

Chapter 124

NOISE

[HISTORY: Adopted by the Town Council of the Town of Pennington Gap 5-15-2000 by Ord. No. 1-2000. Amendments noted where applicable.]

GENERAL REFERENCES

Animals and fowl — See Ch. 60.
Curfew — See Ch. 91.
Miscellaneous offenses — See Ch. 117.
Nuisances — See Ch. 129.

§ 124-1. Unnecessary or disturbing noise prohibited.

It shall be unlawful for any person, or persons, to create or continue any unnecessary, unusual, loud, or disturbing noise within the Town, or any noise which is of such character, duration, volume or intensity as to annoy, disrupt, or disturb the quiet, comfort, peace or repose of any reasonable person or such as to be detrimental to the life, health or safety of any person. Such noise is deemed a nuisance.

§ 124-2. Prohibited noise.

The following acts are declared to constitute violations of § 124-1 and to constitute unnecessary, unusual, loud, or disturbing noise. The enumeration of these acts shall not be deemed to be exclusive of such act, or acts, as may create a violation under this chapter:

- A. Radios, phonographs, high-fidelity sets, television sets, tape decks, compact discs, musical instruments and similar devices. It shall be unlawful for any person, or persons, to use or permit to be used or played any radio receiving set, phonograph, high-fidelity set, television set, tape deck, compact disc, musical instrument, or other machine or device in a manner so as to disturb the peace, quiet, comfort or repose of neighboring residents or occupants, of a multiple-family unit, or any reasonable person of normal sensitivity or sensitiveness in the area. The operation of any of the aforesaid instrumentalities for the production of sound in such manner as to be plainly audible at either the property line or through an adjoining wall or party wall in the case of a multiple-family dwelling shall be prima facie evidence of a violation of this chapter.
- B. Animals and fowl. The keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort or repose of any person in the vicinity.
- C. Unauthorized advertising. The use of any drum, loudspeaker or other instrument or

device for the purpose of amplifying sound and attracting attention by creation of noise to any performance, show, sale, or display of merchandise, unless previously authorized by the Town Manager.

- D. Schools, courts, churches, hospitals, nursing homes, public libraries. The creation of any excessive noise on any street adjacent to any school, institution of higher learning, church, public library, or court while the same is in use, or adjacent to any hospital or nursing home which unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital or nursing home, provided conspicuous signs are displayed upon such streets indicating the same is a school, court, church, hospital, nursing home, or public library.
- E. Yelling, shouting, whistling or singing. Yelling, shouting, whistling or singing between the hours of 10:00 p.m. and 8:00 a.m. so as to create a noise disturbance across a real property boundary or on any public right-of-way or public property.

§ 124-3. Loading and unloading operations; opening or destroying bales, boxes, etc.

The creation of any loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers is hereby prohibited.

§ 124-4. Vehicles.

- A. The starting, stopping, moving or any other activity associated with a motor vehicle, so as to make or cause to be made any loud or unseemly noise, nuisance or disturbance, whereby the quiet and good order of the premises or of the neighborhood is disturbed, is hereby prohibited.
- B. The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded or in any other manner so as to create loud and unnecessary grating, grinding, rattling, backfiring or other noises is hereby prohibited.
- C. The following acts, among others, are declared to be in violation of this chapter, but such enumeration shall not be deemed to be exclusive:
 - (1) The practice of unnecessarily racing the motor of a vehicle while standing or moving and thereby causing unnecessary noise from such motor.
 - (2) The practice of unnecessarily retarding the spark to the motor of a motorcycle and thereby causing unnecessary, loud and explosive noise from the motor.
 - (3) In starting a vehicle from a standing position, the practice of gaining speed unnecessarily quickly and thereby causing unnecessary and loud noise from the motor and the screeching of tires, or either of such noises.
 - (4) The practice of coming to an unreasonably quick stop with a vehicle and thereby causing unnecessary grinding of brakes and screeching of tires, or either of such noises.
- D. Sounding of vehicle horn, signal device, or automobile alarms. It shall be unlawful

for any person to sound any horn or signal device on an automobile, motorcycle, bus or other vehicle while not in motion, except as a danger control, or if in motion, only as a danger signal to pedestrians or vehicles. The creation, by means of any such signal device, of any unreasonably loud or harsh sound and the sounding of such device for any unnecessary and unreasonable period of time is prohibited.

