

**AN ORDINANCE TO AMEND SECTIONS 30-33, 30-36, AND 30-39 OF  
THE CODE OF THE COUNTY OF WASHINGTON, VIRGINIA,  
TO DISCONTINUE REGULATION OF ANIMAL SOUNDS BY THE COUNTY NOISE ORDINANCE**

**WHEREAS**, on December 13, 2011, the Board of Supervisors of the County of Washington, Virginia, (Board) adopted Ordinance No. 2011-013 (Noise Ordinance), which established regulations and enforcement procedures for control of sounds that exceed permissible decibel levels or that occur at times and places that were deemed offensive to the majority of persons;

**WHEREAS**, the Noise Ordinance, as adopted, regulated sounds caused by animals, with the exception that animals involved in production of agricultural products were not covered; and

**WHEREAS**, in response to feedback from the public and practical experience in enforcement efforts, the Board has determined that regulation of animal sounds as provided in the Noise Ordinance was impractical, unduly burdensome to local law enforcement, and of minimal benefit in the County, which is predominately rural.

**NOW, THEREFORE, ON THE BASIS OF THE FOREGOING**, and in consideration of the best interests of the public health, welfare, and safety, and having held a public hearing on this proposed ordinance, the Board of Supervisors of the County of Washington, Virginia hereby ordains the following:

1. That this ordinance shall be effective immediately;
2. That should any section or provision of this ordinance be decided to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance or the Washington County Code;
3. That Chapter 30, Article II, Sections 30-33, 30-36, and 30-39 of the Code of the County of Washington, Virginia (2002, as amended) shall be revised as set forth herein, subject to Article, Division, Section, and Subsection titles and numbers amendment by the Editor as necessary for Code consistency. New language is indicated by underline, and deletions are indicated by strikethrough, as follows:

**CODE OF THE COUNTY OF WASHINGTON, VIRGINIA  
CHAPTER 30 – ENVIRONMENT  
ARTICLE II. – NOISE<sup>2</sup>**

Footnotes: --- (2) ---

**Editor's note**— Ord. No. 2011-013, §§ 2, 5, adopted Dec. 13, 2011, repealed the former Art. II, §§ 30-31—30-34, and enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from Code 1997, §§ 30-31—30-34.

**Cross reference**— Motor vehicle and noise regulations, § 38-31; supplementary district regulations, § 66-1021 et seq.

**State Law reference**— Authority to regulate noise, Code of Virginia §§ 15.2-1700, 15.2-1425, 15.2-1429; local noise ordinance exemptions, Code of Virginia, § 15.2-917; regulation of motorcycle noise, Code of Virginia, § 15.2-919; motor vehicle noise, Code of Virginia, §§ 46.2-1047, 46.2-1050; civil penalties, Code of Virginia § 15.2-980.

**Sec. 30-31. - Short title.**

This chapter may be referred to as the "noise ordinance" of the county.

(Ord. No. 2011-013, § 5, 12-13-2011)

**Sec. 30-32. - Declaration of policy and purpose.**

Inadequately controlled sound adversely affects the health, safety and welfare of people, the value of property, and the quality of the environment. It is hereby declared to be the public policy of the county to promote an environment for its residents free from sounds that, for the majority of residents, are excessive, unnecessary, and a degradation of the quality of life. The purpose of this article is to establish threshold, objective standards to determine sounds that, due to intensity, time of occurrence, and/or place of occurrence are punishable as prohibited noise.

(Ord. No. 2011-013, § 5, 12-13-2011)

**Sec. 30-33. - Definitions.**

The following words and phrases, when used in this chapter, shall have the meaning assigned to them in this section:

*Agricultural products* shall mean crops, livestock and livestock products; but not the retail merchandising of such crops, livestock or livestock products; which shall include, but not be limited to, the following:

- (1) Field crops, including corn, wheat, oats, rye, barley, hay, tobacco, peanuts, potatoes and dry beans;
- (2) Fruits, including apples, peaches, grapes, cherries and berries;
- (3) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions;
- (4) Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers;
- (5) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs and furs; and

Small scale conversion of biomass to alternative fuel, as provided in Code of Virginia, § 15.2-2288.01.

*A-weighted sound pressure level* shall mean the sound pressure level as measured on a sound level meter using the A-weighted scale and programmed to slow response to approximate the frequency response of the human auditory system. The level so read may be proscribed dB(A) or dBA.

