

COUNTY OF YORK

MEMORANDUM

DATE: April 18, 2023
TO: York County Board of Supervisors
FROM: Neil A. Morgan, County Administrator
SUBJECT: Follow-up on Water Street Design Ideas



The purpose of this memorandum is to update you on the design study that was presented to you at the March 7 Work Session, which focused on improvements on the landward side of the road between Ballard and Read Streets. Since that presentation, staff has been meeting to review all of the citizen and business comments on the various options as well as the input we received from the Board of Supervisors.

At present, our strategy is to focus on maintaining two-way traffic flow, coming up with some traffic calming measures to limit “cruising,” minimizing the loss of parking, and enhancing pedestrian safety and aesthetics. We will be engaging one of our on-call engineering firms to better understand the constraints and opportunities identified in the original study. Another objective of developing more detailed plans is to maximize the opportunity of coordinating future County improvements with investments currently planned by the Pub and the Yorktown Hotel. Some other elements of our ongoing work will be to commission a traffic study of the larger Yorktown community, including seasonal variation, understanding the options for future improved water supply, and the feasibility of drainage and sidewalk improvements on Read Street, much like those completed on Comte De Grasse Street.

I expect to have additional information to share with the Board and the community by mid-summer.

COUNTY OF YORK

MEMORANDUM

DATE: April 12, 2023
TO: York County Board of Supervisors
FROM: Neil A. Morgan, County Administrator 
SUBJECT: Revision of Noise Ordinance (16.19-1 through 19-5)

The Noise Ordinance was originally adopted on November 20, 1980, and was last amended on November 19, 2013. I have included a memorandum from 1979 outlining the Noise Control Committee's concerns regarding the standardized methods to determine violations, enforcement difficulties, and, ultimately, the cost of enforcement.

Over the previous 12 months, the County staff has received some concerns that make us believe it might be time for another amendment. In general, those concerns are as follows:

1. Law Enforcement. A change in the ordinance would help Law Enforcement personnel with challenges associated with animals, such as dogs and chickens.
2. Business. The waterfront businesses have voiced concerns with regard to radios and the exhaust from motorized vehicles, which disturbs both the residents and guests of the County.
3. Code Enforcement. The proposed changes in the ordinance would clarify rules governing noise generated by County businesses.

The changes to the ordinance closely align with the concerns raised above. A staff committee with members from the Sheriff's Department, Planning and Development Services, and County Administration have proposed for your consideration the attached amendment. Staff is prepared to present at a future work session sometime after budget adoption if you so desire.

Bellamy/3309

Attachments:

- Proposed Amendment
- Ordinance Number 13-14
- Ordinance Number 80-42(R-1)
- Noise Control Ordinance Memorandum, dated October 25, 1979
- Proposed Community Noise Control Ordinance
- Memorandum dated August 19, 2022

NEXT STEPS

Sec. 16-19.1. Definitions.

As used in this article, the following words and phrases shall have the following meanings:

A-weighted sound level. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).

Dwelling unit. A building or portion thereof designed or intended to be occupied as living quarters by one or more persons and including permanent provisions for living, sleeping, eating, cooking and sanitation.

Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Motor vehicle. Every vehicle defined as a motor vehicle by section 46.2-100 of the Code of Virginia (1950), as amended.

Person. Any individual, firm, owner, sole proprietorship, partnership, limited liability company, corporation, unincorporated association, governmental body, municipal corporation, executor, administrator, trustee, guardian, agent, occupant or other legal entity.

Public area. Any "public area" as defined in section 17-2 of this Code.

Plainly Audible. Any sound that can be detected by a person using his or her unaided hearing faculties.

Public right-of-way. Any street, avenue, boulevard, highway, sidewalk or alley platted or dedicated for use by the general public, whether maintained by a governmental entity or by a private person or entity.

Real property line. An imaginary line along the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

Residential area. Any property zoned for residential use, whether or not exclusively.

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. The description of sound may include any characteristics of such sound, including duration, intensity and frequency.

