

**An Ordinance Amending the Town of Creswell Ordinance No. 03-02-98 entitled “An Ordinance Providing for the Regulation of Loud Music or Noise”**

**WHEREAS**, the Town of Creswell has a significant governmental interest in protecting the health, safety, and welfare of the general public and in preserving the public order;

**WHEREAS**, loud and disturbing noise degrades the Town’s environment in that it: (i) is harmful to the health, welfare, and safety of residents and visitors, (ii) interferes with the comfortable enjoyment of life and property, (iii) interferes with the well-being, tranquility, and privacy of the home, and (iv) causes and aggravates health problems;

**WHEREAS**, both the effective control and elimination of loud and disturbing noise are essential to health and welfare of the Town’s residents and visitors and to the conduct of the normal pursuits of life including work, education, recreation, and communication;

**WHEREAS**, the Town has a substantial interest in protecting residents and visitors from loud and disturbing noise;

**WHEREAS**, the Town of Creswell has the authority to pursuant to N.C.G.S. § 160A-184 to adopt ordinances to protect the health, safety, or welfare of its residents and visitors against unreasonably loud and disturbing noise, and the Town hereby acts in its governmental and regulatory capacity to do so.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Creswell, North Carolina, that:

**SECTION 1. AMENDMENT AND SHORT FORM TITLE OF ORDINANCE**

Town of Creswell Ordinance No. 03-02-98 entitled “An Ordinance Providing for the Regulation of Loud Music or Noise” is amended in its entirety and repealed and replaced by this Noise Ordinance.

This Ordinance shall be known as the “Town of Creswell Noise Ordinance.”

**SECTION 2. DECLARATION OF POLICY**

It is hereby declared to be the policy of the Town of Creswell Board of Commissioners to prevent unreasonably loud, disturbing, or unusually excessive noise. The intention of the Town of Creswell Board of Commissioners is to maintain a low noise level within the Town of Creswell to preserve, protect, and promote public health, safety, and welfare, and to foster convenience, peace, and quiet for its inhabitants, residents, and visitors. The Town of Creswell Board of Commissioners finds that every person is entitled to noise levels that are not detrimental to life, health, or enjoyment of property and that unusually excessive and unreasonable noise within the Town of Creswell is a menace to public health, safety, welfare, and the comfort of the people of the Town of Creswell.

### **SECTION 3. DEFINITIONS**

**A. 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).

**B. Ambient Base Noise Level:** The average sound pressure level in dB(A) during a reasonable period, excluding impulsive sounds.

**C. ANSI:** American National Standards Institute or its successor bodies.

**D. Construction:** On-site erection, fabrication, installation, alteration, demolition, or removal of any structure or facility, including land clearing, earth moving, blasting, and landscaping.

**E. Common Carrier:** Any motor vehicle for hire by the public or part of a public transportation system.

**F. Daytime Hours:** 7:00 AM to 11:00 PM local time.

**G. Decibel (dB):** A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 ratio of the sound pressure measured to the reference pressure of 20 micro newtons per square meter.

**H. dB(A):** Sound level in decibels, determined by the A-weighting scale of a standard sound level meter.

**I. Emergency:** Any condition during a time of public crisis, disaster, rioting, catastrophe, or similar public emergency.

**J. Emergency Work:** Work made necessary to restore property to a safe condition or work required to protect persons or property from danger or to restore utility services.

**K. Impulsive Sounds:** Sounds of short duration, usually less than one second, with abrupt onset and rapid decay.

**L. Legal Holidays:** Any day defined in North Carolina General Statutes § 103-4(a).

**M. Motor Vehicles:** Every vehicle which is self-propelled, as defined in North Carolina General Statutes § 20-4.01(23) & (27).

**N. Muffler:** An apparatus consisting of a series of chambers or baffle plates designed for transmitting gases while reducing sound.

**O. Noise Sensitive Zone:** Any area within 150 feet from the property line of any school, church, nursing home, hospital, funeral home, daycare facility, or court.

**P. Occupancies:** Classification of uses based on zoning classification or actual use of premises.

**Q. Owner of Real Property:** The owner or listing owner of real property as defined in North Carolina General Statutes § 105-302.

**R. Person:** Any individual, association, partnership, or corporation, including government entities.

**S. Plainly Audible:** Any sound produced by a sound magnifying device clearly heard at a distance of 75 feet.

**T. Public Right-of-Way:** Any street, avenue, boulevard, highway, sidewalk, alley, or similar place owned or controlled by a governmental entity.

