



Board of Supervisors

1800 Sandy Hook Road
Goochland, VA 23063

Meeting: 05/04/21 02:00 PM
Department: County Attorney

Category: Ordinance Amendment NOT Appendix A or B

Prepared By: Christina Neale

Department Head: Tara A. McGee

ADOPTED ORDINANCE

(ID # 3979)

✓ Vote Record - Ordinance 3979						
<input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as Amended <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Withdrawn <input type="checkbox"/> Meeting Cancelled <input type="checkbox"/> Deferred <input type="checkbox"/> Denied <input type="checkbox"/> Approved <input type="checkbox"/> Consensus of the Board <input type="checkbox"/> Tabled by Consensus <input checked="" type="checkbox"/> Approved as Amended <input type="checkbox"/> Referred <input type="checkbox"/> Public Hearing Held						
			Yes/Aye	No/Nay	Abstain	Absent
	Susan Lascolette	Second	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Ken Peterson	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	John Lumpkins	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Neil Spoonhower	Mover	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Don Sharpe	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AT A MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF GOOCHLAND, VIRGINIA, HELD ON MAY 4, 2021, IN THE GOOCHLAND COUNTY ADMINISTRATION BUILDING, 1800 SANDY HOOK RD., SUITE 250, GOOCHLAND, VIRGINIA, THE FOLLOWING ACTION WAS TAKEN:

Ordinance amending County Code Chapter 10 (Offenses) to add Article II (Noise Nuisances), Sections 10-41 through 10-45, adopting a nuisance noise ordinance that applies only to residential property and residential noises, exempts agricultural noises and lawful hunting, requires a warning, and imposes a civil penalty

WHEREAS, Virginia Code §§ 15.2-1427 and 15.2-1433 enable a local governing body to adopt, amend and codify ordinances or portions thereof; and

WHEREAS, Goochland County had a noise ordinance that was repealed in 2011 in response to the Virginia Supreme Court decision *Tanner v. City of Virginia Beach*; and

WHEREAS, in response to citizen interest, the Board of Supervisors created the Citizen Noise Committee in 2019 to consider the issue of noise regulation in the county; and

WHEREAS, the Citizen Noise Committee met over a dozen times and presented its final report to the Board of Supervisors on April 6, 2021, including a proposed nuisance noise ordinance; and

WHEREAS, after consideration of the Final Report of the Citizen Noise Committee, the Board of Supervisors believes that the adoption of the proposed nuisance noise ordinance would benefit the health, safety, and welfare of county residents; and

WHEREAS, the Board of Supervisors wishes to amend and update the County Code for the foregoing reasons; and

WHEREAS, the full text of this proposed ordinance amendment was available for public

inspection in the Goochland County Administrator's Office, County Administration Building, 1800 Sandy Hook Road, Goochland, Virginia 23063; and

WHEREAS, after proper advertisement was made as required by law, a public hearing was conducted on May 4, 2021 at the Goochland County Administration Building, Board Meeting Room 250, 1800 Sandy Hook Road, Goochland, Virginia 23063.

NOW, THEREFORE, BE IT ORDAINED, that the Goochland County Code is hereby amended and this ordinance is hereby enacted as follows:

1. Article II (Noise Nuisances), Sections 10-41 through 10-45, of the Goochland County Code are hereby added as follows:

Article II. NOISE NUISANCES

Sec. 10-36 to 10-40. Reserved.

Sec. 10-41. Purpose.

Residents should be able to use and enjoy their homes free from repetitive noise that rises to the level of a nuisance. To that end, this article prohibits the creation of a noise nuisance on residential property which, by virtue of its volume, pitch, duration, repetition, and time of day, unreasonably and substantially disturbs or interferes with someone else's peaceful enjoyment of their residential property.

Sec. 10-42. Definitions.

Agricultural activities. The raising or keeping of animals, fowl, or bees; the production or harvest of all crops including: fruits, vegetables, meat, dairy, poultry, fiber, nuts, tobacco, trees, timber, and flowers or other nursery products; the production or harvest of products from silviculture and aquaculture activity; and other, similar activities. Any activities added in the future to the definition of "agricultural operation" in the Right to Farm Act, Virginia Code § 3.2-300, are incorporated by this reference.

Nuisance. A nuisance is something that injuriously affects public safety or health, or which causes a material, substantial, repetitive, and unreasonable interference with the private use and enjoyment of another person's residential property.

Residential property. Residential property means any property on which one or more dwelling units exist, regardless of the property's zoning designation. For residential property containing more than one dwelling unit, a noise violation may be found if the noise generated in one dwelling unit or in a common area creates a noise nuisance in another dwelling unit located on the same property; however multifamily structures operated by a management company are exempt from this article.

Sec. 10-43. Noise Nuisance Violation.

A. Noise nuisance.

It is a violation of this article for any person to intentionally or unintentionally make repetitive noise, or allow the making of repetitive noise, except the noises exempted below, on residential property that, by reason of its volume, pitch, duration, repetition, and time of day, unreasonably and substantially disturbs or interferes with someone else's peaceful enjoyment of residential property they own, rent, or occupy.

B. Persons responsible.

Any person who controls the noise source can be held responsible for a violation, but if that person cannot be reasonably ascertained, then any owner, tenant, resident or occupant who is physically present on the residential property during the nuisance noise, and to whom the required warning has been provided can be held responsible.

C. Warning.

No person shall be found in violation of this article unless there has been presented before the court competent evidence that the complainant or a law enforcement official had, prior to the issuance of any summons or warrant, requested the abatement of the nuisance complained of, and that such nuisance continued after the request for abatement. Written notice of the violation must be sent, certified mail, return receipt requested, to the property from which the noise nuisance emanated and, if a different address is listed for the property owner on the county's geographic information system (GIS), also to the property owner(s) at the address shown in GIS.

Sec. 10-44. Exemptions.

The following are exempt such that nuisance noise from them cannot form the basis of a noise nuisance:

1. Agricultural activities;
2. Approved business or commercial activity on residential property;
3. Companion animal noises which violate Code § 3-104; and
4. All shooting of firearms that is lawful under state and local laws and regulations.
5. Activities permitted by zoning, special events permits, parade permits, fireworks permits, or other governmental approvals;
6. Multi-family structures operated by a management company; and
7. Activities for which noise regulation has been pre-empted by federal or state law.

Sec. 10-45. Penalties.

A. Violations of this article carry a civil penalty not to exceed \$250 for the first offense and not to exceed \$500 for subsequent offenses.

B. The public nuisance procedures set forth in Virginia Code § 48-1 et. seq. may be used for violations of this article.

C. If the violation is unabated at the time of a court finding, the court shall order the violator to abate or remedy the violation in compliance with this article within a time period established by the court. Failure to abate or remedy the violation within the specified time period shall constitute a separate violation.

D. In addition to and not in lieu of the other penalties, the county may apply to the circuit court for an injunction against any continuing, including intermittently continuing, violation of this article, and may seek any other remedy or relief authorized by law

2. Except as amended herein, all County Code provisions remain in effect.

3. This ordinance shall be effective immediately.

A COPY ATTEST:



Kenneth A. Young, County Administrator
Goochland County Board of Supervisors