(Ord. No. 10-8(R-1), 1-18-11)

Sec. 16-19.2. Specific prohibitions.

The following acts, or the causing or permitting thereof, among others, are unlawful:

- (a) *Radios, stereos and loudspeakers, television sets, musical instruments and similar sound amplification or reproduction devices.* Operating, playing or permitting the operation or playing of any radio, stereo system or loudspeakers, television, compact disc player, or other sound reproduction device, or any drum, musical instrument, or similar device (other than devices described in subsection (b), below) at any time when the sound is plainly audible at a distance of one hundred feet (100') or more from its source and on property other than that from which the sound originates, or within an occupied detached residential dwelling with all windows and doors closed located on property other than that from which the sound originates, or between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to permit sound to be plainly audible across a residential real property line or through partitions common to two (2) dwelling units within a building.

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- (b) *Public address systems and sound trucks.* Using, operating or permitting the operation of any public address system, sound truck, mobile sound vehicle or similar device amplifying sound therefrom for any purpose between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to permit sound to be plainly audible across a residential real property line, or at a distance of one hundred feet (100') from its source and on property other than that from which the sound originates. For purposes of this subsection, a public address system is an electronic sound amplification and distribution system with a microphone, amplifier and loudspeakers used to address an assembly of people.
- (c) *Production of sound from radios, phonographs, etc., on streets.* The using, operating or permitting the playing, using or operating of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other electronic or other machine or device for the producing or reproducing of sound upon the public streets or public parking lots, unless the resultant noise or sound shall be not plainly audible a greater distance than one hundred feet (100') from the vehicle or other enclosure in which it is contained or at least one hundred feet (100') from the source thereof if not contained within any vehicle or other enclosure.
- (d) *Horns, whistles, etc..* Sounding or permitting the sounding of any horn, whistle or other auditory sounding device on or in any motor vehicle on any public right-of-way or in any public area, except as a warning of danger, or as a notification that a motor vehicle is being locked or unlocked, or notification that an alarm system is being enabled or disabled.
- (e) *Exhaust discharges and mechanical noises.* The discharge into open air of the exhaust of any steam or diesel engine, stationary internal combustion engine, chain saw, power mower, ~~or motorboat or motor vehicle~~, except through a fully operational muffler or similar sound attenuation device. The discharge into the open air of the exhaust of any motor vehicle except through a muffler or other device pursuant to Virginia Code § 46.2-1049.
- (f) *Yelling, shouting, etc..* Yelling, shouting, and other vocal sounds in excess of a normal conversational level, whistling or singing, any of which occurs between the hours of 11:00 p.m. and 7:00 a.m. so as to create a sound across a residential real property line or on a public right-of-way or on any public area that is plainly audible to an occupant of a dwelling unit within a building other than an occupant of the unit from which such sound emanates, or at a distance of one hundred feet (100') or more from its source and on property other than that from which the sound originates.
- (g) *Schools, public buildings, places of worship, and hospitals.* The creation of any noise on the grounds of any school, court, public building, place of worship, or hospital in a manner that is plainly audible within such school, court, public building, place of worship or hospital and interferes with the operation of the institution.
- (h) *Large party nuisance.* The creation of plainly audible sound between the hours of 11:00 p.m. and 7:00 a.m. that continues unabated for thirty (30) minutes or more, and emanates from a gathering of people where the gathering is not completely contained within a structure, but spills outdoors into balconies, yards, common areas, parking lots, or other outdoor spaces and is plainly audible across a property line, or through partitions common to two (2) dwelling units within a building, or at a distance of one hundred feet (100') or more from its source and on property other than that which the sound originates.
- (i) *Construction.* The erection, including excavation, demolition, alteration, or repair of any building or improvement between the hours of 7:00 p.m. and 7:00 a.m., if any resulting sound is plainly audible beyond the real property line of the property on which the work is being conducted, or within any occupied dwelling unit other than the one in which the work is being performed with doors closed and windows in the position appropriate for the season, except in the case of emergency under a permit granted by the county administrator. In considering the granting, conditioning, or denial of the permit, the county administrator shall be guided by the following standards: (i) nature of the emergency; (ii)

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proposed extended hours of operation; (iii) duration of period of requested extended hours; (iv) character of the area surrounding the construction site; and (v) number of residential units which would be impacted by the extended hours of construction. This provision shall not apply to emergency repair work performed by a governmental agency and a public utility.