**U. Public Space:** Any real property or structures owned and controlled by a governmental entity.

**V. Public Waterways:** Any navigable waters not privately owned.

**W. Residential Area:** An area designated for any residential use under the Town of Creswell Zoning Ordinance.

**X. Sound:** An oscillation in pressure, particle displacement, particle velocity, or other physical parameter causing compression and rarefaction in a medium.

**Y. Sound Level:** The weighted sound pressure level obtained by using a sound level meter and frequency weighting network.

**Z. Sound Level Meter:** An instrument certified to meet or exceed ANSI standards, including an omnidirectional microphone, an amplifier, an output meter, and frequency weighting networks.

**AA. Sound Amplifying Equipment:** Any device or machine for the magnification or amplification of the human voice, music, or any other sound, including but not limited to speakers, amps, radios, music players, televisions, audio systems, or musical instruments, drums, horns, sirens, or the like, but specifically excluding emergency warning devices and emergency response vehicles.

**BB. Sound Pressure Level:** Twenty times the logarithm to the base 10 of the ratio of the root mean square (RMS) sound pressure to the reference pressure of 20 micro newtons per square meter.

**CC. Subdivision:** An area designated for any residential use under the Town of Creswell Ordinance.



**DD. Tenant:** One who resides on or temporarily uses or occupies real property owned by another person.

**EE. Unnecessary Noise:** Any excessive or unusually loud sound that disturbs the peace of any neighborhood or endangers the comfort, repose, health, peace, or safety of any person or property.

## **SECTION 4. PROHIBITION OF NOISE POLLUTION**

- (A)** It shall be unlawful to cause or allow the emission of any unreasonably loud, disturbing, and unnecessary noise in the Town. Specifically, it shall be unlawful to create or emit noise of such character, intensity, or duration as to be detrimental for life, health, or enjoyment of property of any individual or that is above the sound emission decibel limits set forth Section 5.3.
- (B)** It is unlawful to play any Sound Amplification Equipment in a manner that (1) annoys or disturbs the quiet comfort of neighboring inhabitants or (2) at a volume plainly audible at a distance of 75 feet and exceeds the sound emission decibel limits set forth Section 5.3, or (3) annoys or disturbs the quiet comfort of persons other than those voluntary listeners who are in the premises in which such device or instrument is played.
- (C)** Except for organized events with permits, it is unlawful to play any Sound Amplifying Equipment or otherwise create unreasonably loud, disturbing, and unnecessary noise on public property at a volume that disturbs the quiet comfort of others or at such volumes as to exceed the sound emission decibel limits set forth Section 5.3.
- (D)** It shall be unlawful to play any radio, music player or audio system in a Motor Vehicle at a volume that disturbs the quiet comfort of others or is clearly audible at a distance of not less than 30 feet or at such volumes as to exceed the sound emission decibel limits set forth Section 5.3.

## **SECTION 5. STANDARDS**

### **5.1**

- A.** Standards for instrumentation, personnel, measurement procedures, and reporting procedures shall be specified in this section and directed by the Washington County Sheriff.
- B.** Sound level measurements shall be made with a sound level meter using the A-weighting scale, set on “slow” response.
- C.** Sound level meters shall be at least Type II meeting ANSI S1.4-1971 requirements. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level equipment.
- D.** The sound level measurement procedure:

- (1) Calibrate the sound level meter after each use to ensure proper operation.
- (2) Set the sound level meter on the “A” weighted network at slow response.
- (3) Position the omni-directional microphone in an approximately seventy-degree position in a location facing the noise source and record the meter’s instantaneous response.

## **5.2 Maximum Permitted Sound Levels.**

- (a) The use of sound amplifying equipment is limited to the conditions specified in this section.
- (b) Except as allowed in section 7(a) through (i) of this ordinance, no person shall operate or cause to be operated any sound amplifying equipment in such a manner as to create a sound level which at its peak exceeds the limits as set forth for time the sound level is produced in Section 5.3 when measured at or beyond the point on the property line closest to either (1) the dwelling located on the property from which the sound complaint originates, or (2) a public street or sidewalk. For purposes of measurement, the back of the curb, the outside edges of driveways, fences, hedges, or other physical features commonly associated with property boundaries are presumed to be at a point which is at or beyond the property line. In all cases the maximum sound level permitted shall be based on the time the sound level is created.

## **5.3 Maximum Sound Levels**

TIME	SOUNDLEVEL LIMIT (dB(A))
DAYTIME HOURS (7:00 AM – 11:00 PM)	60 dB(A)
NIGHTTIME HOURS(11:00 PM – 7:00 AM)	50 dB(A)

## **SECTION 6. ENUMERATED NOISES DECLARED UNLAWFUL**

In addition to any other violation of this article, the acts, the acts enumerated below are specifically declared to be unreasonably loud, disturbing, and annoying or unnecessary noise, the creation or emission of which shall be unlawful. Such enumeration shall not be deemed to be exclusive:

- A. The sounding of any horn or signal device on any Motor Vehicles, except as a danger signal, so as to create any unreasonably loud or harsh sound or the sounding of such device for an unnecessary and unreasonable period of time.
- B. The use of Motor Vehicles so out of repair, so loaded or in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise.
- C. The use of sirens on any Motor Vehicles other than police fire, ambulance or other emergency vehicles.

