legal entitlement. Any such exceptional permit shall be promptly reported to the Board of Commissioners.

§92A.06 MOTOR VEHICLES

A. It shall be unlawful to operate or allow the operation of any motor vehicle in the Town:

(1) Which has had its muffler-exhaust and/or other noise control equipment removed, altered or maintained in such disrepair as to create unreasonably loud and disturbing noises.

(2) By engaging in jackrabbit starts, spinning tires, racing engines, or other operations which create unreasonably loud and disturbing noises.

(3) Off the boundaries of a public street or other operations which create unreasonably loud and disturbing noises.

§92A.07 ENFORCEMENT AND PENALTIES

Where there is a violation of any section of this Chapter, the Town, at its discretion, may take one (1) or more of the following enforcement actions:

A. A police officer may issue a notice of violation as provided in the Code subjecting the violator to a civil penalty of \$100.00, which penalty may provide for a delinquency charge of \$10.00 upon non-payment, in which penalty and delinquency charge may be recovered by the Town in a civil action.

B. The violator may be charged with a misdemeanor and be subject to a fine up to \$500.00 and order thirty (30) days in jail pursuant to NCGS Section 14-4.

C. A civil action seeking a penalty of \$500.00 per day of violation plus an injunction and order of abatement may be directed toward any person creating or allowing the creation of any unlawful noise, including the owner or person otherwise having legal or actual control of the premises from which it emanates.

D. A police officer may issue a notice of violation, as provided in this Code, subjecting the violator of Section 03A(1) to a civil penalty of \$200.00, which penalty may provide for a delinquency charge of \$10.00 upon non-payment, in which penalty and delinquency charge may be recovered by the Town in a civil action. For the purposes of this subsection, the term "violator" means either the operator of the front-end loader; the employer of the operator; or the company, partnership, corporation or other person or entity which owns, possesses or controls the front-end loader utilized by the operator. (Ord. No. 1421, passed 2-28-05)

PERMIT FOR ADDITIONAL AMPLIFICATION

To be completed in duplicate (one copy to the Matthews Police Department and one copy to the applicant.)

Applications must be submitted to the Matthews Police Department at least fifteen (15) working days in advance of the planned use.

1. Name of individual applicant: _____
Address: _____
Person(s) who will be responsible for control of the sound amplification equipment:

Address: _____ Phone: _____
Date, time, and place of event: _____
2. Organization represented, if any: _____
3. Anticipated size of audience: _____
4. Anticipated distance (range) from mechanical speaker to audience in feet: _____
5. Is application for (please check):
 Non-profit community event/entertainment
 Political event
 Public entertainment with commercial sponsor/advertiser
 Other (explain): _____

NOTE: Permits are tentatively approved and subsequently granted by the Matthews Police Department. If the permit is tentatively approved, the applicant is responsible for mailing, or otherwise delivering, to each property owner within a one-thousand (1000) foot radius for which the permit has been granted, a notice stating the date and time of the event. The notice shall be delivered at least seventy-two (72) hours in advance of the event.

FOR OFFICE USE ONLY

Tentative Approval: _____
Matthews Police Department Date

- The tentative application is denied.
- The tentative application is granted with the following conditions:
1. Approved for placement of speakers at (location): _____
 2. Approved for amplification between the hours of _____ and _____ on _____ (date)
 3. Approved for emission of sound not to exceed 70 db(A) anywhere within the boundary line of the nearest residentially occupied property.
 4. Verification of required notice to be returned no later than _____

Verification of Notice: _____
Matthews Police Department Date

Final Approval: _____
Matthews Police Department Date

For questions or copies of forms:
Janis Burris 704-845-1973
Captain Garland Amos 704-845-1981
Fax number: 704-845-5824