- (j) *Pneumatic hammer, chain saw, etc.*. The operation between the hours of 8:00 p.m. and 7:00 a.m. of any chain saw, pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other similar equipment that produces sound that is plainly audible beyond the real property line of the property on which the work is being performed, or within any occupied dwelling unit with doors closed and windows in the position appropriate for the season.
- (k) *Refuse collection vehicle operation*. The operation of a refuse collection vehicle within one hundred feet (100') of a residence between the hours of 11:00 p.m. and 7:00 a.m.
- (l) *Animals*. The keeping of any animal which shall be the source of any noise or sound which is plainly audible across a residential property line or through the partitions common to two dwelling units, or at a distance of one hundred feet (100') or more from its source and on property other than that from which the sound originates, and which continues for a period of thirty (30) minutes or longer between the hours of 7 a.m. and 11:00 p.m., or continues for a period of ten (10) minutes or longer between the hours of 11:00 p.m. and 7:00 a.m.
- (m) *Noise to attract attention to performances, etc.*. The use of any drums or other musical instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(Ord. No. 10-8(R-1), 1-18-11; Ord. No. 13-14, 11-19-13)

Sec. 16-19.3. Prohibited noise, generally.

Maximum sound pressure levels. In addition to, and not in limitation of the specific prohibitions of Section 16-19.2, 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 following tables when measured at or outside the property boundary of the noise source or at any point within any other property affected by the noise, for an aggregate duration of time greater than 60 seconds in any one hour period. When a noise source can be identified and its noise measured in more than one (1) district classification, the limits of the most restrictive classification shall apply.

- (a) *Outdoors.*

MAXIMUM SOUND PRESSURE LEVELS

Receiving Property Category	Residential Property or residential portion of a multi-use property		Non-residential facility including non-residential portion of multi-use facility
	7 a.m.—11 p.m.	11 p.m.—7 a.m.	
Time			24 hours
Maximum A-Weighted sound level standard, dB	<u>65-75</u>	<u>55-65</u>	<u>65-75</u>

- (b) *Indoors.*

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Receiving Property Category	Residential Property or residential portion of a multi-use property		Non-residential facility including non-residential portion of multi-use facility
Time	7 a.m.—11 p.m.	11 p.m.—7 a.m.	24 hours
Maximum A-Weighted sound level standard, dB	55-65	50-60	55-65

Measurements in multi-family structures. In a structure used as a multi-family dwelling, the measurements to determine such sound levels shall be taken 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 (4') 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.

- (c) *Public Areas.* In addition to the prohibition in paragraph (a) and (b) above, no person shall operate or cause to be operated in or into a public area any source of sound in such a manner as to exceed the levels set forth below when measured at a distance of at least ~~six-ten feet (6'-10')~~ from such source, for an aggregate duration of time greater than 60 seconds in any one hour period:

Time Period	Noise Level (in decibels)
7:00 a.m. to 11:00 p.m.	65-75
11:00 p.m. to 7:00 a.m.	55-65

The provisions of this subparagraph (c) shall not apply to occasional outdoor gatherings, public dances, shows, and sporting and entertainment events, provided such events are conducted pursuant to a permit or license issued by the appropriate governing official pursuant to Chapter 17 of this Code relative to the staging of such events.

(Ord. No. 10-8(R-1), 1-18-11)

Sec. 16-19.4. Testing of metering devices.

In order to implement and enforce this article effectively, the county administrator 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. 10-8(R-1), 1-18-11)

Sec. 16-19.5. Exceptions.