- D. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through an unmodified manufacturers muffler or other device which will effectively prevent loud or explosive noises therefrom.
- E. The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.
- F. The creation of any excessive noise in any Noise Sensitive Zone, provided conspicuous signs are displayed in such streets indicating the there is a school, daycare, church, court, hospital, or other protected institution or facility nearby.
- G. The shouting and crying of peddlers, barkers, hawkers or vendors which disturbs the quiet and peace of the neighborhood.
- H. The firing or discharging of firearms or fireworks in the streets or elsewhere for the purpose of making noise or disturbance.
- I. The keeping of any bird, livestock or other animal causing frequent or long continued noise disturbing the comfort or repose of individuals in the vicinity.
- J. Any other noise or sound that creates a public or private nuisance as the same is defined at common law.

## **SECTION 7. EXCEPTIONS**

The maximum noise limitation standards as set forth in this ordinance shall not apply to the following sources:

- A. Emergency warning devices.
- B. Agricultural or farm-related equipment.
- C. Lawn care equipment used during daytime hours.
- D. Construction equipment used during daytime hours with proper mufflers.
- E. Public parades, fairs, circuses, sporting events, and similar public entertainment during daytime hours.
- F. Chimes, pressure relief valves, church bells operating during daytime hours for less than five minutes.
- G. Emergency work.

## **SECTION 8. ENFORCEMENT AND DUTIES**

The Town of Creswell shall be responsible for administering and enforcing this ordinance, as provided in North Carolina General Statutes § 160A-175, in addition, Washington County and State or Federal law enforcement agencies are authorized to enforce the ordinance within the municipal limits of the Town of Creswell and its extraterritorial jurisdiction.



## **SECTION 9. PRESUMPTION IN PROSECUTION FOR NOISE VIOLATIONS**

Complaints from two or more persons, at least one from a different residence, combined with a complaint from an authorized investigator, shall be prima facie evidence of unreasonable noise. Sound emission decibel measurement shall not be required.

## **SECTION 10. VIOLATION**

In accordance with North Carolina General Statutes § 14-4 a violation of this ordinance is a Class 3 misdemeanor:

### **10.1 Misdemeanors**

Any person, group, event or business found in violation of this ordinance shall be guilty of a Class 3 misdemeanor, as provided by applicable state law. Each incident constitutes a separate offense.

First Offense:	\$100.00
Second Offense:	\$200.00
Third and Subsequent Offense for Same Violation:	\$300.00

### **10.2 Criminal Process**

The responding enforcement officer shall be authorized to serve either a criminal summons or misdemeanor citation, as appropriate, to the person in apparent or obvious control of the location, facility, or motor vehicle from which the unlawful noise originates.

### **10.3 Civil enforcement**

Notwithstanding any criminal prosecution of a violation of this ordinance, The Town of Creswell may also seek to enforce this ordinance, as provided in North Carolina General Statute § 160A-175, and may secure injunctions and abatement orders against offenders to further insure compliance with this ordinance.

### **10.4 Civil Penalty**

A civil penalty may be imposed for each violation of this ordinance, against an offender who has violated this ordinance more than once, in accordance with North Carolina General Statutes § 160A-175. Each incident constitutes a separate violation.

First violation:	\$100.00
Second violation:	\$200.00
Third and Subsequent Violations:	\$500.00

Upon due demand from the town, if an offender of this ordinance does not pay the civil penalty within 30 days of the demand, the Town may file a civil action in the nature of debt against the offender.

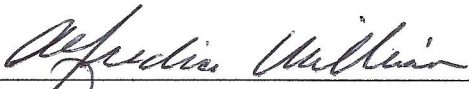
## SECTION 11. EFFECTIVE DATE

This ordinance as rewritten shall become effective on the date of adoption and shall supersede and repeal the Noise Ordinance adopted November 2, 1992.

## SECTION 12. SEVERABILITY

If a provision of this ordinance is deemed by any court to be unconstitutional, unenforceable, or invalid, it shall not affect the enforceability or validity of any other provision of this ordinance.

ADOPTED, this 17<sup>th</sup> day of June, 2024.

  
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Mayor

(ATTEST)

  
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Clerk

Date of First Introduction: June 10, 2024