

An ORDINANCE No. 14-20

To amend County Code Chapter 14, Offenses - Miscellaneous, Article II, Noise, to add new Section 14-50, Declaration of findings and policy, to renumber Section 14-50 to Section 14-51, Definitions, and to add defined terms related to noise from Motor vehicles and Motorcycles; to renumber Section 14-51, Maximum permissible sound levels generally, to Section 14-52, and to capitalize defined term; to renumber Section 14-52, Exemptions, to Section 14-53, and to capitalize defined terms; to move and renumber current Section 14-53, Penalties and violations, to Section 14-57, and to modify civil penalty amounts to be consistent with Virginia Code, add clarification of punishment for second violation and an option for injunctive relief; to amend Section 14-54, Testing of meters, to capitalize defined term; to amend Section 14-55, Measurement procedures, to capitalize defined terms; to add new Section 14-56, Motor vehicle maximum sound levels; amplified sound from vehicles; to renumber current Section 14-56, Severability, to Section 14-58; and to renumber Section 14-57, Amendment of this article, to become Section 14-59, Severability.

PUBLIC HEARING: July 11, 2023

WHEREAS, staff has reviewed the code amendments and recommends approval as stated in the executive summary dated July 11, 2023; and

WHEREAS, the Spotsylvania Board of Supervisors held a public hearing, duly advertised in a local newspaper for a period of two weeks, on June 28, 2023 and July 5, 2023, and interested citizens were offered an opportunity to be heard; and

WHEREAS, the general welfare is served by approval of the code amendments.

NOW, THEREFORE, THE BOARD OF SUPERVISORS FOR THE COUNTY OF SPOTSYLVANIA HEREBY ORDAINS:

§ 1. That Chapter 14, Offenses - Miscellaneous, Article II, Noise, Sections 14-50 through 14-57, be and are hereby **amended and reordained** as follows:

ARTICLE II. NOISE

Sec. 14-50. Declaration of findings and policy.

The Board hereby finds and declares that excessive Sound is a serious hazard to the public health, welfare, peace and safety and the quality of life of the citizens of Spotsylvania County; that a substantial body of science and technology exists by which excessive sound may be substantially abated; that the 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 Spotsylvania County to prevent such excessive Sound to the extent such action is not inconsistent with Federal or Virginia law.

(Ord. No. 14-20; 7-11-23)

Sec. 14-51. Definitions.

For the purpose of this article and unless otherwise required by the context, the following words, terms and phrases shall have the meanings respectively ascribed to them by this section:

A-weighted decibel means the sound level, in decibels, measured with a sound level meter using the A-weighting network or scale as specified in the ANSI S1.4-1983 (specification for sound level meters). The level so read shall be postscripted dB(A) or dBA.

ANSI means the American National Standards Institute, Inc., New York, New York.

Board means the Board of Supervisors of Spotsylvania County, Virginia.

Commercial zoning district classification includes C-1, C-2, C-3, R-C, PDC, MU-4, and MU-5 zoning districts.

Construction means on-site erection, fabrication, installation, alteration, repair, demolition or removal of any structure, facility, or addition thereto, including all related activities, including but not restricted to, clearing of land, earthmoving, blasting, landscaping, and paving.

Daytime means the local time of day between the hours of 6:00 a.m. and 10:00 p.m.

Decibel means a unit that describes the sound pressure level or intensity of sound. The sound pressure level in decibels is twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound in microbars to a reference pressure of two ten thousandths (0.0002) microbar; abbreviated dB.

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

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened by an emergency.

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

Industrial zoning district classification includes I-1 and I-2 zoning districts.

Motor carrier vehicle engaged in interstate commerce means any vehicle for which regulations apply pursuant to section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

Motorcycle means any motor vehicle designed to travel on not more than three (3) wheels in contact with the ground and any four-wheeled vehicle weighing less than five hundred (500) pounds and equipped with an engine of less than six (6) horsepower, excepting farm tractors.

Motor vehicle means any self-propelled device or device designed for self-propulsion, upon or by which any person or property is or may be drawn or transported upon a street or highway, except devices moved by human power or used exclusively upon stationary wheels or tracks.

Natural disaster means a situation when the county or Commonwealth has declared a state of natural emergency.

Nighttime means those times excluded from the definition of daytime.

Noise disturbance means any sound which:

- (1) Endangers or injures the safety or health of humans; or
- (2) Endangers or injures personal or real property; or
- (3) Exceeds the applicable maximum permissible sound levels as they appear in the table in section 14-51.

Office zoning district classification means O-1 and O-2 zoning district.