Sections 16-19.2 and 16-19.3 shall have no application to any sound generated by any of the following:

- (a) Noise or sound which customarily accompanies bona fide parades for which any necessary permits have been issued, fireworks displays conducted in compliance with applicable laws, school-related activities, sporting events, or public functions or public commemorative events sponsored or conducted by a local, state, or federal government or agency thereof.

- (b) Religious services, religious events, or religious activities or expressions, including, but not limited to music, singing, bells, chimes, and organs which are a part of such service, event, activity, or expression.
- (c) Military activities of the Commonwealth of Virginia or of the United States of America.
- (d) Radios, sirens, horns, and bells on law enforcement, fire, or other emergency response vehicles.
- (e) Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises served by any such alarm to turn off the alarm.
- (f) Sound which is necessary for the protection or preservation of property or the health, safety, life or limb of any person, including sound generated by the normal operation of any air conditioning, refrigeration or heating equipment. However, as to any air conditioning, refrigeration or heating equipment found to exceed the maximum permissible sound pressure levels prescribed in section 16-19.3 above, such equipment shall not fall within this exception unless within fifteen (15) days following receipt of a written notice of violation, a written certificate is provided to the York County Sheriff, issued by a repair agent duly certified by the manufacturer of such equipment, certifying that based upon personal inspection of the equipment subsequent to the date of the notice of violation, the equipment was found to be correctly installed and operating properly.
- (g) Locomotives and other railroad equipment, and aircraft.
- (h) Household tools and lawnmowers and other lawn care equipment with manufacturer's recommended mufflers installed, between 7:00 a.m. and 8:00 p.m.
- (i) The striking of clocks
- (j) Lawful discharge of firearms
- (k) Activities conducted in any gymnasium, arena, theater, amphitheater, swimming pool, stadium, rifle range, gun club or any similar sporting facility, whether any such activity occurs indoors or outdoors,
- (l) Noise generated in connection with the business being conducted on property zoned IL (Limited Industrial) or IG (General Industrial), provided that all equipment or machinery generating such noise is in good repair and is being operated and maintained in accordance with the manufacturer's recommendations and with a fully operational muffler or other noise attenuating device if a muffler or noise attenuating device is standard on such machinery or equipment.
- (m) Noise generated in connection with the business being conducted during regular business hours on property either zoned by right or pursuant to any special use permit for any motor vehicle repair-related business, including, but not limited to, carwashes, oil change facilities, repair and body shops, provided that all equipment or machinery generating such noise is in good repair and is being operated and maintained in accordance with the manufacturer's recommendations and with a fully operational muffler or other noise attenuating device if a muffler or noise attenuating device is standard on such machinery or equipment.

(Ord. No. 10-8(R-1), 1-18-11)

[New Possible Section copied almost verbatim from Virginia Beach]

Sec. 16-19.5B. Exceptions Motor vehicle maximum sound levels; amplified sound from vehicles.

- (a) Notwithstanding any other provision of this Code, no person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way within the County at any time in such a manner that the sound level emitted by the operation of the motor vehicle or motorcycle, when measured at a distance of one-hundred (100) feet or more is plainly audible and discernable.

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(b) This section shall not apply to any motor carrier vehicle engaged in interstate commerce.

(c) Notwithstanding any other provisions of this section or article, it shall be unlawful for any person to play or operate, or permit the 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 or parked on public or private property within the County, including any public or private street or alley, in such a manner as to be audible and discernable at a distance of one hundred (100) or more feet from the vehicle in which it is located.

The provisions of this subsection shall not apply to motor vehicles driven in a duly authorized parade, nor to motor vehicle alarms or other security devices, nor to the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.

Sec. 16-19.6. Violations.

Any person who violates Sections 16-19.2 or 16-19.3 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not exceeding two hundred fifty dollars (\$250.00) for the first offense, and upon any subsequent conviction within a period of twelve (12) months shall be punished by a fine not to exceed five hundred dollars (\$500.00). Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. However, no person may be issued a citation for a violation of Sections 16-19.2 or 16-19.3 unless such person has previously been issued a warning notifying them of the violation. Evidence of written or oral notification by a law enforcement officer or other county official, whether in person, mailed, posted or otherwise, shall constitute prima facie evidence of notice.