*Decibel* is a unit of measurement of intensity of sound pressure, which may be expressed in an adjusted format such as decibels adjusted or dBA.

*Decibels adjusted* or *dBA* shall mean the A-weighted sound pressure level, which is the sound pressure level as measured on a sound level meter using the A-weighted scale and programmed to slow response to approximate the frequency response of the human auditory system. The level so read may be proscribed dB(A) or dBA. Decibels adjusted is an expression of the relative loudness of sounds in air as perceived by the human ear.

*Device* shall mean anything that is intended to or which actually produces sound, including without limitation, any equipment, on or off road motor vehicle, or facility, fixed or movable, ~~or animal~~ capable of producing sound audible beyond the property boundary of the property on which the ~~device equipment or animal~~ is located. Animals shall not be "devices" subject to the provisions of this article.

*Emergency work* shall mean work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from immediate exposure to danger, including work performed by public service companies when emergency inspection, repair of facilities or restoration of services is required for the immediate health, safety or welfare of the community.

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*Forestal products* shall include, but are not limited to, lumber, pulpwood, posts, firewood, and other wood products for sale or for farm use, but not the retail merchandising of such products.

*Horticultural products* shall include commercial flowers, nursery stock, ornamental shrubs, ornamental trees and Christmas trees, but not the retail merchandising of such product.

*Noise* shall mean sound that exceeds the decibel levels permitted within this article.

*Off-highway motor vehicle* shall mean any motor vehicle, as defined by Code of Virginia, § 46.2-100, in use or operation off of a public right-of-way regardless of whether such motor vehicle is specifically designed for such use.

*Person* shall mean any individual, corporation, partnership, association, governmental body, state, or other entity whatsoever.

*Property boundary* shall mean the point at ground surface that separates the real property owned, rented, or leased by one or more persons, from that owned, rented, or leased by one or more other persons, and its vertical extension.

*Public right-of-way* shall mean any street or highway that is owned or maintained by a public governmental entity.

*Receiving property* shall mean a parcel of real property as identified by a county tax parcel identification number upon which a sound may be heard.

*Sound* shall mean a temporal and spatial oscillation in pressure, or other physical quantity, in a medium with internal forces that causes compression and rarefaction of that medium, and which propagates at finite speed to distant points.

*Sound level meter* shall mean an instrument to measure sound pressure levels which shall meet or exceed performance standards for a "type two" meter as specified by the American National Standards Institute.

*Sound pressure* shall mean the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space.

*Source property* shall mean a parcel of real property as identified by a county tax parcel identification number upon which a measurable sound is created.

*Zoning category* shall mean the grouping of zoning districts as "residential," "commercial," or "industrial" as set forth in this article.

*Zoning district* refers to the scheme of land use classification contained in the Washington County Zoning Ordinance.

(Ord. No. 2011-013, § 5, 12-13-2011)

**State Law reference**— Code of Virginia § 15.2-2288.01 for small scale conversion of biomass to alternative fuel.

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**Sec. 30-34. - Prohibited noise generally.**

(a) It shall be unlawful for any person to operate, or permit to be operated, any device in such a manner that it creates a sound pressure level that exceeds the limits set forth below when measured on property other than that on which the device is located. A single reading on a sound level meter in excess of the limits set forth herein shall be sufficient to prove exceedance. The category of applicable sound pressure limits shall be determined by the zoning district classification of the property on which the sound is measured and the property on which the sound is produced.

	Sound Pressure Limits (using A-weighted sound pressure scale, dBA)		
Zoning Category of Receiving Property→	Residential	Commercial	Industrial
Zoning Category of Source Property↓			
Residential	55	60	62
Commercial	60	65	70
Industrial	62	70	77

(b) *Zoning category.* For purposes of this subdivision, the following zoning district groupings shall apply as "zoning categories":

~~a.1.~~ "Industrial" shall include Manufacturing-General, Manufacturing-Limited, and Airport Zoning District.

~~b.2.~~ "Residential" shall include the following zoning districts: Residential-Limited, Residential-General, Shoreland Recreation, Highlands Recreation, Conservation and Recreation, Village, and Konnarock.

~~c.3.~~ "Commercial" shall include: Agricultural-Limited, Agricultural-General, Business-Limited, and Business-General.

(c) Federal or state law or regulation shall supersede the limits stated in this article when such provisions (i) established sound level restrictions more stringent than those stated in this article or (ii) specifically require less stringent standards.

