

## ORDINANCE NO. 13-07(2)

### AN ORDINANCE TO AMEND CHAPTER 7, HEALTH AND SAFETY, ARTICLE I, NOISE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 7, Health and Safety, Article I, Noise, is hereby amended and reordained as follows:

#### **By Amending:**

Sec. 7-102	Applicability
Sec. 7-103	Definitions
Sec. 7-105	Prohibited acts enumerated
Sec. 7-106	Exempt sounds

### **Chapter 7. Health and Safety**

#### **Article I. Noise**

##### **Sec. 7-102 Applicability.**

This article shall apply to sound produced within the county, regardless of whether the complainant or the receiving property is within or without the county, that is not subject to the noise regulations in chapter 18 of the Code including, but not limited to, section 18-4.18 *et seq.* of the Code.

(Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09)

State law reference--Va. Code § 15.2-1200.

##### **Sec. 7-103 Definitions.**

The following definitions shall apply to this article:

...

(1.1) *Agricultural activity.* The term “agricultural activity” means a lawfully permitted activity pertaining to horticulture, viticulture, or gardening including, but not limited to: tilling soil for raising crops; keeping livestock, poultry, or both; operating agricultural industries or businesses, including, but not limited to, orchards, fruit packing plants, dairies, nurseries, farm sales, farm stands and farmers’ markets; or any combination of the foregoing activities.

...

(9) *Motor vehicle.* The term “motor vehicle” means every vehicle that is self-propelled or designed for self-propulsion and includes, but is not limited to, any device defined in Virginia Code § 46.2-100 as an “electric personal assistive mobility device,” “electric power-assisted bicycle,” “golf cart,” “moped,” “motorized skateboard or scooter” or “utility vehicle,” but does not include a device moved by human power or used exclusively on stationary rails or tracks that is self-propelled or designed for self-propulsion. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle.

...

(12.1) *Outdoor*. The term “outdoor” means either outside a structure, or inside a structure that has open windows, doors or other openings so as to allow the activity inside the structure to be visible or audible outside the structure.

...

(15) *Place of public entertainment*. The term “place of public entertainment” means a building or other place used primarily as a cinema, theater, amphitheater, concert hall, public hall, dance hall, restaurant or other place of entertainment open to the public, regardless of whether the payment of money or other consideration is required for admission, but does not include a music festival authorized by a special use permit under chapter 18 of the Code,.

## **Sec. 7-105 Specific acts prohibited.**

It shall be unlawful for any person to produce sound from the following acts that meets or exceeds the applicable sound levels:

A. *Motor vehicle or motorcycle operation*. The sound is produced by: (i) the absence of a muffler and exhaust system conforming to Virginia Code §§ 46.2-1047 and 46.2-1049 on a motor vehicle or a motorcycle; (ii) jackrabbit starts, spinning tires, racing engines, or other similar acts in a motor vehicle or on a motorcycle; or (iii) a refrigeration unit mounted on a motor vehicle, and either:

1. *On a street or on public property*. The motor vehicle or motorcycle is operated or parked on a street or on public property, and the sound is audible from a distance of one hundred (100) feet or more from the motor vehicle or motorcycle; or

2. *On private property*. The motor vehicle or motorcycle is operated or parked on private property, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the motor vehicle or motorcycle is located; or (ii) from inside a dwelling unit or hotel room.

B. *Radios, tape players, televisions receivers, musical instruments, electronic sound amplification equipment, and other sound producing or reproducing devices*. The sound is produced by a radio, tape player, television receiver, musical instrument, electronic sound amplification equipment, phonograph, compact disc player, MP3 player, or other similar device intended primarily for the production or reproduction of sound (hereinafter, collectively and singularly a “device”) and either:

1. *Device within or on a motor vehicle on a street or on public property*. The device is within or on a motor vehicle that is operated or parked on a street or on public property, and the sound is audible from a distance of one hundred (100) feet or more from the motor vehicle;

2. *Device within or on a motor vehicle on private property*. The device is within or on a motor vehicle that is operated or parked on private property, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the motor vehicle is located; or (ii) from inside a dwelling unit or hotel room;

3. *Device within a place of public entertainment*. The device is located within a place of public entertainment, and the sound is audible for a duration of five (5) continuous minutes or more, without an interruption of the sound for thirty (30) or more consecutive seconds during the five (5) minute period, within any one (1) hour period: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the place of public entertainment is located; or (ii) between the hours of 10:00 p.m. and 7:00 a.m. from inside a dwelling unit or hotel room;

4. *Device within a dwelling unit.* The device is located within a dwelling unit and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the motor vehicle is located; or (ii) from inside a dwelling unit or hotel room;

5. *Device producing outdoor amplified music or serving as an outdoor public address system.* The device is located to produce outdoor amplified music, to serve as an outdoor public address system, or both, including any such device used in conjunction with an agricultural activity, and the sound is not otherwise regulated under subsections (B)(1) through (4) or exempt under section 7-106, and the sound is audible from inside a dwelling unit or hotel room.

6. *Device in other locations.* The device is located other than within or on a motor vehicle, a place of public entertainment, a dwelling unit, or is not producing a sound subject to subsection (B)(5), and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the device is located; or (ii) from inside a dwelling unit or hotel room.

C. *Off-road vehicles.* The sound is produced by an off-road vehicle operated in a location other than on a street, where the off-road vehicle use is not an authorized primary use under chapter 18 of the Code, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the off-road vehicle is located; or (ii) between the hours of 10:00 p.m. and 7:00 a.m. from inside a dwelling unit or hotel room.

