

Chapter 22 - NOISE^[1]

Footnotes:

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Cross reference— *Noisy animals or birds, § 5-9; disturbing the peace by loud or unusual noise, § 24-11; use of sound-amplification equipment in parks, § 26-29.***State Law reference**— *Applicability of local noise ordinances to certain sport shooting ranges, Code of Virginia, § 15.2-917.*

ARTICLE I. - IN GENERAL

Sec. 22-1. - Violations of chapter.

- (a) No person shall be charged with a violation of the provisions of section 22-3.1 or 22-9 unless (1) a complainant appears before a magistrate and requests a summons to be issued, (2) a violation is committed in the presence of a police officer or (3) in the case of a violation of section 22-9(3) the violation is committed in the presence of a police officer or animal control officer for the city.
- (b) Any person convicted of violating any of the provisions of section 22-3.1 or 22-9 shall be punished by a fine not to exceed five hundred dollars (\$500.00). Any person convicted of a second offense within less than five (5) years after a first offense under this article shall be punished by a fine not to exceed one thousand dollars (\$1,000.00). Any person convicted of a third offense within less than ten (10) years after a first offense under this article shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500.00).
- (c) Each day a violation continues unabated shall constitute a separate offense.
- (d) Criminal enforcement against a person violating this article shall not be a bar against, or a prerequisite for, taking any other action permitted by this Code or the Code of Virginia to abate the violation.

(Ord. No. 1449, 12-14-06; Ord. No. 10-0023, 9-8-10; Ord. No. 11-0002, 2-9-11)

Cross reference— Penalty for Class 1 misdemeanor, § 1-11.

Sec. 22-2. - Reserved.

Editor's note— Ord. No. 10-0023, adopted Sept. 8, 2010, repealed § 22-2, which pertained to loud, disturbing and unnecessary noise generally and derived from Code 1956, § 15-1; Code 1964, § 26-1; Ord. No. 1449, 12-14-06.

Sec. 22-3. - Reserved.

Editor's note— Ord. No. 10-0023, adopted Sept. 8, 2010, repealed § 22-3, which pertained to playing of radios, televisions, musical instruments, etc. and derived from Code 1956, § 15-3; Code 1964, § 26-3; Ord. No. 1199, 9-24-97; Ord. No. 1449, 12-14-06.

Sec. 22-3.1. - Amplified music or outdoor bands in the downtown area.

It shall be unlawful in the downtown areas zoned DT-1, DT-2, or DT-3 for any person, including the owner or manager on duty of any establishment or promoter of any event, to produce or allow to be produced a sound or noise from amplified music or an outdoor band which exceeds a noise level measurement of sixty (60) dBA upon the real property of another. Such noise is hereby prohibited and declared to be loud, disturbing and unlawful noise in violation of this section. This section shall be enforced by the police department and/or the codes compliance department. Sound level measurements shall be admissible evidence of any alleged unlawful noise if made with a sound level meter using the "A" weighing scale in accordance with the American National Standard Institute.

(Ord. No. 1199, 9-24-97; Ord. No. 1449, 12-14-06; Ord. No. 10-0023, 9-8-10; Ord. No. 15-0010, 3-25-15)

Sec. 22-4. - Reserved.

Editor's note— Ord. No. 10-0023, adopted Sept. 8, 2010, repealed § 22-4, which pertained to use of drums, loudspeakers, etc. and derived from Code 1956, § 15-6; Code 1964, § 26-6; Ord. No. 1449, 12-14-06.

Sec. 22-5. - Reserved.

Editor's note— Ord. No. 10-0023, adopted Sept. 8, 2010, repealed § 22-5, which pertained to shouting, hooting, etc., on streets and derived from Code 1956, § 15-4; Code 1964, § 26-4; Ord. No. 1449, 12-14-06.

Sec. 22-6. - Reserved.

Editor's note— Ord. No. 10-0023, adopted Sept. 8, 2010, repealed § 22-6, which pertained to noise from vehicles generally and derived from Code 1956, § 15-5; Code 1964, § 26-5; Ord. No. 1449, 12-14-06.

Sec. 22-7. - Reserved.

Editor's note— Ord. No. 10-0023, adopted Sept. 8, 2010, repealed § 22-7, which pertained to sounding of vehicle horn or other signal device and derived from Code 1956, § 15-2; Code 1964, § 26-2; Ord. No. 1449, 12-14-06.

Sec. 22-8. - Reserved.

Editor's note— Ord. No. 10-0023, adopted Sept. 8, 2010, repealed § 22-8, which pertained to building and excavating operations at night and derived from Code 1956, § 15-7; Code 1964, § 26-7; Ord. No. 1449, 12-14-06.

Sec. 22-9. - Prohibited noises enumerated.

