

ARTICLE III. - NOISE CONTROL

Secs. 26-41—26-45. - Reserved.

Editor's note— Ord. No. O-91-170, adopted July 9, 1991, eff. Sept. 1, 1991. Ord. No. O-91-227 added §§ 26-41—26-45 back into City Code until noise meters were obtained for police department. Ord. No. O-92-001, adopted Jan. 14, 1992 repealed §§ 26-41—26-45.)

Secs. 26-46—26-50. - Reserved.

Sec. 26-51. - Declaration of findings and policy.

The city council hereby finds and declares that at certain levels, noise can be detrimental to the health, welfare, safety and quality of life of the inhabitants of the city, and it is in the public interest that noise should be restricted. It is, therefore, the policy of the city to reduce noise in the community and to prohibit unnecessary, excessive and annoying noises from all sources subject to its police power.

(Ord. No. O-91-170, 7-9-91, eff. 9-1-91.)

Sec. 26-52. - Definitions.

The following terms, when used in this article, shall have the meanings hereinafter ascribed to them, unless otherwise clearly indicated by the context:

- (a) *A-weighted sound level*. The sound pressure level in decibels as measured on a type II sound level meter as specified in the American National Standards Institute for sound level meters (S1.4-1983 or a later revision thereof) using the A-weighting network. The sound level so read is designated dB(A).
- (b) *Business commercial area*. As defined in the Zoning Ordinance of the City of Lynchburg, 1979 (hereinafter "Zoning Ordinance").
- (c) *Decibel (dB)*. A unit for measuring the volume of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).
- (d) *Emergency*. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
- (e) *Emergency work*. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- (f) *Industrial area*. As defined by the Zoning Ordinance.
- (g) *Motor vehicle*. Every vehicle defined as a motor vehicle by Section 46.2-100, of the Code of Virginia, 1950, as amended.
- (h) *Noise*. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse effect on humans.
- (i) *Noise disturbance*. Any sound which (i) endangers or injures the safety or health of humans or animals; or (ii) annoys or disturbs a reasonable person of normal sensitivities; or (iii) endangers or injures personal or real property.
- (j) *Person*. Means any individual, corporation, cooperative, partnership, firm, association, trust, estate, private institution, group, agency, or any legal successors, representative, agent or agency thereof.
- (k) *Property boundary*. An imaginary line along the ground surface and its vertical extension, which separates the real property owned, leased or otherwise controlled by one person from that owned, leased or otherwise controlled by another person, but not including intra-building real property divisions.
- (l) *Residential area*. As defined in the Zoning Ordinance.

- (m) *Sound*. 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.
- (n) *Sound level*. The weighted sound pressure level obtained by the use of a type II sound level meter as specified in the American National Standards Institute specifications for sound level meters (S1.4-1983 or a later revision thereof).
- (o) *Sound level meter*. A type II sound level meter as specified in the American National Standards Institute specifications (S1.4-1983 or later revision thereof) and used to measure sound pressure levels.

(Ord. No. O-91-170, 7-9-91, eff. 9-1-91.)

Sec. 26-53. - Administration and enforcement.

The noise control program established by this article shall be enforced and administered by the police department.

(Ord. No. O-91-170, 7-9-91, eff. 9-1-91)

Sec. 26-54. - Testing of metering devices.

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

(Ord. No. O-91-170, 7-9-91, eff. 9-1-91.)

Sec. 26-55. - Prohibited noise, generally.

