

PROPOSED

Chapter 26, Article II NOISE

DIVISION 1. GENERALLY

§ 26-26. – Declaration of Policy

The Town Council of the Town of Shenandoah, Virginia finds that excessive sound is a serious hazard to the health, safety and general welfare of its inhabitants and to the quality of life in Town of Shenandoah; that a substantial body of science and technology exists by which excessive sound may be substantially abated; 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 the county to prevent such excessive sound to the extent such action is not inconsistent with a citizen's First Amendment rights.

§ 26-27. – Definitions

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

- (a) *A-weighted decibel*. 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.
- (b) *Daytime*. The local time of day between the hours of 7:00 A.M. and 11:00 P.M.
- (c) *Decibel*. A unit that describes the sound pressure level or intensity of sound. The sound pressure level in decibels is 20 times the logarithm to the base ten of the ratio of the pressure of the sound in microbars to a reference pressure of 0.0002 microbar; abbreviated dB.
- (d) *Emergency*. Any occurrence or set of circumstances involving actual or imminent physical injury, illness or property damage which requires immediate action.
- (e) *Emergency work*. Any work performed for the purpose of preventing or alleviating the physical injury, illness or property damage threatened or caused by an emergency.
- (f) *Nighttime*. The local time between the hours of 11:00 P.M. and 7:00 A.M.
- (g) *Noise*. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
- (h) *Noise disturbance*. Any sound which:
- (1) Endangers or injures the safety or health of humans; or

(2) Endangers or injures personal or real property

(i) *Property*. The smallest parcel of real estate owned or leased by the same person or persons.

(j) *Property line*. An imaginary line along the ground surface, and its vertical extension, which separates the real estate, including the dwelling units within a structure owned or leased by one person, from that owned or leased by another person.

(k) *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.

(l) *Sound generation*. 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 a sound.

(m) *Sound level*. 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.

(n) *Sound level meter*. An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.

§ 26-28. Maximum Permissible sound levels generally.

(a) 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. Such levels shall be measured at the property boundary of the complainant closest to the sound source or at any point within the property of the complainant affected by the noise or at any point of the interior of the complainant's residence. 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.

Zoning District Classification	Maximum dBA Daytime	Maximum dBA Nighttime
R 1	62	57
R 2	62	57
R 3	62	57
Commercial	62	57
Industrial	62	57

MAXIMUM PERMISSIBLE SOUND PRESSURE LEVELS

Zoning District Classification	Maximum dBA Daytime	Maximum dBA Nighttime
R1, R2, R3	62	57
Commercial	62	57
Industrial	62	57

(b) *Measurements in multifamily dwellings or mixed use structures.* In a structure used as a multifamily dwelling or a mixed use structure, the Chief of Police or Town of Shenandoah Police Officer may take measurements to determine sound levels from indoor common areas or other dwelling units within the structure, when requested to do so by a residential occupant in possession and control thereof. Such measurement shall be taken at a point at least four (4) feet from the wall, ceiling or floor nearest the noise source, with doors and windows to the receiving area closed.

§ 26-29. Use of Metering Devices and Testing and Calibration.

The decibel level of any noise regulated on a decibel basis by this article shall be measured by a sound level meter. The test results shall be prima facie evidence if administered in accordance with § 19.2-270.7, Code of Virginia (1950), as amended. In order to implement and enforce this article effectively, the Chief of Police shall promulgate standards and procedures for using and testing sound level meters used in the enforcement of this article. Such meters shall be used for enforcement of this code by Officers of the Town of Shenandoah Police Department who have been properly trained in their use. Calibration of such meters shall be in compliance with the recommended standards and procedures of

the manufacturer and copies provided to the courts of jurisdiction.

§ 26-30. Exemptions.

(a) Bona fide agricultural activities, practices, tilling, orcharding, raising of livestock or poultry and farming, including but not limited to bona fide agricultural exhibitions and fairs open to the general public whether for an admission fee or otherwise, and the operation of equipment, machinery, tools, devices or apparatus in connection with such activities, practices, etc., are hereby expressly exempted from the provisions of this chapter.

(b) The provisions of this chapter shall not apply to activities or uses permitted under the provisions of issued special use or conditional use permits in force and effect where the noises and sounds generated by such activities or uses are addressed and controlled by the provision of said conditional use permits. Before any special use or conditional use permit shall be issued concerning a use or activity creating or causing such a noise or noises as would cause such use or activity to be in violation of this chapter were it not for the provisions of said permit, the Town Council shall make a determination that the potential danger or disturbance to the community is outweighed by the benefit to the public interest by permitting such use or activity.