(Ord. No. 10-8(R-1), 1-18-11)

Sec. 17-59. Noise regulation.

- (a) *Prohibition.* Notwithstanding any other provision of this Code, and in addition thereto, it shall be unlawful for any person to willfully or negligently make or continue, or cause to be made or continued, in or into a public area, as set forth in Section 17-2, any loud, unnecessary or unusual noise which disturbs the peace and quiet of any adjoining neighborhood or which causes any discomfort or annoyance to any reasonable person of normal sensitivity residing nearby or lawfully using the public area.
- (b) *Measure of noise limits.* In addition to the prohibition in paragraph (a) above, no person shall operate or cause to be operated in or into a public area any source of sound in such a manner as to exceed the levels set forth below when measured at a distance of at least ~~six-ten~~ feet (106') from such source, for an aggregate duration of time greater than 60 seconds in any one hour period:

Time Period	Noise Level (in decibels)
7:00 a.m. to 11:00 p.m.	65-75
11:00 p.m. to 7:00 a.m.	55-65

- (c) *Noise measurement procedure.* The A-weighted sound level as defined in County Code section 16-19.1 shall be measured at any point which is at least ~~six-ten~~ feet (6-10') from the sound source.
- (d) *Exemptions.* The provisions of paragraphs (a) and (b) of this section shall not apply to occasional outdoor gatherings, public dances, shows, and sporting and entertainment events, provided such events are conducted pursuant to a permit or license issued by the appropriate governing official relative to the staging of such events.

(Ord. No. 17-6(R), 7-18-17)

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BOARD OF SUPERVISORS
 COUNTY OF YORK
 YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the 19th day of November, 2013:

<u>Present</u>	<u>Vote</u>
Walter C. Zaremba, Chairman	Yea
Donald E. Wiggins, Vice Chairman	Yea
Sheila S. Noll	Yea
George S. Hrichak	Yea
Thomas G. Shepperd, Jr.	Yea

On motion of Mr. Shepperd, which carried 5:0, the following ordinance was adopted:

AN ORDINANCE TO AMEND SECTIONS 16-19.2 (A) AND (B) OF THE YORK COUNTY CODE RELATING TO PROHIBITED PLAINLY AUDIBLE NOISE, AMENDING SUBSECTION (A) TO ADD NOISE FROM STEREOS AND LOUDSPEAKERS AND SIMILAR SOUND REPRODUCTION DEVICES TO NOISE WHICH IS NOT ALLOWED TO BE PLAINLY AUDIBLE ACROSS A RESIDENTIAL PROPERTY LINE BETWEEN THE HOURS OF 9:00 P.M. AND 7:00 A.M., AND TO ADD A PROHIBITION ON NOISE AT ANY TIME WHICH IS PLAINLY AUDIBLE WITHIN AN OCCUPIED DETACHED RESIDENTIAL DWELLING WITH ALL WINDOWS AND DOORS CLOSED; AND AMENDING SUBSECTION (B) TO CHANGE FROM 11:00 P.M. TO 9:00 P.M. THE TIME AT WHICH NOISE FROM PUBLIC ADDRESS SYSTEMS AND SOUND TRUCKS IS NOT ALLOWED TO BE PLAINLY AUDIBLE ACROSS A RESIDENTIAL PROPERTY LINE, AND ADDING A DEFINITION OF A PUBLIC ADDRESS SYSTEM

BE IT ORDAINED by the York County Board of Supervisors this the 19th day of October, 2013, that Section 16-19.2 (a) and (b) of the York County Code is hereby amended to read as follows:

Sec. 16-19.2 Specific prohibitions.

