

Form and Correctness Approved: *BAP*

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NORFOLK, VIRGINIA

R-13 ORDINANCE NO. 48,923

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 26 OF THE NORFOLK CITY CODE, 1979, REGARDING NOISE.

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BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That Chapter 26 of the Norfolk City Code, 1979, regarding noise is hereby amended and reordained in its entirety to read as follows:

Chapter 26 NOISE

Sec 26-1. Declaration of Policy

At certain levels, noise can be detrimental to health, welfare, safety, and quality of life. It is therefore in the public interest and the policy of the City to prohibit unnecessary, excessive, and annoying noise from all sources subject to its police power, to the extent such action is not inconsistent with the First Amendment rights of the people. Nothing contained in this article should be construed to authorize or direct any action which would result in any substantial increase in noise levels from any noise source in the City. Such noise is a nuisance, and all powers of the City regarding the abatement of nuisances apply to noise disturbances.

Sec. 26-2. Definitions.

As used in this chapter, the following words, terms, and phrases have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

Ambient noise. The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far. Ambient noise levels are established by taking a series of observations on the adversely affected property.

Audio players. Any device capable of producing or reproducing sound, including but not limited to mobile phones, hardware or software digital audio players, computers, televisions, radios, compact disc players, cassette players, record players, and audio systems in a motor vehicle.

Decibel (dB). A unit for measuring the volume of 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). 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).

Dwelling unit. One (1) or more rooms connected together and constituting a single housekeeping unit, with independent cooking (including range), bathroom (including bathtub, shower, or both), and sleeping facilities, designed, or used for occupancy by a single family or housekeeping unit, and separate from any other dwelling units or rooms in the same building. Recreational vehicles are not dwelling units.

Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency and public safety work. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency or work performed by public and private service companies constructing, inspecting, and repairing utilities, repairing and maintaining roads, bridges, and highways, providing snow removal, and the operation of public safety and emergency vehicles.

Enclosed dwelling unit. A dwelling unit with doors and windows closed.

Impulsive sound. Sound of short duration usually less than one second, with an abrupt onset and rapid decay.

Motor vehicle. Every vehicle defined as a motor vehicle by § 46.2-100 of Code of Virginia (1950), as amended, and for the purposes of this chapter, the definition also includes autocycles, golf carts, motor scooters, minibikes, and mopeds.

Muffler. A device for abating the sound of escaping gases of an internal combustion engine.

Noise. Any sound which disturbs humans, or which causes or tends to cause an adverse psychological or physiological effect on humans.

Noise source. Any equipment, facility, motor vehicle, conduct, activity, or operation whether human, animal, mechanical, electronic, or other; and whether continuous, intermittent, or sporadic; and whether stationary or ambulatory in nature, which produces or results in plainly audible and discernible noise.

Plainly audible and discernable. Sound that can be heard by the human ear and is sufficiently distinct so that its source can be clearly identified by a person using their unaided hearing faculties, unless that aid is a functioning medical hearing aid device. Specific words or phrases do not need to be discernible for sound to be plainly audible. The detection of rhythmic bass tones or reverberations is sufficient to be considered a plainly audible and discernable sound.

Sound. An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristics of such sound, including duration, intensity, and frequency.

Sound level. The weighted sound pressure level obtained using a sound level meter and frequency weighting network, such as A, B, or C, as specified in the American National Standards Institute specifications for sound level meters. If the frequency weighting employed is not indicated, the A weighting will apply.

Sound level meter. An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and any applicable weighting network used to measure sound pressure levels.

Sec. 26-3. Enforcement.

(a) The Norfolk Police Department and any other law enforcement agency with concurrent jurisdiction within the City of Norfolk may enforce the provisions of this article and may be assisted by other City departments as directed by the City Manager, or by the Virginia Department of Health.

(b) Each and every person operating, permitting, or controlling a source of noise is guilty of any violation caused by that source. If the person operating, permitting, or controlling the noise source cannot be identified, or the noise source is a business entity or premises; each and every owner, tenant, resident, or manager physically present on the property where the noise source is located is rebuttably presumed to be in violation of this chapter.

(c) For purposes of the measurements set forth below in this chapter, if the source of the sound is not visible, then the measurement should be taken from the exterior wall of the building, structure, or other enclosure in which the source of the sound is located.

(d) Nothing in this section should be construed to abridge, limit, or otherwise impair the right of any person or entity to claim, in a separate, private action, damages or other relief on account of injuries to persons or property, and to maintain any action or other appropriate proceedings.

(e) Nothing in this article is meant to prevent enforcement efforts to obtain voluntary compliance through warning, conference, or any other appropriate means.

Sec. 26-4. Violations and penalties.

(a) Unless otherwise specified, a violation of any provision of this chapter is a class 3 misdemeanor, punishable by a fine of up to \$500.