- (a) *Prohibited noise*. It shall be a violation of this article for any person to cause or permit to be caused any of the following prohibited sounds or noises. However, no person shall be charged with a violation of the provisions of this article unless (i) a complainant appears before a magistrate and requests a summons to be issued, or (ii) a violation is committed in the presence of a police officer.
- (b) *Maximum sound pressure levels*. No person shall operate or permit to be operated any noise source which generates a sound pressure level exceeding the limits set forth in the table entitled "Maximum Sound Pressure Levels" when measured at or outside the property boundary of the noise source or at any point within any other property affected by the noise. When a noise source can be identified and its noise measured in more than one district classification, the limits of the most restrictive classification shall apply.
- (c) *Noise sensitive zones*. No person shall operate or permit to be operated any noise source on any street or on any property adjacent to any school, institution of learning or court, while the same is in session, or adjacent to any building used as a place of public worship while being so used, or adjacent to any hospital which is audible inside the confines of such school, institution of learning, court, place of worship, or hospital.
- (d) *Specific prohibitions*. No person shall engage in any of the following acts, among others, which are declared to be loud disturbing and unnecessary noise in violation of this section, but such enumeration shall not be deemed to be exclusive:
 - (1) *Sound producing and sound reproducing devices*. No person shall operate or permit the playing of any radio, phonograph, television set, music sound system, audio player, radio receiving set, music playing device, sound producing device, record, compact disc, tape, digital music, MP3 or DVD player, musical instrument or any similar device which produces, reproduces, or amplifies sound or any loudspeaker, sound amplifier or other machine or device capable of producing or reproducing sound, regardless of whether such sound-producing or sound-reproducing machine or device is located inside of a structure or outside of or on a structure, in such a manner or with such volume as to exceed the maximum sound pressure levels set forth in section 26-56. (Prohibitions against excessive noise from radios and music

systems in motor vehicles are found in section 26-58 of this article and prohibitions against excessive noise from radios and music systems in the public parks are found in subsection 28-7(b) of the City Code.)

- (2) *Yelling, shouting, etc.* No person on or in any public sidewalk, street or right-of-way or on any other publicly owned property or on any privately owned property shall engage in yelling, shouting, hooting, whistling or singing between the hours of 9:00 p.m. and 7:00 a.m., except to summon aid in an emergency.
- (3) *Loudspeakers, amplifiers, etc. for advertising.* No person shall use or permit the use of any musical instrument, radio, phonograph, sound amplifier, public address system, or any similar device which produces, reproduces, or amplifies sound or any loudspeaker, sound amplifier or other machine or device capable of producing or reproducing sound of any kind whereby sound is cast on any highway, street or across property boundaries for the purpose of advertising or attracting the attention of the public to any performance, show, sale or display or merchandise or to any building or structure between the hours of 9:00 p.m. and 7:00 a.m. The use of such devices shall be permitted at other times provided they are not operated in such a manner or with such volume as to exceed the maximum sound pressure levels set forth in section 26-56.
- (4) *Shouting and crying of peddlers, etc.* The shouting, yelling, whistling, screaming or and crying of peddlers, hawkers and vendors for the purpose of attracting attention to a performance, show, sale or display of merchandise between the hours of 9:00 p.m. and 7:00 a.m. is prohibited.
- (5) *Animals.* Prohibitions against excessive noise from animals and fowl are found in section 7-6 of the City Code.

(Ord. No. O-91-170, 7-9-91, eff. 9-1-91; Ord. No. O-92-001, 1-14-92; Ord. No. O-11-025, 3-8-11; Ord. No. O-15-078, § 1, 9-22-15)

Sec. 26-56. - Maximum sound pressure levels.

Table: Maximum Sound Pressure Levels		
Receiving Land Use Category	Sound Level Limit db(A)	
	7:00 a.m.—10:00 p.m.	10:00 p.m.—7:00 a.m.
Noise sensitive zone	<u>55</u>	50
Residential	<u>57</u>	52
Park and recreational	<u>67</u>	<u>62</u>
Business (commercial)	<u>67</u>	<u>62</u>
Industrial	<u>77</u>	<u>77</u>

Measurements in multi-family structures. In a structure used as a multi-family dwelling the police department may take measurements to determine such sound levels from common areas within or outside the structure or from other dwelling units within the structure, when requested to do so by the owner or tenant in possession and

control thereof. Such measurement shall be taken at a point at least four feet from the wall, ceiling or floor nearest the noise source, with doors to the receiving area closed and windows in the normal position for the season.

