

Nuisance Noise Ordinance

Goochland County Code Chapter 10 Offenses

Sec. 10-36 to 10-40. Reserved

Article II Noise Nuisances

10-41 Purpose.

Residents should be free to use and enjoy their homes free from noise that rises to the level of a nuisance. To that end, this article prohibits someone from ~~creating a~~ ~~creating a making noise~~ ~~nuisance~~ ~~noise nuisance~~ on their residential property which, by virtue of its volume, pitch, duration, repetition, and time of day, unreasonably and substantially disturbs or interferes with someone else's peaceful enjoyment of their residential property.

10-42 Definitions.

Agricultural activities. Any operation devoted to the ~~raising or keeping of production of crops,~~ animals, fowl, or bees; ~~the production and harvest of crops~~ including: fruits and vegetables; meat, dairy, and poultry; fiber, nuts, tobacco, nursery, and floral products; ~~and~~ the production and harvest of products from silviculture and aquaculture activity; ~~and other, similar activities.~~

Nuisance. A nuisance is something that injuriously affects the safety or health of the public, or which causes a material, substantial, ~~repetitive~~, and unreasonable interference with the private use and enjoyment of another person's property.

Residential property. Residential property means any property on which one or more dwelling units exist, regardless of the property's zoning designation. "Their" residential property means property that is owned, rented, or occupied by the violator.

10-43 Violations.

A. Noise nuisance.

It shall be a violation of this article for any person to make ~~repetitive~~ noise or allow the making of ~~repetitive~~ noise, except the noise exempted below, on their residential property that, by reason its volume, pitch, duration, repetition, and time of day, unreasonably and substantially disturbs or interferes with someone's peaceful enjoyment of residential property they own, rent, or occupy.

B. Intentional act.

It shall be a violation of this article for any person to make ~~repetitive~~ noise on their residential property for the purpose of substantially disturbing or interfering with someone's peaceful enjoyment of residential property they own, rent, or occupy.

C. No person shall be charged with a violation of this article unless (1) a complainant appears before a magistrate and requests a summons be issued; or (2) a violation is committed in the presence of law enforcement personnel.

10-44. Persons responsible.

A. Persons responsible for violations of §10-43(A) include any person(s) who control the noise source, but if that person(s) cannot be reasonably ascertained, then any owner(s), tenant(s), or resident(s) who is physically present on the residential property during the nuisance noise, or [and] to whom the required warnings have been sent.

B. Persons responsible for violations of § 10-43(B) must have exercised control over the noise source in the creation of the noise.

10-44 Exemptions.

A. The following activities are exempt such that noise from them cannot form the basis of a noise nuisance under § 10-43(A):

1. Agricultural activities; ~~and~~
2. Companion animal noises (see § 3-104); ~~and~~;
3. Lawful hunting [target shooting; firearms – what support in committee?]

B. The following activities are exempt such that noise from them cannot form the basis of a violation under § 10-43(A) or (B):

1. Activities permitted by zoning, special events permits, parade permits, fireworks permits, or other governmental approvals; and
2. Activities for which noise regulation has been pre-empted by federal law.

10-45 Warnings.

~~A. No person shall be charged with a violation of this article unless (1) a complainant appears before a magistrate and requests a summons be issued; or (2) a violation is committed in the presence of law enforcement personnel.~~

~~B.A.~~ No person shall be charged with a violation of this article unless that person has been provided with (1) oral notice, from law enforcement personnel, that he is violating or has violated this article, and a reasonable opportunity to correct the violation; or (2) written notice, from ~~a complainant or~~ law enforcement personnel, that he is violating or has violated this article and a reasonable opportunity to correct the violation. Written notice must be sent to or posted on the property and, if different, to the address of the property owner(s) shown on the county's GIS system. [make sure complainants can get copies of incident reports to show warnings]

~~C. For violations of § 10-43(B), one warning must be provided to a person responsible before a summons may be issued for a violation.~~

~~D. — For violations of § 10-43(A), one warning of a noise nuisance incident must be provided to a person responsible and then, if the noise nuisance incident is not abated within 14 days, or a second noise nuisance incident occurs within 14 days, a warning of the continued or second noise nuisance incident must be provided before a summons may be issued for a violation.~~

10-46 Penalties.

A. Violations of this article are subject to a civil penalty not to exceed \$250 for the first offense and not to exceed \$500 for subsequent offenses.

B. The public nuisance procedures set forth in Virginia Code § 48-1 et. seq. may be used for violations of this article.

C. If the violation is unabated at the time of a court finding, the court shall order the violator to abate or remedy the violation in compliance with this article within a time period established by the court. Failure to abate or remedy the violation within the specified time period shall constitute a separate violation.

E. In addition to and not in lieu of the other penalties, the county may apply to the circuit court for an injunction against any continuing, including intermittently continuing, violation of this article, and may seek any other remedy or relief authorized by law.