It shall be unlawful for any person to cause or permit to be caused any of the following prohibited sounds or noises:

- (1) *Social gatherings and parties.* Allowing any noise between 10:00 p.m. and 7:00 a.m. generated from a gathering of two (2) or more people that is plainly audible (i) inside the confines of the dwelling unit, house or apartment of another person or (ii) in a residential area, at one hundred (100) or more feet from the gathering.
- (2) *Sound-producing and sound-reproducing devices.* The use operation or playing of any radio, phonograph, television, record, compact disc, tape, digital music, MP3 or DVD player, musical instrument, loudspeaker, sound amplifier or other machine or device capable of producing or reproducing sound, regardless of whether such sound-producing or sound-reproducing machine or device is located inside of a structure or outside of or on a structure, in such a manner or with such volume or duration that it is plainly audible between 10:00 p.m. and 7:00 a.m., (i) inside the confines of the dwelling unit, house or apartment of another person or (ii) in residential areas, at fifty (50) or more feet from the device.
- (3) *Noisy animals.* Allowing any animal to cause any sound or noise such that it is plainly audible (i) inside the confines of the dwelling unit, house or apartment of another person at least once a minute for ten (10) consecutive minutes or (ii) at one hundred (100) or more feet from the animal at least once a minute for ten (10) consecutive minutes or (iii) after more than one complaint has been received and after the owner or other responsible person has been advised of the complaints and that such noise is unlawful.
- (4) *Trash and recycling collection.* The creation of any sound or noise between 12:00 midnight and 6:00 a.m. that is plainly audible in a residential area, except those areas zoned C-1 "Neighborhood Commercial District", C-2 "Limited Commercial District" and C-3 "General Commercial District", when the sound or noise is produced in connection with the loading or unloading of refuse, waste or recycling collection vehicles.
- (5) *Street cleaning and construction.* The creation of any sound or noise between 10:00 p.m. and 6:00 a.m. that is plainly audible in a residential area, except those areas zoned C-1 "Neighborhood Commercial District", C-2 "Limited Commercial District" and C-3 "General Commercial District", when the sound or noise is produced in connection with (i) the cleaning of streets or parking lots or (ii) construction or demolition activities.
- (6) *Peddlers and hawkers.* Yelling, shouting, whistling, screaming or crying for the purpose of attracting attention to a performance, show, sale or display of merchandise between the hours of 10:00 p.m. and 7:00 a.m. on any public street, sidewalk or parking lot or any privately-owned street, sidewalk or parking lot open to the public, except to summon aid in an emergency.

- (7) *Amplified sound from vehicles.* Playing, using or operating, or permitting the playing, use or operation of, any radio, stereo, tape player, compact disc player, loud speaker or other electronic device or mechanical equipment used for the amplification of sound, which is located on or within a motor vehicle and which is plainly audible from outside the motor vehicle at a distance of fifty (50) feet or more. The provisions of this subsection shall not apply to the playing of music or jingles by an ice cream truck or similar mobile food-service vehicle, provided such vehicle may emit sounds otherwise prohibited by this subsection only between the hours of 7:00 a.m. and 9:00 p.m.
- (8) *Lawn care activities.* Creating any sound or noise plainly audible in residential areas between 10:00 p.m. and 7:00 a.m. in connection with lawn care, leaf removal, gardening, tree maintenance or removal or other landscaping, lawn or timbering activities.

(Ord. No. 10-0023, 9-8-10; Ord. No. 11-0002, 2-9-11; Ord. No. 13-0015, 7-10-13)

Sec. 22-10. - Exemptions.

No provisions of this article shall apply to (1) the emission of sound for the purpose of alerting persons to the existence of an emergency; (2) the emission of sound in the performance of emergency work; (3) activities sponsored by the city; (4) activities authorized by a permit issued by the city; or (5) activities for which the regulation of noise has been preempted by federal law.

(Ord. No. 10-0023, 9-8-10)

Secs. 22-11—22-20. - Reserved.

ARTICLE II. - RESERVED^[2]

Footnotes:

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Editor's note—Ord. No. 10-0023, adopted Sept. 8, 2010, repealed §§ 22-21—22-27, 22-36—22-41, which pertained to sound trucks and derived from Code 1956, §§ 15-8—15-11, 15-14—15-19; Ord. No. 80, § 33; Code 1964, §§ 26-8, 26-11—26-16, 26-18—26-21; Ord. No. 1449, adopted Dec. 14, 2006. The user's attention is directed to § 22-9.

Secs. 22-21—22-49. - Reserved.

ARTICLE III. - NOISE CONTOUR DISTRICT

Sec. 22-50. - Intent.

It is the intent of the Noise Contour District to insure that all buildings and structures in which families or households live, or in which sleeping accommodations are provided, as further described in "Use Group R" of the International Building Code, as amended, within those areas of Hampton that are likely to be impacted by aircraft noise associated with Langley Air Force Base make adequate provision for sound reduction in exterior walls, doors, windows, etc. to minimize the impact of such noise on occupants, and to insure that purchasers of property within this zone are aware of the associated noise levels. The district regulations deal with noise attenuation in all buildings and structures classified as "Use Group R" of the International Building Code, as amended, and with disclosure to potential purchasers of the existence of the associated noise.