(b) As an additional remedy, the operation or maintenance of any device, instrument, vehicle, or machinery in violation of any provision of this chapter, which operation or maintenance endangers the comfort, repose, health, or peace of residents in the area, is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction, or any other power to abate a nuisance held by the City.

Sec. 26-5. Exemptions.

No provision of this chapter applies to:

(1) Sound or noise with the purpose of alerting persons to the existence of an emergency.

(2) Noises resulting from any public emergency vehicle at any time or resulting from other authorized emergency vehicles when responding to an emergency call or acting in time of emergency.

(3) Noises resulting from emergency and public safety work necessary to restore property to a safe condition following a public calamity or weather event, or work required to protect persons or property from an imminent danger.

(4) Noises created by the operation of generators during power outages or under other emergency or necessary circumstances.

(5) Noises generated by City sponsored or authorized parades, performances, fireworks, and other special events or activities for which all required permits have been issued by the City.

(6) Noises generated by organized athletic and recreational activities conducted on or in private or public property and facilities, provided that such athletic or recreational activity is lawfully conducted and has been authorized by the owner of such property or facilities or its agent.

(7) Noises generated by locomotives and other railroad equipment, including federally-mandated safety features.

(8) Noises generated by all aircraft under the jurisdiction the Federal Aviation Administration.

(9) Noises generated by the striking of clocks and ringing or chiming of church bells, including such sounds made by a synthesizer or played recording.

(10) Noises generated by the operation of heating, ventilation, and air conditioning units (HVAC units) attached to a building or structure that does not exceed the ambient noise level by more than ten (10) decibels.

(11) Noises generated by City waste collection, including public recycling and waste removal services rendered by the City's agent, contractor, or designee.

(12) Noises generated by the lawful operation of a motor vehicle with a functioning muffler on public streets and highways, including without limitation, the sounding of any horn or signaling device of a motor vehicle as a warning of danger in accordance with state and local law. This exemption does not apply to noises generated by revving engines, compression braking, racing motor vehicles, test driving motor vehicles under repair and similar use of a motor vehicle for purposes other than as a lawful mode of transportation.

(13) Noises resulting from the emanation of sound from a building occupied by a church or other religious organization as a place of worship during worship services and other religious activities.

(14) Noise resulting from utility facilities, as defined in the Norfolk Zoning Ordinance; and lawful activities in industrial areas, as designated in the Norfolk Zoning Ordinance, including federally-mandated safety features on motor vehicles and equipment.

(15) Noises resulting from activities of a temporary duration permitted by law and for which a license or permit has been granted by the City.

Sec. 26-6. Specific prohibitions.

Subject to the exemptions in section 26-5, any of the following acts, or the causing or permitting of the following acts, is prohibited.

(a) *Per se offenses.* The following activities are deemed to comprise creating noise in violation of this section, without any requirement of scientific measurement of sound levels:

(1) Vehicle Exhaust. A person operating a motor vehicle that generates loud exhaust sound without having a muffler that meets all applicable motor code requirements, as provided by Code of Virginia § 46.2-1047.

(2) Audio players, musical instruments, and similar devices. Operating, playing or permitting the operation or playing of any audio player, musical instrument, or any device capable of producing or reproducing sound in such a manner or with such volume or physically perceptible vibrations that it is plainly audible (i) inside the confines of another person's enclosed dwelling unit or enclosed vehicle; or (ii) at a distance of 100 or more feet in any direction from the operator between the hours of 7:00 a.m. and 10:00 p.m.; or (iii) at a distance of 50 or more feet in any direction from the operator between the hours of 10:00 p.m. and 7:00 a.m.

(3) Loudspeakers, public address systems, amplifiers, and similar devices. Using, operating, or permitting the operation of any loudspeaker, public address system, mobile sound vehicle, communication system, amplifier, or similar device capable of amplifying sound, including any such device in a motor vehicle, for any purpose between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to permit sound to be plainly audible (i) inside the confines of another person's enclosed dwelling unit or enclosed

motor vehicle; or (ii) at fifty (50) or more feet from the noise; or (iii) amplified music that is plainly audible at ten (10) or more feet from an entrance to a nightclub or restaurant on Granby Street, observed when all doors and windows facing the street are closed.

(4) Vehicle horns, signaling devices, and similar devices. Sounding or permitting the sounding of any horn, whistle, signaling device, or similar device on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space continuously or intermittently for more than ten (10) consecutive seconds, except when the sounding of any such device is intended as a danger warning.

(5) Yelling, shouting, etc. Yelling, shouting, whistling, or singing between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to permit sound to plainly audible (i) inside the confines of another person's enclosed dwelling unit; or (ii) at fifty (50) or more feet from the source of the sound, unless exempt under section 26-5.

