

ORDINANCE NO. 2010-11

An Ordinance repealing Chapter 23 of the Code of the City of Hopewell and reenacting Chapter 23, NOISE.

WHEREAS, the City of Hopewell has prohibited loud and disturbing noise within the City for many years; and

WHEREAS, the City Council has previously found, and hereby so finds again, that the peace, tranquility, and the health and life of all residents of the City is adversely affected by loud and disturbing noises.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL that Chapter 23 of the Code of the City of Hopewell is hereby repealed and the following provisions be reenacted as Chapter 23:

SECTION 23-1. Declaration of Findings and Policy.

The City Council hereby finds and declares that excessive sound is a serious hazard to the public health, welfare, peace, safety, and the quality of life; that a substantial body of science and technology exists by which excessive sound may be substantially abated; that the people have a right to and should be ensured an environment free from excessive sound that may jeopardize the public health, welfare, peace, and safety or degrade the quality of life; and that it is the policy of the City of Hopewell to prevent such excessive sound.

SECTION 23-2. Administration and Enforcement

- (1) The noise control program established by this Chapter shall be enforced and administered by the chief of police and/or his designees, with the assistance of other city departments as required.
- (2) An individual complainant may appear before a magistrate and request a summons to be issued.

SECTION 23-3. Loud Noises Prohibited.

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

- (1) To use, operate or play any radio, phonograph, television, record, compact disc, tape player, musical instrument, loudspeaker, sound amplifier, digital music device, DVD player, MP3 player, or any other machine or device capable of producing or reproducing sound in such a manner, or with such volume, that it is plainly audible between the hours of 11:00 p.m. and 7:00 a.m.:
 - (a) inside the confines of the dwelling unit, house, condominium, or apartment of another person; or

- (b) at a distance of 50 feet, or more from the device, except for devices properly authorized and permitted to be used at public parks, recreation fields, sporting events, school-sponsored activities on school grounds, or duly authorized parades, public functions or commemorative events.
- (2) To cause or allow noise between the hours of 11:00 p.m. and 7:00 a.m. that is generated, caused, or created by a gathering of six (6) or more people where said noise:
 - (a) is plainly audible inside the confines of the dwelling unit, house, condominium, or apartment of another person; or
 - (b) is plainly audible at a distance of 50 feet, or more from the noise.
- (3) To play or permit the playing of any radio, stereo, tape player, compact disc player, MP3 player, digital music player, loud speaker or other electronic device or mechanical equipment used for the amplification of sound, which is located within a motor vehicle and which is plainly audible from outside the motor vehicle at a distance of 50 feet or more from the vehicle.

This provision shall also 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 8:00 a.m. and 9:00 p.m.

- (4) To allow any animal or bird to create any noise or sound that it is plainly audible at least once a minute for ten (10) consecutive minutes (i) inside the confines of the dwelling unit, house, condominium, or apartment of another; or (ii) at 75 or more feet from the animal or bird; or

To allow a dog to bark for more than ten (10) times per minute for five (5) consecutive minutes, where said dog's bark is plainly audible (i) inside the confines of the dwelling unit, house, condominium, or apartment of another; or (ii) at 75 or more feet from the dog.
- (5) To create any plainly audible sound or noise in residential areas between 10:00 p.m. and 6:00 a.m. in connection with the loading or unloading of refuse, waste or recycling collection vehicles.
- (6) To create any plainly audible sound or noise in residential areas between 10:00 p.m. and 6:00 a.m. in connection with the construction or demolition of any building, structure, or parking lot.
- (7) To create any plainly audible sound or noise 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 and other landscaping, lawn or timbering activities.
- (8) To sound any car or truck horn between the hours of 11:00 p.m. and 7:00 a.m. where said horn:
 - (a) is plainly audible inside the confines of the dwelling unit, house, condominium, or apartment of another person; or
 - (b) is plainly audible at a distance of 50 feet, or more from the noise.

This provision shall not apply to horns that are sounded in case of an emergency or to provide a warning to other motor vehicles.

SECTION 23-4. Exemptions.

The prohibitions contained in this Chapter 23 shall not apply to any sound or noise generated by any of the following:

- (1) Sound or noise which is necessary for the protection or preservation of property or the health, safety, life or limb of any person, including sound or noise caused by restoration of utility service after an interruption.
- (2) Sound or noise which is necessary for the maintenance or construction of roads and highways.
- (3) Radios, sirens, horns and bells on police, fire or other emergency response vehicles.
- (4) Parades, fireworks displays, school-related activities and other such public special events or public activities.
- (5) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, colleges or universities.
- (6) Athletic contests and activities, and other officially-sanctioned activities in city parks.
- (7) Fire alarms, burglar alarms and car alarms, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises or vehicle served by any such alarm to turn off the alarm.
- (8) *Reserved
- (9) Military activities of the state or of the United States of America.
- (10) Political gatherings and other activities protected by the First Amendment to the United States Constitution.

SECTION 23-5. Penalties.

- (1) A first or second violation of this ordinance shall be deemed a Class 3 misdemeanor which shall be punished by a fine of not less than \$100.00, nor more than \$250.00 for a first offense, and not less than \$200.00, nor more than \$500.00 for a second offense.

Any person convicted of a violation of this ordinance within less than three (3) years after conviction of a second or subsequent offense under this article, shall be guilty of Class 2 misdemeanor which shall be punished by a fine not less than \$250.00 nor more than \$1,000.00.

- (2) Each day a violation continues unabated shall constitute a separate offense.

- (3) 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.