The following acts, or the causing or permitting thereof, among others, are unlawful:

- (a) *Radios, stereos and loudspeakers, television sets, musical instruments and simi-*

lar sound amplification or reproduction devices. Operating, playing or permitting the operation or playing of any radio, stereo system or loudspeakers, television, compact disc player, or other sound reproduction device, or any drum, musical instrument, or similar device (other than devices described in subsection (b), below) at any time when the sound is plainly audible at a distance of one hundred feet (100') or more from its source and on property other than that from which the sound originates, or within an occupied detached residential dwelling with all windows and doors closed located on property other than that from which the sound originates, or between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to permit sound to be plainly audible across a residential real property line or through partitions common to two (2) dwelling units within a building.

- (b) *Public address systems and sound trucks.* Using, operating or permitting the operation of any public address system, sound truck, mobile sound vehicle or similar device amplifying sound therefrom for any purpose between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to permit sound to be plainly audible across a residential real property line, or at a distance of one hundred feet (100') from its source and on property other than that from which the sound originates. For purposes of this subsection, a public address system is an electronic sound amplification and distribution system with a microphone, amplifier and loudspeakers used to address an assembly of people.

A Copy Teste:



Mary E. Simmons
Deputy Clerk

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in the Circuit Courtroom at Yorktown, Virginia, on the 20th day of November, 1980:

Present:

Vote:

H. Tabb Smith, Chairman	Yea
Rodgers A. Smith, Vice Chairman	Yea
E. S. Bingley, Jr.	Yea
Shirley F. Cooper	Yea
Benjamin M. Rush, Jr.	Yea

On motion of Mr. Rush, which carried 5:0, the following ordinance was adopted:

AN ORDINANCE TO CONTROL EXCESSIVE, UNREASONABLE OR UNNECESSARY SOUND OR NOISE IN YORK COUNTY AND TO PROVIDE FOR THE PUNISHMENT THEREOF

WHEREAS, unnecessary, unreasonable or excessive sound or noise is found by the York County Board of Supervisors to endanger the health, safety, general welfare and convenience of the citizens of York County, and to be injurious to property values, degrading to the quality of life in the County, and conducive to breaches of the peace; and

WHEREAS, it is provided by Section 15.1-510 of the Code of Virginia (1950) as amended that a county may adopt such measures as it may deem expedient to secure and promote the health, safety and general welfare of the inhabitants of such county; and

WHEREAS, proper and effective control of unnecessary, unreasonable or excessive noise is found by the Board of Supervisors to be necessary and expedient in order to secure and promote the health, safety and general welfare of the inhabitants of York County.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this 20th day of November, 1980 that the following ordinance be, and it is hereby, enacted:

It shall be unlawful for any person, firm, corporation or organization to make, or to cause or allow to be made, upon property in York County which he, she or it owns or rents or over which he, she or it has control, whether solely or together with another or others, any unnecessary or excessive noise or sound whether vocally, mechanically, electronically or otherwise, of such a character, volume, duration or frequency as to disturb, injure or endanger the quiet, comfort, repose, health, peace or safety of any other person.

The following acts are specifically declared to be in violation of this ordinance, but such enumeration shall not be deemed to be exclusive:

(a) Horns, signaling devices, etc.: The sounding of any horn or signaling device on any automobile, motorcycle, bicycle or other vehicle on any street or public place in the County, except as a danger warning; the creation by means of any signaling device of any unreasonable, loud or harsh sound; and the sounding of any signaling device of an unnecessary or unreasonable period of time.

(b) Radios, phonographs, etc.: Using, operating or permitting to be played, used or operated, any radio receiving set, tape recorder, musical instrument, phonograph or other electronic or other machine or device for the producing or reproducing of sound in such a manner or of such volume as to disturb, injure or endanger the quiet, comfort, repose, health, peace or safety of any other person who is not within the confines of the room, vehicle or property in which such machine or device is operated and who is not a willing listener thereto. The operation of any such device in such a manner that the resultant noise or sound is audible at a distance of at least fifty feet from the building, structure, property or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(c) Loudspeakers, amplifiers for advertising: The using, operating or permitting the playing, using or operating of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other electronic or other machine or device for the producing or reproducing of sound upon the public streets or parking lots, unless the resultant noise or sound shall be not clearly audible a greater distance than fifty (50) feet distant from the vehicle or other enclosure in which it is contained or at least fifty (50) feet from the source thereof if not contained within any vehicle or other enclosure.