(Ord. No. 2011-013, § 5, 12-13-2011)

**Sec. 30-35. - Sound level measurement.**

- (a) Sound level measurement shall be assessed in dBA with a sound level meter with the point of measurement being at any physical point within the receiving property.
- (b) Sound level measurement shall be performed by the use of a sound level meter. Such measurements shall be accepted as prima facie evidence of the level of sound at issue in any court or legal proceeding to enforce the provisions of this article.
- (c) The accuracy of the sound level meter may be tested by a calibrator. Any sworn report of the results of any test of the calibrator for the accuracy of a sound level meter shall be admissible in court in any criminal or civil proceedings, as evidence of the facts therein stated.
- (d) An individual operating a sound level meter pursuant to the provisions of this chapter shall issue a certificate to indicate:
  - (1) The name of the operator;
  - (2) Certification of the operator's training to use the sound level meter;
  - (3) That the sound level meter used to take the decibel level reading was operated in accordance with the manufacturer's specifications;
  - (4) That the sheriff's office has on file a sworn report that states that the sound level meter has been tested within the past 12 months and has been found to be accurate;
  - (5) The name of the accused;
  - (6) The location of the source property and of the receiving property;
  - (7) The date, time, and place that the reading was made;
  - (8) The decibel level reading;
  - (9) A description of surrounding weather conditions or other ambient factors that may affect the sound level reading; and
  - (10) A general description of the source of the sound.
- (e) Such certificate, when attested by the operator taking the decibel level reading, shall be admissible in court in any criminal or civil proceeding as evidence of the facts therein stated and of the decibel level reading.
- (f) A copy of the certificate shall be delivered to the accused upon request.

(Ord. No. 2011-013, § 5, 12-13-2011)

**Sec. 30-36. - Enforcement of chapter.**

- (a) Enforcement of this article shall be undertaken only upon receipt of a complaint made by a person who resides, owns property, or is employed in the area affected by the sound complained of, except for parks, recreational areas, and wildlife sanctuaries.
- (b) Enforcement for complaints alleging prohibited noise being made or received in parks, recreational areas, and wildlife sanctuaries may be initiated by persons using such property for permissible purposes.
- (c) Enforcement proceedings generally will not be initiated until after the offender has received verbal, electronic, or written warning from a law enforcement officer or other official of the county, but the receipt of such warning shall not be an element necessary for prosecution. Further, such warning may be given to the offender in reference to similar activity at a prior time and not in reference to the same specific instance as the activity that results in enforcement proceedings.
- (d) For enforcement purposes, each hour in which violation of the noise restrictions occurs shall constitute a separate offense.
- (e) Public nuisance. In addition to the provisions provided for in this chapter, citizens of the county believing that sound constitutes a public nuisance may utilize the procedure set forth in Code of Virginia § 48-1, et seq., as amended, or any other legal civil or criminal remedies that may be available to them. *Proceeding with a complaint that asserts public nuisance or any form of civil or criminal relief other than proceeding under this article shall not be limited by the exceptions and requirements of this article.*

(Ord. No. 2011-013, § 5, 12-13-2011; Ord. No. 2014-011, § 3, 9-23-2014)

**Sec. 30-37. - Civil and criminal penalties.**

- (a) *Civil penalties.* The provisions of this chapter may be enforced by any law enforcement official through the issuance of civil summonses assessing civil penalties that shall not exceed \$250.00 for each first offense and \$500.00 for each subsequent offense within a 12-month period following prior offense(s), each day of violation constituting a separate offense. This provision shall not apply to noise generated in connection with business being performed on industrial property or to railroads.
- (b) *Criminal penalties.* A deputy sheriff may issue and any person may request that the magistrate issue a criminal summons to any person for violation of the provisions of this section, subject to the following schedule of penalties:
  - (1) A first offense shall be punishable as a Class Three misdemeanor subject to a penalty not to exceed \$500.00;

