



TOWN OF CHAPEL HILL

Town Hall
405 Martin Luther King Jr.
Boulevard
Chapel Hill, NC 27514

Legislation Details (With Text)

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Title: Consider Enacting Changes to the Town Noise Ordinance to Clarify Criminal Penalties.
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Attachments: 1. Council Questions with Staff Response, 2. AN ORDINANCE AMENDING CHAPTER 11, Art. III (NOISE) TO CLARIFY CRIMINAL PENALTIES (2021-09-01/O-3)

| Date | Ver. | Action By | Action | Result |
|----------|------|--------------|---------|--------|
| 9/1/2021 | 1 | Town Council | enacted | Pass |

Consider Enacting Changes to the Town Noise Ordinance to Clarify Criminal Penalties.

Staff:

Maurice Jones, Town Manager
Mary Jane Nirdlinger, Deputy Town Manager
Ann Anderson, Town Attorney

Department:

Manager's Office

Town Attorney's Office

Overview: The Town's Noise Ordinance (Chapter 11, Art. III) prior to June of 2021 allowed violations to be enforced primarily through criminal penalties of up to \$150 and/or up to 10 days in jail.

The Town Council changed the Ordinance to eliminate criminal penalties and limit enforcement to civil remedies. The civil citation range was formalized to start at \$25 and increase to \$500 for repeat violations. The ordinance retained the Town's authority to seek injunctive or other equitable remedies in civil court as necessary. The proposed change to the ordinance would provide some level of discretion for the Town to utilize civil or criminal penalties in the rare case violators refuse to cease the offending behavior.

The amendments to these ordinances occur in the enforcement sections: Noise, Secs. 11-42 and 11-43.

**Recommendation(s):**

That the Council enact the proposed changes to the Town's Noise Ordinance, which it can do tonight.

Decision Points:

- Does the Town Council wish to enact changes to the Noise Ordinance?

Fiscal Impact/Resources: The Town does not expect a significant change in costs or revenues because of this change.

**Attachments:**

- Ordinance

AN ORDINANCE AMENDING CHAPTER 11, Art. III (NOISE) TO CLARIFY CRIMINAL PENALTIES (2021-09-01/O-3)

WHEREAS, for the health, safety, and welfare of its residents and guests, the Town of Chapel Hill would benefit from a clear and effective set of remedies for violations of the Town's noise ordinance to prevent repeated disruptive offenses; and

WHEREAS, the Council seeks to address violations of these ordinances primarily through its existing scheme of civil penalties, but also retain the option of criminal penalties in the event they are necessary to achieve the goals of the noise ordinances.

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

Section 1. Chapter 11, Art. III, Section 11-42 and 11-43 of the Code of Ordinances, Town of Chapel Hill, North Carolina, is hereby amended as follows:

"Sec. 11-42. Violations.

- (a) A person believed to be violating any portion of this article may be given an oral order to cease or abate the noise immediately, or as soon as is reasonable or practical. If the person does not comply with the order to cease or abate the noise, the person or persons responsible for the noise or for allowing the continuation of the noise may be subject to penalties or other enforcement. ~~cited for a violation. An order to cease or abate is not a prerequisite to issuance of a citation~~ any enforcement remedy.
- (b) A person or group of persons will not be deemed to have violated section 11-39.1(a) of this article unless the noise being created, caused, or allowed to continue by said person(s) is reported on at least two (2) occasions, at least twenty (20) minutes apart, by different complainants at two (2) different locations, or unless the noise is of such a nature that a reasonable person should have known that the noise was a nuisance as defined in section 11-39.1(a).
- (c) Steady-state sounds, created by existing sources and/or equipment in place and operational prior to the effective date of this article, and maintained in good working order, are not violations of this article if the sound levels created do not exceed the limits allowed by ordinance prior to the effective date of this article.

(Ord. No. 2001-09-24/O-8, § 1; Ord. No. 2021-06-28/O-2 , § 1)

Sec. 11-43. Penalties and enforcement.

- (a) Any violation of this article within a twelve-month period subjects the offender to a civil citation and the following civil penalties:
- (1) First violation: Written warning and/or twenty-five dollars (\$25.00).
 - (2) Second violation: Seventy-five dollars (\$75.00).
 - (3) Third violation: One hundred and fifty dollars (\$150.00).
 - (4) Fourth and subsequent violations: Two-hundred and fifty dollars (\$250.00) up to maximum of five hundred dollars (\$500.00).
- ~~(b)~~ A violation that continues after the town notifies the offender of the violation or issues a citation for the violation constitutes an additional violation subject to further civil penalty.
- ~~(c)~~(b) Appeal. A person assessed a civil penalty under this section may appeal to the manager or manager's designee by filing an appeal within fifteen (15) days of receipt of the citation. The manager or designee shall conduct an administrative hearing during which the appealing party may present any material information in support of the appeal. The manager or designee shall render a decision within fifteen (15) days of the hearing.
- ~~(d)~~(c) The town may collect unpaid penalties through a civil action in the nature of a debt. A penalty is deemed unpaid if not paid within 30 days after receipt of the citation or conclusion of appeals. The manager is authorized to reach equitable settlement of unpaid penalties.
- ~~(e)~~(d) The town may also enforce this article by seeking an equitable remedy, including but not limited to injunctive relief or order of abatement.
- ~~(f)~~(e) Violation of section 11-41 of this article is cause for immediate revocation of a permit to exceed normal sound limits.
- ~~(g)~~(f) Violation of this article is a misdemeanor and may be punishable by a fine not to exceed two hundred fifty dollars (\$250.00), by imprisonment not to exceed ten (10) days, or both. Each day that a violation continues shall constitute a separate offense.
- ~~(h)~~(g) The manager or the manager's designee may deny a request to receive a permit to exceed the normal sound limits to any person or group of persons who have, within the previous six (6) months, violated any provision of this article.
- (h) The town may seek to enforce this chapter by using any one or a combination of the foregoing remedies."

(Ord. No. 2001-09-24/O-8, § 1; Ord. No. 2021-06-28/O-2 , § 1)

Section 2. These provisions shall supersede other provisions of the Town Code in conflict.

Section 3. This ordinance shall become effective September 1, 2021.

This the 1st day of September, 2021.

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

PRESENTER: Maurice Jones, Town Manager

RECOMMENDATION: That the Council enact the proposed changes to the Town's Noise

Ordinance to clarify criminal penalties, which it can do tonight.