

Proposed Nuisance Noise Ordinance

Goochland County Code Chapter 10 Offenses Article II Noise Nuisances

10-41 Purpose.

Residents should be able to use and enjoy their homes free from repetitive noise that rises to the level of a nuisance. To that end, this article prohibits the creation of a noise nuisance on 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. The raising or keeping of animals, fowl, or bees; the production or harvest of all crops including: fruits, vegetables, meat, dairy, poultry, fiber, nuts, tobacco, trees, timber, and flowers or other nursery products; the production or harvest of products from silviculture and aquaculture activity; and other, similar activities. Any activities added in the future to the definition of "agricultural operation" in the Right to Farm Act, Virginia Code § 3.2-300, are incorporated by this reference.

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

Residential property. Residential property means any property on which one or more dwelling units exist, regardless of the property's zoning designation. For residential property containing more than one dwelling unit, a noise violation may be found if the noise generated in one dwelling unit or in a common area creates a noise nuisance in another dwelling unit located on the same property; however multifamily structures operated by a management company are exempt from this article.

10-43 Noise Nuisance Violation.

A. Noise nuisance.

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

B. Persons responsible.

Any person who controls the noise source can be held responsible for a violation, but if that person cannot be reasonably ascertained, then any owner, tenant, resident or occupant who is

physically present on the residential property during the nuisance noise, and to whom the required warning has been provided can be held responsible.

C. Warning.

No person shall be found in violation of this article unless there has been presented before the court competent evidence that the complainant or a law enforcement official had, prior to the issuance of any summons or warrant, requested the abatement of the nuisance complained of, and that such nuisance continued after the request for abatement. Written notice of the violation must be sent, certified mail, return receipt requested, to the property from which the noise nuisance emanated and, if a different address is listed for the property owner on the county's geographic information system (GIS), also to the property owner(s) at the address shown in GIS.

10-44 Exemptions.

The following are exempt such that nuisance noise from them cannot form the basis of a noise nuisance:

1. Agricultural activities;
2. Approved business or commercial activity on residential property;
3. Companion animal noises which violate Code § 3-104; and
4. Hunting that is lawful under state and local laws and regulations.
5. Activities permitted by zoning, special events permits, parade permits, fireworks permits, or other governmental approvals;
6. Multi-family structures operated by a management company; and
7. Activities for which noise regulation has been pre-empted by federal law.

10-45 Penalties.

A. Violations of this article carry 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.

D. 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.