(6) 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 another person's enclosed dwelling unit; or (ii) in a residential area, at fifty (50) or more feet from the gathering.

(7) Construction equipment, pneumatic hammer, chain saw, etc. The operation of any bulldozer, crane, backhoe, front loader, pile driver, jackhammer, pneumatic drill, pneumatic hammer, chain saw, steam shovel, derrick, steam or electric hoist, or other appliance or other construction equipment between the hours of 10:00 p.m. and 7:00 a.m., unless exempt or specifically deemed necessary and authorized by a written document issued by the City Manager or their designee.

(8) Vehicle repairs, etc. Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner that is plainly audible inside the confines of another person's enclosed dwelling unit between the hours of 10:00 pm and 7:00 am in a residential area as defined by Norfolk's Zoning Ordinance, unless exempt under section 26-5.

(9) Lawn care activities. Creating any noise plainly audible inside the confines of another person's enclosed dwelling unit 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 activities.

(b) Immediate threats to health and welfare.

(1) An enforcement officer may order an immediate halt to any sound which exposes any person to sound levels more than those shown below as Table I, "Impulsive Sound Levels."

(2) Notwithstanding Section 26-4, any violation of this subsection (b) is a Class 1 misdemeanor.

TABLE I:
 IMPULSIVE SOUND LEVELS WHICH POSE
 AN IMMEDIATE THREAT TO HEALTH AND WELFARE
 Measured from at least 50 feet from the noise source

Sound Level Limit (dB)A	Number of Repetitions per 24 Hour-Period
140	1
135	10
125	100

(c) Offenses requiring scientific measurement of sound levels. Any noise not listed as an exemption or prohibited act in this subsection, that exceeds the maximum sound pressure level in Table II below is a violation of this chapter. Where the ambient noise level exceeds the maximum sound pressure levels, the noise complained of is permitted to exceed the ambient level by ten (10) decibels but no more.

(1) Scientific measurement procedures.

(a) The decibel level of any noise regulated this subsection must be measured by the use of a sound level meter at least fifty (50) feet from the noise source. Such measurement is *prima facie* evidence of the level of noise at issue in any court or legal proceeding to enforce the provisions of this section.

(b) The accuracy of the sound level meter must be tested by a calibrator in accordance with the device manufacturer's instructions. Any sworn report of the results of any test of the calibrator for the accuracy of a sound level meter is admissible in court in any criminal or civil proceeding, as evidence of the facts stated.

(c) An individual operating a sound level meter pursuant to the provisions of this section must 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 City has on file a sworn report which states that the sound level meter has been tested within the past 12 months and has been found to be accurate;
- c. The name of the accused;
- d. The location of the noise source;
- e. Where the reading was made and the receiving land use zoning district in which the reading was made;
- f. The ambient sound level at the location of the noise source;
- g. The date and time that the reading was made; and
- h. the decibel level reading measured for the sound emitted from the noise source.

(d) Such certificate, when attested by the operator taking the decibel level reading, is admissible in court in any criminal or civil proceeding as evidence of the facts stated and of the decibel level reading. A copy of the certificate may be delivered to the accused upon written request.

TABLE II:
MAXIMUM SOUND PRESSURE LEVELS

Receiving Land Use Base Category in Norfolk Zoning Ordinance	Sound Level Limit db(A)	
	7:00 a.m. - 10:00 p.m.	10:00p.m. - 7:00 a.m.
Residential Base; Historic and Cultural Conservation Base; and Special Purpose Districts: IN, IN-C, UV, EBH, G-1, TOD-C, and TOD-S	57	52
Special Purpose Districts: OSP, Resource, MI	67	62
Commercial Base	67	62
Downtown Base: D-W, D-BC, D-AD	67	62
Downtown Base: D-MU, D-FN, D-SP; and Commercial Base: C-N	67	52
Industrial Base	77	77

Sec. 25-7. Conflict of Ordinance.

In any case where a provision of this chapter is found to conflict any other provision of the Norfolk Code existing on the effective date of this chapter, the provision which establishes the more stringent standard for the promotion and protection of the health and safety of the public will prevail. In any case where a provision of this chapter is found to be in conflict with any other provision of the Norfolk Code existing on the effective date of this chapter which establishes a less stringent standard for the promotion and protection of the health and safety of the public, the provisions of this chapter must be deemed to prevail; and such other provisions are hereby declared to be repealed to the extent that they may be found in conflict with this chapter.

Sec. 25-8. Severability.

Should any section, subsection, sentence, clause, or phrase of this chapter be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration must not affect the validity of the chapter in its entirety or of any part thereof other than that part declared to be invalid.

Section 2:- That this ordinance shall be in effect from and after the date of its adoption.

ADOPTED BY COUNCIL SEPTEMBER 13, 2022
EFFECTIVE SEPTEMBER 13, 2022