(d) Animals: The keeping of any animal which, shall be the source of any noise or sound of such a character, volume, duration or frequency as to disturb, injure or endanger the quiet, comfort, repose, health, peace or safety of any other person.

(e) Exhausts: The discharge into open air of the exhaust of any steam or diesel engine, stationary internal combustion engine, chain saw, power mower, motor boat, or motor vehicle, except through a muffler or other device which will effectively prevent any noise or sound of a character, volume, duration or frequency which disturbs, injures or endangers the quiet, comfort, repose, health, peace or safety of any other person.

(f) Defects in vehicle: The use of any automobile, motorcycle or other vehicle so out of repair or loaded in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise or sound of a character, volume, duration or frequency which disturbs, injures or endangers the quiet, comfort, repose, health, peace or safety of any other person.

(g) Hawkers: The shouting and crying of peddlers, hawkers and vendors of a character, volume, duration or frequency which disturbs, injures or endangers the quiet, comfort, repose, health, peace or safety of any other person.

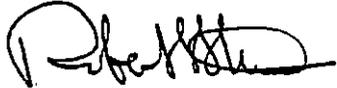
(h) Musical instruments: The use of any drums or other musical instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

This ordinance shall apply only with respect to noise or sound received or heard in zoning districts in which residential use is permitted, whether or not exclusively, under the provisions of the York County Zoning Ordinance and, notwithstanding any provision of this ordinance to the contrary, shall have no application to fire, rescue, police, ambulance or other emergency vehicles or aircraft or to any noise or sound created thereby or by any person to sound a warning or call attention to a bona fide emergency. Nor shall it apply to noise or sound which customarily accompanies bona fide parades, sporting events, public functions or commemorative events nor to noise or sound which customarily accompanies activities of churches and synagogues, nor to activities conducted in any gymnasium, arena, theater, amphitheater, swimming pool, stadium, rifle range, gun club, or any similar sporting facility, whether any such activity occurs indoors or outdoors, except to the extent that any such parade, function, event or activity shall be prohibited or limited, either expressly or by necessary implication, by the terms or conditions of any required use permit issued in connection therewith, or to the extent that such parade, function, event or activity shall be conducted without a use permit when such permit is required by the terms of the York County Zoning Ordinance.

Any person, firm, corporation or organization violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by

a fine not exceeding Five Hundred Dollars (\$500.00), and upon any subsequent conviction within a period of twelve (12) months shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) and imprisonment not to exceed ninety (90) days. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

A Copy Teste:



Robert L. Steele
County Administrator

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in the Circuit Courtroom at Yorktown, Virginia, on the 2nd day of October, 1980:

Present:

H. Tabb Smith, Chairman
Rodgers A. Smith, Vice Chairman
E. S. Bingley, Jr.
Shirley F. Cooper
Benjamin M. Rush, Jr.

Vote:

Yea
Yea
Yea
Yea
Yea

On motion of Mr. Rush, which carried 5:0, the following resolution was adopted:

A RESOLUTION TO PETITION THE GENERAL ASSEMBLY TO ENACT LEGISLATION WHICH WOULD ENABLE LOCAL GOVERNING BODIES TO ADOPT NOISE CONTROL REGULATIONS FOR THE EXPRESS PURPOSE OF PROMOTING THE PUBLIC HEALTH

WHEREAS, a Citizens Advisory Committee was established by the governing body in 1976 to frame a proposed noise control ordinance; and

WHEREAS, the Advisory Committee did frame and present to the governing body a proposed noise control ordinance upon which a public hearing was held by the Board of Supervisors; and

WHEREAS, it is the opinion of the Commonwealth's Attorney that appropriate enabling legislation has not yet been enacted by the General Assembly which would enable a governing body to adopt noise control regulations; and

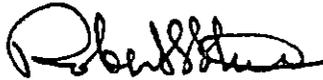
WHEREAS, it is the opinion of the Board of Supervisors that such enabling legislation should be made available to promote the public health;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 2nd day of October, 1980, that the County Attorney be and he hereby is petitioned to prepare for introduction to the General Assembly by Delegate George W. Grayson

proposed legislation which would enable local governing bodies to adopt noise control regulations for the express purpose of promoting the public health.