- E. Amplified sound from any vehicle. The playing, use or operation, or the permitting of playing, use or operation of any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound, which is located within a motor vehicle being operated on public property, including a public street or alley, and which is audible from outside the motor vehicle at a distance of 50 feet.

§ 124-5. Noise in public places.

- A. The making by any person or persons of unreasonably loud or unnecessary noise, including but not limited to that made by musical instruments or human voices, in public places within the Town is prohibited.
- B. No person or persons shall engage in any conduct of unreasonably loud or unnecessary noise on the public sidewalks, streets, public rights-of-way or on privately owned property that is open to the public in the Town of Pennington Gap, Virginia.
- C. Standards used to determine violations.
 - (1) This section is violated when a person making unlawful noise fails to comply with an order from police to control such noise. That person shall be guilty of a Class 3 misdemeanor and subject to a fine of not more than \$500. The standards which shall be considered in determining whether a violation of this section exists include, but shall not be limited to:
 - (a) The level of noise.
 - (b) Whether the nature of the noise is usual or unusual.
 - (c) Whether the origin of the noise is natural or unnatural.
 - (d) The volume and intensity of the background noise, if any.
 - (e) The proximity of the noise to residential sleeping facilities or residences.
 - (f) The nature and zoning of the area within which the noise is created.
 - (g) The density of the habitation of the area within which the noise is created and from which it emanates.
 - (h) The time of the day or night the noise occurs.
 - (i) The duration of the noise.
 - (j) Whether the noise is recurrent, intermittent, or constant.

- (k) Whether the noise is produced by commercial or noncommercial activity.
- (2) The standard set forth herein shall be construed to be in the disjunctive and not require the presence of all of the standards to constitute a violation hereunder.

§ 124-6. Definitions.

The following words, when used in this chapter, shall have the following respective meanings, unless the context clearly indicates a different meaning:

MOTOR VEHICLE —% Every vehicle defined as a motor vehicle by § 46.2-00, Code of Virginia 1950, as amended.

NOISE DISTURBANCE —% Any sound which by its character, intensity, and duration:

- A. Endangers or injures the health or safety of persons within the Town; or
- B. Annoys or disturbs reasonable persons of normal sensitivities within the Town.

PERSON —% Any individual, corporation, cooperative partnership, firm, association, trust, estate, private institution, group, agency or legal successor, representative, agent or agency thereof.

PUBLIC PROPERTY —% Any real property owned or controlled by the Town or any other governmental entity.

PUBLIC RIGHT-OF-WAY —% Any street, avenue, boulevard, highway, sidewalk or alley.

REAL PROPERTY BOUNDARY —% The property line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

RESIDENTIAL —% Includes any building or group of buildings that are used solely for residential purposes.

SOUND —% An oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at finite speed. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

§ 124-7. Exceptions.

- A. No provision of this chapter shall apply to the emission of sound for the purpose of alerting persons to the existence of an emergency work or the activities specifically exempted below.
- B. This chapter shall not apply to any noise or sound generated by any of the following:

- (1) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools or at a school-sponsored activity.
 - (2) Athletic contests or other officially sanctioned activities on Town or county property.
 - (3) Activities relating to the construction to need common repair, maintenance, remodeling, or demolition, grading or other improvement of real property between the hours of 6:00 a.m. and 10:00 p.m.
 - (4) Gardening, lawn care, tree maintenance or removal and other landscaping activities between the hour of 8:00 a.m. and 8:00 p.m.
 - (5) Church bells between the hours of 8:00 a.m. and 8:00 p.m.
 - (6) Religious or political gatherings and other activities protected by the First Amendment of the United States Constitution.
 - (7) Activities for which the regulation of noise has been permitted by federal law.
 - (8) Refuse and sanitation collection.
 - (9) Any emergency vehicles or emergency operations.
 - (10) Any Town activities or Town vehicles.
 - (11) Any noises in an industrial or commercial zone necessary to the operation of the industry or the commercial enterprise.
- C. The Town Manager or his designee, upon written request, may exempt persons from the provisions of this chapter for periods up to 10 calendar days. Any period of exemption in excess of 10 days shall be referred to the Town Council for action.

§ 124-8. Violations and penalties.

It shall be a Class 3 misdemeanor, that being a fine of not more than \$500, and a public nuisance for any person to willfully make, permit, continue or cause to be made, any noise disturbance, in violation of this chapter.