Property boundary is an imaginary line along the ground surface and its vertical extension which separates the real property owned, leased, or otherwise legally controlled by one person from that owned, leased, or otherwise legally controlled by another person, including intrabuilding real property divisions.

Repetitive impulsive sound means any sound composed of individual sounds lasting less than a second (such as hammer blows or drumbeats) that are repeated continuously at a rate such that a sound level meter set at fast time-weighting will show changes in sound level greater than ten (10) dB between sounds, while the same sound meter set on slow time-weighting will show changes of less than five (5) dB between the individual sounds.

Residential zoning district classification includes A-2, A-3, RA, R-1, R-2, R-3, R-8, R-12, RR, R-MHP, Ru, PRR, PDH, MU-1, MU-2, MU-3, and V.

Sheriff means the Sheriff of Spotsylvania County or his authorized agents.

Silviculture activity means any forest management activity, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation.

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

Sound level is the weighted sound pressure level obtained by the use of a sound level meter and the A-frequency weighting network, as specified in American National Standards Institute specifications for sound level meters.

Sound level meter means an instrument to measure sound pressure levels that meets or exceeds performance standards for a Type S2A meter as specified by the ANSI.

Sound pressure level means the intensity in decibels (dB) of a sound.

(Ord. No. 14-13, 9-8-09; Ord. No. 14-17, 8-9-16; Ord. No. 14-20, 7-11-23)

Sec. 14-52. Maximum permissible sound levels generally.

Except as otherwise provided, any noise which emanates from any operation, activity or source and which exceeds the maximum permissible sound levels established in this section below is hereby prohibited. When a noise source can be identified and its noise measured in more than one zoning district classification, the limits of the most restrictive classification shall apply.

MAXIMUM PERMISSIBLE SOUND PRESSURE LEVELS:

	Maximum dBA	
Zoning Classification	Daytime	Nighttime
Residential	65	60
Commercial	70	65
Office	65	60
Industrial	79	75

Heating and cooling systems, including, but not limited to, air conditioners and heat pumps, shall be subject to the daytime levels enumerated above at all times.

Should the complained-of noise be of an impulsive character, the standards set forth in the table above shall be reduced by five (5) dBA except in an Industrial zoning district.

(Ord. No. 14-13, 9-8-09; Ord. No. 14-20, 7-11-23)

Sec. 14-53. - Exemptions.

(a) The following matters are exempt during the daytime (6:00 a.m. to 10:00 p.m.) from this article:

- (1) Noise emitted from activities related to the construction, repair, maintenance, remodeling or demolition, grading or other improvement of real property, which noise is customarily emitted from such activities.
- (2) Noise emitted from gardening, lawn care, tree maintenance or removal and other landscaping, which noise is customarily emitted from such activities.
- (3) Noise emitted by a commercial or industrial establishment which noise is customarily emitted by such commercial establishments or industries.

(4) Sounds emitted by an activity at a school, church or park, which activity has been conducted with permission of the persons lawfully in charge of such school, church or park, which noise is customarily emitted from such activity.

(b) The following activities or sources of noise shall be exempt during all hours from this article, except to the extent as herein limited:

(1) Religious or political gatherings, and other activities, which are protected by the First Amendment to the United States Constitution.

(2) Activities for which the regulation of noise has been preempted by federal law.

(3) The emission of sound for the purpose of alerting persons to the existence of any Emergency, or the emission of sound in the performance of Emergency work.

(4) Farming operations on a farm.

(5) Silviculture activity.

(6) Sounds from church bells or chimes.

(7) Noise from refuse collection, sanitation services and other activities conducted by or for the county for solid waste management.

(8) The use of firearms (which use is governed by other provisions of federal, state and county law).

(9) Noise from generators for two (2) weeks following a natural disaster, or a temporary power outage until power is restored.

(10) Animals (see chapter 4, animals and fowl).

(11) Amateur and professional motorsports competitions and competition related events such as time trials and practices, provided the competition is sanctioned by a nationally recognized motorsports racing organization and complies with all applicable laws, regulations and ordinances, including permit terms and conditions, if any, on the following days: Fridays, Saturdays, state and federal holidays, the day immediately preceding state and federal holidays, and the day immediately following state and federal holidays, but only during the following hours on those days as herein stated, specifically from and limited to 8:00 a.m. to 11:00 p.m.

(Ord. No. 14-13, 9-8-09; Ord. No. 14-16, 12-10-13; Ord. No. 14-20, 7-11-23)

Sec. 14-54. Testing of meters.

In order to implement and enforce this chapter effectively, the Sheriff shall, within a reasonable time after the effective date of same, develop and promulgate standards and procedures for testing and validating Sound level meters used in enforcement of this chapter.