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- (2) A second offense within 12 months of the first offense shall be punishable as a Class Two misdemeanor subject to a penalty of no less than \$500.00 and not to exceed \$1,000.00;
  - (3) Third and additional offenses within a 12-month period that includes prior offense(s) shall be punishable as a Class One misdemeanor subject to a penalty of no less than \$1,000.00 not to exceed \$2,500.00 for each subsequent offense. To avoid an offense classification as a "third offense," an accused must not be convicted of any more violations of this article for at least 12 months after conviction of a second offense.
- (c) *Responsible person.* The person operating or controlling the noise source shall be guilty of any violation caused by that noise source. If that person cannot be determined, any owner, tenant, resident or manager physically present on the property where the violation is occurring, or the owner if none of the foregoing are present on the property, shall be guilty of any violation caused by that noise source. It shall be unlawful for a property owner knowingly to allow other persons to create noise prohibited by this chapter within the boundaries of his or her property.
- (d) *Abatement of violation.* If the violation is uncorrected at the time of a finding of liability on a civil summons or conviction on a criminal summons, the court shall order the violator to abate or remedy the violation in compliance with this article within a time period established by the court. Failure to remove or abate a violation within the specified time period shall constitute separate offenses, and any additional failure following the specified time period shall constitute a subsequent offense subject to additional penalties for each day of violation as well as punishment for contempt of court.

(Ord. No. 2011-013, § 5, 12-13-2011)

**State Law reference**— Code of Virginia §15.2-980, § 15.2-1429, and § 15.2-1432 for penalty and injunctive authority.

**Sec. 30-38. - Specific acts as prohibited noise.**

Notwithstanding the specific decibel limitations described in this section, the sound produced from any of the following acts is declared to be prohibited noise in violation of this chapter regardless of whether decibel evidence is present. Enforcement for these specific acts shall be in accordance with the enforcement proceedings set forth in this article.

- (1) The operation of any device after 10:00 p.m. and before 7:00 a.m. in a way to be plainly audible beyond the property boundary on which the device is located.
- (2) The simultaneous operation within 300 feet of any residence on any other property of more than four off-highway motor vehicles in a manner that the sound from such



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operation is plainly audible beyond the property boundary on which such operation is occurring.

- (3) Off-highway motor vehicle operation such that the sound from such operation is plainly audible beyond the property boundary on which such operation is occurring and when such operation is in excess of the following restrictions on number of vehicles in simultaneous operation. The table below identifies the maximum number of off-highway vehicles that may be in operation at any one time on a single parcel.

Parcel Size	Maximum number of OHVs to be in Operation at Any One Time;rr;
Up to 20 acres	4
More than 20 acres	6

(Ord. No. 2011-013, § 5, 12-13-2011)

**Sec. 30-39. - Exceptions from chapter.**

The provisions of this chapter shall not apply to the following activities:

- (1) Sounds created by motor vehicles when regulated by the motor vehicle laws of the Commonwealth of Virginia and when the operation of such motor vehicles that produces the sound is occurring on a public right-of-way;
- (2) The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work;
- (3) Sound caused by or arising out of activities related to repair, maintenance, replacement or alteration of public utility systems or parts thereof, public drainage systems or parts thereof, or streets and highways or parts thereof, and appurtenances thereto, where such activity is reasonably necessary to further a public safety interest and/or to minimize disruption in the provision of public services, e.g., water and sewer service;
- (4) Noise from electrical substations and existing stationary equipment used in the conveyance of water, waste water, and natural gas by a utility;
- (5) The production of agricultural, horticultural and forestal products, including sawmill operations;
- (6) Parades permitted by the county, any of the towns within the county, or the Virginia Department of Transportation and events, functions or activities at places of public assembly that are allowed by government-issued permit, including without limitation permitted firework displays;

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- (7) Sound emanating from any area permitted by the Virginia Department of Mines, Minerals and Energy for the use that is producing the sound;
- (8) Sounds originating from aircraft in flight and sounds that originate at airports, which are directly related to flight operations;
- (9) Sounds originating from rail transport operations;
- (10) Sounds originating from residential property relating to temporary projects for the maintenance, repair, or construction of homes, grounds, and appurtenances, between the hours of 7:00 a.m. and 10:00 p.m.;
- (11) Sounds created by permitted blasting or permitted construction projects between the hours of 7:00 a.m. and 10:00 p.m.;
- (12) Sounds created by the discharge of firearms on sport shooting ranges as specified in Code of Virginia, § 15.2-917 and allowed by special exception permit issued by the county or otherwise allowed pursuant to the county zoning ordinance;
- (13) Sounds created by the discharge of firearms in the course of the pursuit and killing of wild animals or fowl; ~~and~~
- (14) Sounds caused by natural phenomena; and
- (15) Sounds created by animals.

(Ord. No. 2011-013, § 5, 12-13-2011)

**State Law reference**— Code of Virginia § 15.2-917 for applicability of local noise ordinances to certain sport shooting ranges.

Secs. 30-40—30-60. - Reserved.