(c) The provisions of this chapter shall not apply to activities or uses conducted in industrial or commercial zoned districts or in areas in connection with bona fide commercial, industrial or business activities, provided that the use or activity is in compliance with Chapter 50, Zoning, excluding, however, camping or other recreational activities, which shall not be exempt.

(d) The provisions of this chapter shall not apply to Law Enforcement Officer Shooting Ranges or other Law Enforcement Officer training activities. The operation or use of a law enforcement officer shooting range by any person shall not be the subject of a violation of this chapter, provided that the police shooting range is operated with the permission of the Town Council and Chief of Police. Formal or informal police training shooting includes the discharge of automatic weapons, provided they are properly licensed for such use under existing state and federal laws (see Section 18.2-295, Code of Virginia (1950), as amended, and as defined in 26 U.S.C. 5845(b) or (f); grenades, cannons (whether powder-fired, carbide or compressed gas) or other like types of firearms and weaponry, unless such use is in conjunction with police officer training or is a recognized ceremonial or similar act by an organization such as a VFW post, or by special use permit.

(e) The provisions of this chapter shall not apply to bona fide activities and events of farm wineries and/or breweries licensed in accordance with Title 4.1 of the Code of Virginia, as amended, from time to time, to market and sell their products, as long as such activities and events are usual and customary for farm wineries and licensed breweries throughout the Commonwealth. However, this exemption shall not be applicable to use of outdoor amplified music arising from activities and events at such farm wineries or licensed breweries.

(f) Any occurrence or set of circumstances involving actual or imminent physical injury, illness or property damage which requires immediate action.

(g) Any work performed for the purpose of preventing or alleviating the physical injury, illness or property damage threatened or caused by an emergency.

(h) **Additional Exemptions.** The following activities or sources of noise shall be exempt from the *daytime* prohibition set forth in § 26-28 of this chapter:

- (1) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools.
- (2) Athletic contests and other officially sanctioned activities in school facilities.
- (3) Church bells, carillons, or calls to worship by other sound-producing devices.
- (4) Religious or political gatherings to the extent that those activities are protected by the First Amendment to the United States Constitution.
- (5) Public transportation, refuse collection and sanitation services.
- (6) Maintenance or use of any signal, warning device or sound amplifying device or the use of human voice to give warning of or instructions concerning any fire, explosion, riot, unlawful assembly, disaster or other public emergency or attack by the public enemy.

(i) **Additional Special Exemptions.** The following activities or sources of noise shall be exempt from the prohibition set forth in § 26-28 of this chapter, during the hours of 7:00 a.m. and 9:00 p.m. only:

- (1) Activities related to the construction, repair, maintenance, remodeling or demolition, grading or other improvement of real property.
- (2) Gardening, lawn care, tree maintenance or removal, and other landscaping activities.

§ 26-31. Prior Special Use Permits.

Notwithstanding the provisions of this Ordinance, in the event the Town has previously issued a Special Use Permit which includes provisions regarding the regulation of noise and such provisions do not conform to the standards and provisions contained herein, this Ordinance shall not invalidate such Special Use Permit, as long as such Special Use Permit is not terminated and remains in full force and effect.

§ 26-32. Administration and enforcement.

(a) In the event of an alleged violation of this chapter, the Chief of Police of the Town of Shenandoah or his officers shall administer and enforce this chapter with all the rights and authority provided for in this chapter. Any said officer shall have the authority to make any necessary inspection, with the consent of the owner, occupant, operator or agent, to enforce any provisions of this chapter, whenever any such officer has reasonable cause to believe that there is a violation of this chapter. If any owner, occupant, operator or agent fails to allow or refuses free access and entry to the premises where a noise source is located, or any part thereof, with respect to which an inspection authorized by this chapter is sought to

be made, any such officer or the Town Manager or his duly authorized agent may, upon a showing of probable cause to believe a violation of this chapter is being or has been committed, secure a search warrant or petition and obtain from a court of competent jurisdiction an order authorizing such inspection.

(b) Nothing herein shall be construed to prevent the abatement, by injunction or otherwise, of such noises as may constitute a nuisance, provided, however, that nothing herein contained shall abrogate or restrict the provisions of the Virginia Right to Farm Act, § 3.2-302, Code of Virginia (1950), as amended.

(c) Whenever the manager or his agent or any of said law enforcement officers determines that any noise source meets the requirements set forth in this chapter, he may obtain a warrant or summons for the prosecution of such violation.

§ 26-33. Violations and penalties.

Any person convicted of a violation this Chapter shall be guilty of a Class 4 misdemeanor punishable by a fine of not more than \$250.00. Each such occurrence shall constitute a separate offense.

§ 26-34. -Severability.

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