(Ord. No. O-91-170, 7-9-91, eff. 9-1-91; Ord. No. O-92-001, 1-14-92)

Sec. 26-57. - Exemptions.

The following specific activities are exempt from the provisions of sections 26-55 and 26-56 herein:

- (a) Sound created by the operation of domestic power tools such as power lawn mowers, chain saws, weed eaters, etc., used in connection with lawn care, leaf removal, gardening, tree maintenance or removal or other landscaping, lawn or timbering activities, provided the operation of said equipment is limited between the hours of 7:00 a.m. and 9:00 p.m. and such equipment is operated with a standard muffler or sound dissipating devices.
- (b) Sound generated by the construction, repair, maintenance, remodeling, demolition, alteration, grading or other improvement of real property, streets, sewers or utility lines, provided such sound is limited between the hours of 7:00 a.m. and 9:00 p.m.
- (c) Sound generated by the city in the performance of any governmental function.
- (d) Radios, sirens, horns and bells on police, fire or other emergency response vehicles.
- (e) Parades, fireworks or other special events or activities for which a permit has been issued by the city, within such hours as may be imposed as a condition for the issuance of the permit.
- (f) Religious services, religious events or religious activities, including, but not limited to music, bells, chimes and organs which are a part of such religious activity.
- (g) Sound amplifying equipment used at public parks or recreation fields provided the operation of such equipment has been approved by the department of parks and recreation.
- (h) Non-commercial public speaking and public assembly activities conducted on any public right-of-way or public property for which a permit has been issued by the city, within such conditions as may be imposed as a condition for the issuance of the permit.
- (i) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, provided that such activities have been authorized by school officials.
- (j) Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the premises served by any such alarm to turn off the alarm.
- (k) Sound generated for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.
- (l) Activities for which the regulation of noise has been preempted by federal law.
- (m) Religious or political gatherings and other activities protected by the First Amendment to the United States Constitution.
- (n) The movement of aircraft or trains which is conducted in accordance with or pursuant to applicable federal laws and regulations.
- (o) Music or jingles by an ice cream truck or similar mobile food service vehicle, provided such vehicle may emit sounds otherwise prohibited by this subsection only between the hours of 7:00 a.m. and 9:00 p.m.
- (p) Sound or noise which is necessary for the protection or preservation of property or the health, safety, life or limb of any person, including sound or noise caused by restoration of utility service after an interruption.
- (q) Military activities of the state or of the United States of America.
- (r) Activities for which the regulation of noise has been preempted by federal law.

(Ord. No. O-91-170, 7-9-91, eff. 9-1-91; Ord. No. O-15-078, § 1, 9-22-15)

Sec. 26-58. - Prohibited noise from motor vehicles.

No person within the city limits shall:

- (a) Operate or permit the use or operation of any radio receiving set or any tape player or any other device which produces, reproduces or amplifies sound in a motor vehicle in such a manner that the sound can be heard more than 25 feet from the motor vehicle.
- (b) Sound or permit the sounding of any horn, whistle or other device on or in any vehicle, except as a warning of danger.

Prohibitions against other unnecessary noises in the operation of motor vehicles are found in section 25-16 of the City Code.

(Ord. No. O-91-170, 7-9-91, eff. 9-1-91)

Sec. 26-59. - Penalties and violations.

- (a) Any person who violates any provision of this article shall be guilty of a class 3 misdemeanor. Any person who commits a second or subsequent violation of this article within a 12-month period shall be guilty of a class 2 misdemeanor.

Sec. 26-60. - Severability.

It is the intent of the city council that this article shall be construed to secure for the citizens of the city the freedom from any noise disturbance as described herein without violating any of the rights secured by the Constitution to the people. In the event that any provision hereof should ever be determined invalid for any reason, it is the intent of the city council that the remaining provisions continue in effect to the extent that they can be enforced notwithstanding such determination, and, therefore, this article is declared severable.

(Ord. No. O-91-170, 7-9-91, eff. 9-1-91)

Secs. 26-61—26-70. - Reserved.