

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SCOTTSVILLE, VIRGINIA THAT A NEW SECTION 58-47 OF THE CODE OF THE TOWN OF SCOTTSVILLE IS HEREBY ADOPTED SETTING OUT NOISE VIOLATIONS AND PENALTIES THEREFORE IN FURTHERANCE OF THE HEALTH AND SAFETY OF THE CITIZENS OF THE TOWN OF SCOTTSVILLE AS FOLLOWS:

**Section 58-47 – Noise Violations; Penalties**

(a) *Definitions:*

*Decibel* (dB) means a unit for measuring the volume of a sound, equal to Twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

*dBA* means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network expressed as dB(A) or dBA.

*Property boundary* means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned, leased or otherwise legally controlled by one (1) person from that owned, leased or otherwise legally controlled by another person, including intra-building real property divisions.

*Restaurant* means any building or structure where in the normal course of business food or drink is available for eating on the premises, in consideration for payment. For purposes of this chapter, the term restaurant includes, but is not limited to, bars, lounges, taverns, coffee shops and cafes.

(b) *Maximum sound levels:*

- (1) *Nighttime.* No person shall permit, operate or cause any source of sound to create a sound level in excess of 72 dBA when measured at or outside the property boundary between the hours of 10:00 p.m. and 7:00 a.m.
- (2) *Daytime.* No person shall permit, operate or cause any source of sound to create a sound level in excess of 75 dBA when measured at or outside the property boundary between the hours 7:00 a.m. and 10:00 p.m.

(3) *Measurements in multifamily structures.* In a structure used as a multifamily dwelling the police department may take measurements to determine sound levels from common areas within or outside the structure or from other dwelling units within the structure, when requested to do so by the owner or tenant in possession and control thereof. Such measurement shall be taken at a point at least four (4) feet from the wall, ceiling or floor nearest the noise source, with doors to the receiving area closed and windows in the normal position for the season.

(c) *Exemptions:*

The following activities or sources of noise shall be exempt from the prohibitions set forth in this Section:

- a. Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools.
- b. Athletic contests and other officially sanctioned activities in Town and County parks.
- c. Activities related to the construction, repair, maintenance, remodeling or demolition, grading or other improvement of real property.
- d. Gardening, lawn care, tree maintenance or removal and other landscaping activities between the hours of 7:00 a.m. and 6:00 p.m.
- e. Church bells or carillons.
- f. Religious or political gatherings and other activities protected by the First Amendment to the United States Constitution.
- g. Activities for which the regulation of noise has been preempted by federal law.
- h. Public transportation, refuse collection and sanitation services.
- i. A special event that is conducted in accordance with a valid permit issued by the Town in accordance with the Town's special events regulations.
- j. Sound which is necessary for the protection or preservation of property or the health, safety, life or limb of any person.
- k. Radios, sirens, horns, and bells on police, fire, or other

emergency response vehicles.

1. Parades, fireworks displays, school-related activities, and other such public special events or public activities.

(d) *Sound levels: restaurants:*

No person shall permit, operate or cause any source of sound to create a sound level emanating from a restaurant between the hours of 6:00 p.m. and 2:30 a.m. in excess of 72 dBA when measured one hundred (100) feet or more outside the property boundary.

(e) *Yelling, shouting, etc.:*

No person shall permit or cause yelling, shouting, whistling or singing by restaurant patrons between the hours of 6:00 p.m. and 2:30 a.m. in such a manner as to permit sound to be heard across a residential real property boundary or through partitions common to two (2) dwelling units within a building.

(f) *Vehicles:*

- (1) No person shall permit or cause operation of a motor vehicle or operation of a motorcycle within the town with a gutted muffler, muffler cutout, straight exhaust, or without an exhaust in good working order, as provided by Code of Virginia, §§ 46.2-1047 and 46.2-1049. Violations of this subsection shall be considered traffic infractions punishable as provided for in Town Code section 74-24
- (2) No person shall permit or cause operation of sound amplifying equipment in a motor vehicle in excess of 60 dBA measured at a distance of fifty (50) feet from the vehicle.

(g) *Outdoor Musical Performances:* Outdoor musical performances featuring amplified sound are prohibited within the Scottsville Historic District unless authorized by a permit

issued by the Town Mayor or Administrator.

- (h) *Existing Sound Sources*: Each existing sound source existing on the effective date of this section shall be regulated as follows:
  - (1) Each existing sound source that complies with the maximum sound levels established in this section shall comply with all requirements of this section rather than an applicable prior regulation.
  - (2) Each existing sound source that does not comply with the maximum sound levels established in this section shall not increase its sound level.
- (i) *Modification or Waiver*: The Town Council may modify or waive the standard set forth in this section in a particular case upon finding that strict application of the standard would cause undue hardship and not forward the purposes of this chapter or otherwise serve the public health, safety or welfare, or that alternatives proposed by the owner would satisfy the purposes of this section at least to an equivalent degree. The Town Council may impose conditions on the modification or waiver that it deems appropriate to further the purposes of this section.
- (j) *Sound level measurement*:
  - (1) The decibel level of any noise regulated by this section may be measured by the use of a sound level meter which measures sound pressure levels. Such measurements shall be accepted as prima facie evidence of the level of noise at issue in any court or legal proceeding to enforce the provisions of this chapter.
  - (2) 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 proceeding, as evidence of the facts therein stated.

- (3) Each sound measurement shall be taken over a period of five (5) continuous minutes, unless the sound being measured is an impulse sound. If the sound being measured is an impulse sound, each sound measurement shall be taken during the emission of that sound.
- (4) An individual operating a sound level meter pursuant to the provisions of this section shall issue a certificate to indicate:
  - a. That the sound level meter used to take the decibel level reading was operated in accordance with the manufacturer's specifications;
  - b. That the Town has on file a sworn report which states that the sound level meter has been tested within the past twelve (12) months and has been found to be accurate;
  - c. The name of the accused;
  - d. The location of the noise;
  - e. The date and time that the reading was made; and
  - f. The decibel level reading.

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. A copy of the certificate shall be delivered to the accused upon request.

(k) *Punishment:*

Where no conviction under this section has occurred within the preceding three (3) years of the date of the offense, the defendant, if guilty, shall be convicted of a Class 3 misdemeanor and sentenced according to state law in the discretion of the court, however, the Town Council recommends the sentence include fifty (50) hours community service. For each subsequent conviction of a violation of this section within three (3) years, the defendant shall be convicted of a Class 1 misdemeanor and sentenced according to state law in the discretion of the court, however, the Town Council recommends the sentence to include one hundred (100) hours of community service.

(l) *Administration and enforcement of chapter generally:*

The noise control program established by this chapter shall be enforced and administered by the Town or County police

department with the assistance of other Town officers as required by issuance of a summons to the appropriate court.

(m) *Other Enforcement*

- (1) Instead of the criminal enforcement of this chapter, the Town may bring a suit for injunction, abatement, or other appropriate civil relief to remedy, correct, or abate excessive noise.
- (2) Citizens of the Town believing that excessive noise constituting a public nuisance exists may utilize the procedure set forth in Code of Virginia (1950), § 48-1 et seq., as amended, or any other legal civil or criminal remedies that may be available to them.