D. *Proximity to sound-sensitive institutions.* The sound is produced on any street adjacent to any school, hospital, nursing home or court (hereinafter, collectively referred to as “institutions”), provided that conspicuous signs are posted and visible on the street(s) adjacent to the institution stating that the street is adjacent to a school, hospital, nursing home or court and either:

1. *Schools and courts.* The sound is audible from inside the school building or the court between the hours of 7:00 a.m. and 10:00 p.m. when the school or court is in session; or

2. *Hospitals and nursing homes.* The sound is audible from inside the hospital or nursing home.

E. *Construction, demolition and/or maintenance activities.* Sound produced by construction, demolition and/or maintenance activities between the hours of 10:00 p.m. and 7:00 a.m., and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

F. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to logging activities, between the hours of 10:00 p.m. and 6:00 a.m. or at any time if the silvicultural activities, including logging activities, are determined to not be lawfully permitted bona fide silvicultural activities, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

G. *Solid waste collection.* Sound produced by the collection of solid waste between the hours of 10:00 p.m. and 6:00 a.m. within a residential zoning district established under chapter 18 of the Code, and between the hours of 10:00 p.m. and 5:00 a.m. within any non-residential zoning district established under chapter 18 of the Code, including any mixed-use site, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the solid waste collection activity; or (ii) from inside a dwelling unit or hotel room.

H. *Yard maintenance activities.* Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing between the

hours of 10:00 p.m. and 7:00 a.m. within a residential zoning district established under chapter 18 of the Code, and between the hours of 10:00 p.m. and 6:00 a.m. within any non-residential zoning district established under chapter 18 of the Code, including any mixed-use site, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

(Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09)

State law reference--Va. Code § 15.2-1200.

### **Sec. 7-106 Exempt sounds.**

The following sounds are not prohibited by this article:

- A. *Agricultural activities.* Sound produced by an agricultural activity.
- B. *Animals.* Sound produced by animals including, but not limited to, barking dogs, which is subject to the animal noise regulations in chapter 4 of the Code.
- C. *Bells or chimes from place of religious worship.* Sound produced by bells, chimes or other similar instruments or devices from a place of religious worship.
- D. *Construction, demolition and/or maintenance activities.* Sound produced by construction, demolition and/or maintenance activities, except as provided in section 7-105(E).
- E. *Emergency operations.* Sound produced in the performance of emergency operations including, but not limited to, audible signal devices which are employed as warning or alarm signals in case of fire, collision or imminent danger, or sound produced by power generators during power outages and other emergency situations.
- F. *Firearms.* Sound produced by the lawful discharge of a firearm, including any sound produced at a gun club, shooting range, shooting preserve, or target, trap or skeet range; provided that this sound is otherwise subject to the noise regulations in chapter 18 of the Code.
- G. *Home appliances.* Sound produced by the normal use of home appliances such as generators, air conditioners, heat pumps, vacuum cleaners, washing machines, dryers and dishwashers, provided that the appliances are in good repair.
- H. *Outdoor amplified music or outdoor public address systems.* Sound produced by an outdoor amplified music system or outdoor public address system if the sound is outdoor amplified music at a farm winery subject to the farm winery regulations in section 18-5.1.25(e) or is sound produced in conjunction with an outdoor music festival authorized by special use permit under chapter 18 of the Code.
- I. *Parades, fireworks and similar officially sanctioned events.* Sound produced by parades, fireworks or other similar events which are officially sanctioned, if required; provided that the exemption for fireworks shall apply only to fireworks displays duly issued a permit pursuant to chapter 6 of the Code.
- J. *Person's voice.* Sound produced by a person's voice, except as provided in section 7-105(B).
- K. *Protected expression.* Sound produced by any lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution, but not amplified expression; provided that the sound is not prohibited by section 7-105.

L. *Public facilities and public uses.* Sound produced by the operation of a public facility or public use including, but not limited to, any sound which would not be an exempt sound if it was produced by the operation of a non-public facility or non-public use.

M. *School athletic contests or practices, and other school activities; private schools.* Sound produced by private school athletic contests or practices, and other private school activities.

N. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to, logging activities, except as provided in section 7-105(F).

O. *Solid waste collection.* Sound produced by the collection of solid waste, except as provided in section 7-105(G).

P. *Telephones.* Normal sound produced by landline and wireless telephones.

Q. *Transportation.* Transient sound produced by transportation including, but not limited to, public and private airports (except as otherwise regulated), aircraft, railroads and other means of public transit, and sound produced by motor vehicles and motorcycles, except as provided in section 7-105(A).

R. *Warning devices.* Sound produced by a horn or warning device of a vehicle when used as a warning device, including back-up alarms for trucks and other equipment.

S. *Yard maintenance activities.* Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing, except as provided in section 7-105(H).

(§ 12.1-7, 9-10-80, § 7; Code 1988, § 12.1-7; Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09)

**State law reference--**Va. Code § 15.2-1200.

I, Ella W. Jordan, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of \_\_\_\_\_ to \_\_\_\_\_, as recorded below, at a regular meeting held on \_\_\_\_\_.

\_\_\_\_\_  
Clerk, Board of County Supervisors

	Aye	Nay
Mr. Boyd	_____	_____
Mr. Craddock	_____	_____
Ms. Mallek	_____	_____
Mr. Rooker	_____	_____
Mr. Snow	_____	_____
Mr. Thomas	_____	_____