(Ord. No. 1063, 8-27-92; Ord. No. 1071, 12-9-92; Ord. No. 1449, 12-14-06)

Sec. 22-51. - Boundaries.

The boundaries of the Noise Contour District shall be as delineated on the Noise Overlay Map which is incorporated into and made a part of the official zoning map of the city, and shall include the lands shown as being within the 65 dB DNL contour of the Noise Contours Map of the Langley AFB Air Installation Compatible Use Zone Report, 1990, as updated. A copy of such map shall be located in the office of the community development department.

(Ord. No. 1063, 8-27-92; Ord. No. 1449, 12-14-06; Ord. No. 11-0006, 6-8-11)

Sec. 22-52. - Noise attenuation.

- (a) Any structure or addition classified as "Use Group R" of the International Building Code, as amended, built or placed within the Noise Contour District on or after October 1, 1992 shall be constructed to provide acoustical treatment measures which achieve a maximum interior noise level of 45 dB DNL. Acoustical treatment measures shall not be required of garages, storage areas, or any other structure whose primary function is not the habitation of people.
- (1) Within the 75 or greater dB DNL contour line, the use of roof and exterior wall assemblies which have a laboratory sound transmission class (STC) of at least 49, and doors and windows which have a laboratory STC of at least 38 shall be required.
 - (2) Within the 70—74 dB DNL contour line, the use of roof and exterior wall assemblies which have a laboratory sound transmission class (STC) of at least 44, and doors and windows which have a laboratory STC of at least 33 shall be required.
 - (3) Within the 65—69 dB DNL contour line the use of roof and exterior wall assemblies which have a laboratory sound transmission class (STC) of at least 39, and doors and windows which have a laboratory STC of at least 28 shall be required.
- (b) In lieu of the materials specified in section 22-52(a), certification by an acoustical engineer that the construction practices and/or materials of the structure shall achieve the required interior noise level shall be submitted to the building official for approval prior to the release of any building permits.
- (c) For purposes of this article, the term "day-night average sound level (DNL)" is a twenty-four (24) hour energy average sound level expressed in dBA, with a ten-decibel penalty applied to noise occurring between 10:00 p.m. and 7:00 a.m., and the term "sound transmission class (STC) rating" is a single number rating characterizing the sound reduction performance of a material tested in accordance with ASTM E 90-90, "Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions".

(Ord. No. 1063, 8-27-92; Ord. No. 1071, 12-9-92; Ord. No. 1449, 12-14-06; Ord. No. 11-0006, 6-8-11)

Sec. 22-53. - Appeals.

- (a) Appeals as to whether alternatives to the materials specified in section 22-52(a) are actually equivalent to those materials may be made in writing to the city manager within ninety (90) days of the decision of the building official. The decision of the city manager shall be given in writing to the appellant within ten (10) working days of the date the appeal is filed.
- (b) Appeals of the decision of the city manager may be made in writing to the city council within thirty (30) days of the city manager's written decision. In the event such an appeal is filed, the city council shall schedule at least one public hearing on the matter and render its decision within ninety (90) days of the date the appeal of the city manager's decision is filed. The city council may affirm, reverse, or modify the decision of the city manager or return the matter to the city manager for further consideration.

(Ord. No. 1063, 8-27-92; Ord. No. 1449, 12-14-06; Ord. No. 11-0006, 6-8-11)

Sec. 22-54. - Disclosure.

- (a) The following statement shall be placed on all subdivision plats and site plans pertaining to properties within the Noise Contour District: "Noise Disclosure—This property, either partially or wholly, lies within the City of Hampton's Noise Contour District and may be subject to above average noise levels due to its proximity to the flight operations at Langley Air Force Base.
- (b) The provisions of Virginia Residential Property Disclosure Act (Virginia Code §§ 55-517—55-525), as applicable to required disclosures regarding real property in localities in which a military air installation is located, are hereby incorporated by reference.
- (c) The provisions of Virginia Code § 55-248.12:1, pertaining to required disclosures in rentals of residential property in localities in which a military air installation is located, are hereby incorporated by reference.

(d) Any person who fails to provide the disclosure required by this section shall be subject to the remedies provided in Virginia Code § 55-524 or 55-248.12:1, as applicable.

(Ord. No. 1063, 8-27-92; Ord. No. 1068, 10-14-92; Ord. No. 1449, 12-14-06; Ord. No. 11-0006, 6-8-11)

Sec. 22-55. - Enforcement.

The provisions of this article shall be enforced by the building official.

(Ord. No. 1063, 8-27-92; Ord. No. 1449, 12-14-06)