(Ord. No. 14-13, 9-8-09; Ord. No. 14-20, 7-11-23)

Sec. 14-55. Measurement procedures.

- (a) Instrumentation used for enforcement of this article shall be designated by its manufacturer as meeting the precision requirements of IEC 651 or ANSI SI.4-1983 for Type 1 or Type 2 Sound level meters as defined in those standards. A windscreen approved by the manufacturer of the instrument shall be used on the microphone when making measurements.
- (b) Except as otherwise allowed in this section, all measurements shall be made using slow time-weighting.
- (c) Fast time-weighting may be used to identify a Repetitive impulsive sound.
- (d) Except as otherwise allowed in this section, all measurements shall be made with the permission of the property owner, or tenant in possession and control thereof, on any property other than the property containing the suspected excessive sound source:
 - (1) At a height of at least four (4) feet from the ground, and
 - (2) At least ten (10) feet from any building, tree trunks, vehicles, or other obstruction other than the person making the measurement.
- (e) A minimum of three (3) Sound level readings will be taken with the geometric mean of those readings being used as the average Sound level.
- (e) The data record of the measurement shall contain:
 - (1) The measurement data; and
 - (2) The approximate time of the measurements.
- (f) In a structure used as a multifamily dwelling, the Sheriff may take measurements to determine Sound levels from common areas within or outside the structure or from other dwelling units within the structure when asked to do so by the owner or tenant in possession and control thereof. Measurement shall be taken:
 - (1) At least four (4) feet from the wall, ceiling or floor nearest the noise source, and
 - (2) With the doors and windows to the receiving area closed.

(Ord. No. 14-13, 9-8-09; Ord. No. 14-20, 7-11-23)

Sec. 14-56. Motor vehicle maximum sound levels; amplified sound from vehicles.

(a) No person shall operate or cause to be operated a public or private Motor vehicle or Motorcycle on a public right-of-way at any time in such a manner that the Sound level emitted by the operation of the Motor vehicle or Motorcycle, when measured at a distance of one-hundred (100) feet or more is audible and discernable or exceeds the level set forth in the following table:

	Sound level in dBA
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Vehicle Class	Speed limit 35 MPH or less	Speed limit over 35 MPH
All motor vehicles of GVWR or GCWR of 6,000 lbs. or more	86	90
Any motorcycle	82	86
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	82

(b) This section shall not apply to any Motor carrier vehicle engaged in interstate commerce.

(c) Notwithstanding any other provisions of this section or article, it shall be unlawful for any person to play or operate, or permit the playing, use or operation of, any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound, which is located within a Motor vehicle being operated or parked on public or private property within the County, including any public or private street or alley, in such a manner as to be audible and discernable at a distance of one hundred (100) or more feet from the vehicle in which it is located.

The provisions of this subsection shall not apply to Motor vehicles driven in a duly authorized parade, nor to Motor vehicle alarms or other security devices, nor to the emission of sound for the purpose of alerting persons to the existence of an Emergency or the emission of sound in the performance of Emergency work.

(Ord No. 14-20, 7-11-23)

Sec. 14-57. Penalties and violations.

(a) Any person who violates any provision of this article shall be deemed guilty of a Class 3 misdemeanor and, in addition to other penalties, be fined not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00) for the first offense.

(b) Any person who has been convicted of violating this article on a prior occurrence shall be guilty of a Class 2 misdemeanor and, in addition to other penalties, be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) for each subsequent offense.

(c) Each day of violation of any provision of this article shall constitute a separate offense.

(d) The person creating, causing to be created, operating or controlling a noise shall be guilty of any violation caused by that source. If that cannot be determined, any owner, tenant,

resident or manager physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the noise source.

(e) In addition to, and not in lieu of the penalties prescribed in this section, the County may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this article and may seek any other remedy or relief authorized by law.

(Ord. No. 14-13, 9-8-09; Ord. No. 14-20, 7-11-23)

Sec. 14-58. Severability.

If any provision, clause, sentence or paragraph of this article or the application thereof to any person or in any circumstance shall be held to be invalid, such invalidity shall not affect the validity of the other provisions or applications of this article as a whole or any part, sub-part, sentence, or clause thereof not held to be invalid, and to this end the provisions of this article are hereby declared to be severable.

(Ord. No. 14-13, 9-8-09; Ord. No. 14-20, 7-11-23)

Sec. 14-59. Amendment of this article.

This article may be amended from time to time as required by public policy.

(Ord. No. 14-13, 9-8-09; Ord. No. 14-20, 7-11-23)

§ 2. This ordinance shall be in force and effect upon adoption.