

**AN EMERGENCY ORDINANCE TO AMEND CHAPTER 20,
ARTICLE VI NOISE OF THE CHARLES COUNTY CODE**

Chapter 20, Article VI, Sections 20-173 through 20-177 of the Charles City County Code are hereby repealed and the following Article VI, Sections 20-173 through 20-180 are adopted in their place.

ARTICLE VI. NOISE

Sec. 20-173. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

Background noise level shall mean the aggregate of all sound sources impacting at the place where a specific sound generation is measured or evaluated, excluding the specific sound generation itself.

Decibel (dB) means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

Emergency means any occurrence or set of circumstances involving actual or imminent physical injury or illness or property damage that requires immediate action.

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

Instrument, machine or device means and refers to any musical instrument, radio, phonograph, compact disc player, cassette tape player, amplifier or any other machine or device for producing, reproducing or amplification of sound.

Noise means any sound audible to humans.

Public street means any street, highway or right-of-way maintained by the state or county.

Residential dwelling means any building or other structure in which one or more persons resides on a permanent or temporary basis, including, but not limited to, houses, apartments, condominiums, hotels, and motels.

Sound means 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 generation means any conduct, activity or operation, whether human, mechanical, electronic or other, and whether continuous, intermittent or sporadic, and whether stationary or ambulatory in nature, which produces or results in an audible sound.

Sound level means 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 which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.

(Ord. No. 3082, 5-12-09)

Article VI Noise Ordinance (contd)

Sec. 20-174. Administration and enforcement

The Sheriff's office shall be responsible for enforcement of the noise control program established by this article and may be assisted by other county departments or persons as required. (Ord. No. 3082, 5-12-09)

Sec. 20-175. Violations.

- (a) Any person who violates any provision of this article shall be deemed to be guilty of a Class 3 misdemeanor for a first offense. Any person who violates a provision of this article within one (1) year after a previous conviction under this article shall be guilty of a Class 2 misdemeanor.
- (b) The person operating or controlling a noise source shall be guilty of any violation caused by that source. 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.
- (c) 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.

Sec. 20-176. Exceptions.

This article shall apply only with respect to sound emissions originating in zoning districts in which residential use is permitted, whether or not exclusively, under the provisions of the county zoning ordinance and, notwithstanding any provision of this article to the contrary, shall have no application to fire, rescue, police, ambulance or other emergency vehicles or aircraft or to any noise or sound created thereby or to any noise or sound created by any person to sound a warning or call attention to a bona fide emergency. This article shall not apply to noise or sound which customarily accompanies bona fide parades, sporting events, public functions or public commemorative events nor to noise or sound which customarily accompanies activities of churches and synagogues, nor to activities conducted in any gymnasium, arena, theater, amphitheater, swimming pool, stadium, rifle range, gun club or any similar sporting facility, whether any such activity occurs indoors or outdoors, except to the extent that any such parade, function, event or activity shall be prohibited or limited, either expressly or by necessary implication, by the terms or conditions of any required use permit issued in connection therewith, or the extent that such parade, function, event or activity shall be conducted without a use permit when such permit is required by the terms of the county zoning ordinance. This article also shall not apply to noise or sound which customarily accompanies normal agricultural, forestal, business or industrial uses as well as the discharge of firearms while hunting.

(Ord. of 9-10-1996, § 14-11(d))

Sec. 20-177. Use of sound level meters.

The decibel level of any noise regulated by Sec. 20-178 shall be measured by a sound level meter. In order to implement and enforce this article effectively, the Sheriff shall promulgate standards and procedures for using and testing sound level meters used in the enforcement of this article. (Ord. No. 3082, 5-12-09)

Article VI Noise Ordinance (contd)

Sec. 20-178. Maximum sound levels.

(a) *Nighttime.* (i) No person shall permit, operate or cause any source of sound to create a sound level that can be heard during the hours between 11:00 p.m. and 7:00 a.m. in excess of seventy (70) dBA when measured from any public street.

(b) *Daytime.* No person shall permit, operate or cause any source of sound to create a sound level that can be heard during the hours between 7:00 a.m. and 11:00 p.m. in excess of eighty-five (85) dBA when measured from any public street.

Sec. 20-179. Specific prohibitions.

The following acts are declared to be violations of this article. This enumeration shall not be construed to limit, in any way, the general prohibitions contained in section 20-178:

(a) *Audio and audio-visual devices, musical instruments, etc.* The playing of any television, boombox, stereo, phonograph, radio, tape player, compact disc player, MP3 player, video player, musical instrument, drum, or any other device that produces, reproduces or amplifies sound, including any such device in a motor vehicle, where the sound is plainly audible to any person other than the player(s) or operator(s) of the device and those who are voluntarily listening to the sound and is plainly audible at a distance of fifty (50) feet or more from the source of the sound or at the property line of the parcel of land on which the sound is being produced, whichever distance is greater.

(b) *Noise-sensitive areas.* The making of any noise within two hundred (200) feet of any school, place of worship, court, hospital, nursing home, or assisted-living facility while the same is being used as such, that interferes with the workings of the institution.

(Ord. No. 3082, 5-12-09)

Sec. 20-180. Severability.

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this article shall not affect the validity of the remaining parts thereto.

(Ord. No. 3082, 5-12-09)

Chapter 3, §15.2-1427(F) of the Code of Virginia of 1950, as amended, empowers any county, to adopt an emergency ordinance without prior notice, to be enforced for up to sixty days unless readopted in conformity with the provisions of the Code. The Board of Supervisors finds that this Amendment is immediately necessary.

On motion of Gilbert A. Smith, the Board approved the repeal and the following Article VI, Sections 20-173 through 20-180 are adopted in their place.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF CHARLES CITY, VIRGINIA, that Chapter 20, Article VI, Sections 20-173 through 20-177 of the Charles City County Code are hereby repealed and the above Article VI, Sections 20-173 through 20-180 are adopted in their place as an emergency ordinance.

This Ordinance shall be in effect on the date of its adoption.

The motion carried as follows:

Gilbert A. Smith	Aye
Sherri M. Bowman	Aye
Timothy W. Cotman, Sr.	Aye

This is to certify that the above is a true and correct copy of the ordinance as adopted by the Board of Supervisors of the County of Charles City, Virginia on Tuesday, April 27, 2010.

Timothy W. Cotman, Sr., Chairman
Board of Supervisors