

## **ORDINANCE 2020-08**

### **AN ORDINANCE AMENDING TOWN CODE SECTION 11-19 TO EFFECTUATE THE RESTRICTION OF BUILDING OPERATIONS AND OTHER NECESSARY AMENDMENTS**

**WHEREAS**, the Town of Warrenton Town Code contains a Noise Ordinance, Section 11-19, which contains a subsection 11-19(a) which may violate the Supreme Court decision in *Virginia Beach v. Tanner* due to unconstitutional vagueness; and

**WHEREAS**, the Town of Warrenton Town Code contains a subsequent subsection of Section 11-19 as 11-19(c)(8) which prohibits certain building operations during the hours of 7:00 a.m. and 6:00 p.m. on weekdays; and

**WHEREAS**, the Virginia Court of Appeals in *Souter v. County of Warren* held that the two must be read together and thereby making both sections unconstitutional; and

**WHEREAS**, the Town Council has reviewed and hereby recommends the approval of this resolution.

**NOW THEREFORE**, be it resolved that the Town Council of the Town of Warrenton does hereby amend Section 11-19 of the Town Code as follows:

Sec. 11-19. - Noise.

(A) The following acts, are declared to be a violation of this section:

- (1) **Blasting horns.** The creation by means of any signal device of any loud or harsh noise blowing beyond 5 seconds, and the sounding of such device for any unnecessary period of time;
- (2) **Pets.** The keeping of any animal which, by causing frequent or long continued noise, shall disturb the comfort or repose of any persons in the vicinity between the times of 8:00 a.m. 10:00 p.m. Sunday through Monday;
- (3) **Vehicles.** The use of any automobile, motorcycle or vehicle so out of repair, so loaded or used or repaired in such manner as to create loud or unnecessary noises, particularly grating, grinding, rattling, or riveting;
- (4) **Whistles.** The blowing of any whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger;
- (5) **Exhaust discharge.** The discharge into the open air of the exhaust from any steam engine, stationary internal combustion engine or motorboat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. Such muffler or other device installed may not be a gutted muffler, muffler cutout, or straight exhaust. The exhaust system is required to be in good working order and in constant operation to prevent excessive or unusual levels of noise; provided however, that for motor vehicles, such exhaust system shall be of a type installed as standard factory equipment, or comparable to that designed for use on the particular vehicle as standard

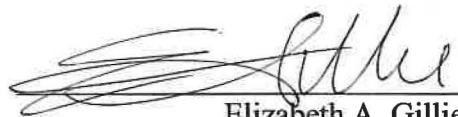
factory equipment. An exhaust system is a violation of this section if it permits the escape of noise in excess of that permitted by the standard factory equipment exhaust system of private passenger motor vehicles or trucks of standard make;

- (6) Devices using compressed air. The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced;
  - (7) Building operations. The erection, including excavation, demolition, alteration or repair, of any building in a residential or business district other than between the hours of 8:00 a.m. and 7:00 p.m. seven days a week, except in cases of urgent necessity in the interest of public safety, and then only with a permit from the proper town officials;
  - (8) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any school, institution of learning, library, sanitarium, hospital or court, while the same is in session, or adjacent to any church during the church services, which interferes with the work or worship in any such place or institution; provided, that signs must be displayed in such streets indicating that the same is a school, hospital, church, library, sanitarium or court;
  - (9) Loading and unloading operations. The creation of loud and excessive noises in connection with loading or unloading any vehicle or repairing any vehicle or opening and destroying bales, boxes, crates and containers except between 9:00 a.m. and 7:00 p.m.;
  - (10) Bells or gongs. The sounding of any bell or gong attached to any building or premises which is plainly audible in a dwelling in the vicinity thereof with the windows and doors closed with the exception of churches or any government building or courthouse;
  - (11) Hawking, peddling or soliciting. Shouting, loud talking, crying or soliciting by peddlers, hawkers, taxicab drivers, solicitors and vendors which is clearly audible and done for the purpose commerce;
  - (12) Noise to attract attention. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance or event, show, sale or the display or advertisement of merchandise by the creation of noise;
  - (13) Loudspeakers or amplifiers. The use of any mechanical loudspeaker or amplifier, except by special permission of the town manager when the public will not be unreasonably disturbed thereby;
  - (14) Business noises at night near residences. The operation of any garage, filling station, auto repair business, taxi business, plant, store, factory or other place of business, between the hours of 8:00 p.m. and 8:00 a.m.
- (B) Any violation of this section shall be penalized on a first offense as a \$250 civil fine. Any subsequent offense shall be penalized as a \$500 for each occurrence after a 24-hour period.

(Code 1981, § 10-16; Ord. No. 1992-25, 10-13-92)

Cross reference— Animals and fowl, Ch. 3; buildings, Ch. 4; motor vehicles and traffic, Ch. 10; solicitors, Ch. 13; taxicabs, Ch. 16.

State Law reference— Power of town to regulate noise from motorcycle mufflers, Code of Virginia, § 15.1-29.12; power of town to regulate or prohibit the use of explosive devices to repel birds, Code of Virginia, § 15.1-29-13; loudspeakers prohibited near polling places, Code of Virginia, § 24.1-96.1.

A handwritten signature in dark ink, appearing to read 'Elizabeth A. Gillie', written over a horizontal line.

Elizabeth A. Gillie

Town Clerk