BE IT FURTHER RESOLVED that Delegate George W. Grayson be and he hereby is respectfully requested to introduce such enabling legislation to the General Assembly of Virginia during the 1981 session.

A Copy Teste:



Robert L. Steele
County Administrator



J. G. ...
...
...

COUNTY OF YORK, VIRGINIA

MEMORANDUM

BOARD OF SUPERVISORS

MR. HOWARD T. BURCHER, CHAIRMAN
DR. JOHN M. QUARLES, VICE CHAIRMAN
DR. GEORGE D. COLE
MRS. SHIRLEY F. COOPER
MR. H. TABB SMITH

COUNTY ADMINISTRATOR

R. E. BAIN

ASSISTANT COUNTY ADMINISTRATOR

ROBERT L. STEELE

Date: October 25, 1979
To: York County Board of Supervisors
From: R. E. Bain
Subject: Noise Control Ordinance

I. Background

In 1977 a draft "Noise Control Ordinance" was prepared by a group of citizens known as the Noise Control Committee. On August 11, 1977 the Board held a public hearing on the proposed ordinance at which the following issues were raised:

1. The need for standard methods and procedures to determine violations
2. Enforcement difficulties.
3. Cost

The Board, at this meeting, voted to table the ordinance pending receipt of further information from the County Attorney, the Noise Control Committee and citizens.

II. Public Hearing Comments

This memorandum provides a review of the issues raised at the public hearing and an estimate of equipment and manpower costs necessary to enforce some form of Noise Control Ordinance. The issues raised at the public hearing are important and warrant serious consideration prior to the adoption of any proposed noise control measures by the Board.

The first issue raised at the public hearing was the absence, in the draft ordinance, of standard methods and procedures for making determinations in regard to alleged violations.

(Cont'd)

In order to apply the ordinance fairly and consistently, standard procedures must be followed so that differences in measurement techniques do not lead to uneven application of the law. Modern sound measurement equipment is very sensitive and this fact can cause wide variations in the results obtained unless formal testing procedures are carefully adhered to. In this regard it is also desirable to specify the concept of noise which one is attempting to measure. For example, sound measurements can be taken at specific points in time or averaged over longer periods of time. If measured at instantaneous points in time, then single, brief events such as a car back-firing one time would constitute a violation, whereas, averaged over longer periods of time, such events might not constitute violations. The draft Noise Control Ordinance contains no such standards.

Another issue raised at the hearing is the difficulty of enforcing such an ordinance. The ways in which a violation is defined directly influence the difficulty (and cost) of the task of enforcement. A violation is defined in the proposed ordinance in three ways:

1. Creation of a "noise disturbance,"
2. Commission of certain prohibited acts (such as tampering with a muffler), and
3. Exceeding certain objective performance standards relating to the level of sound permitted to be received by different categories of land uses.

There are practical difficulties involved with the collection of evidence needed to prosecute each of the three types of violations cited above. However, it is practically impossible to secure objective evidence to prosecute violations involving "noise disturbances" because the proposed ordinance does not define "noise disturbance" in objective terms. Instead it uses the following subjective language:

(Cont'd)

3.2.17 "Noise Disturbance" means any sound which (a) endangers or injures the safety or health of humans or animals, or (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal real property.

This type of language creates a multitude of enforcement difficulties. Perception of sound is so subjective that it is unrealistic to expect "reasonable" persons of "normal" sensitivities to agree as to the existence of a violation. Even granted that agreement could be reached, the logistics of making these kinds of determinations would be such as to render the cost of enforcement prohibitively high.

An alternative approach is to drop all language in the ordinance which relates to the subjectively defined "noise disturbance" and rely solely upon objective, measurable performance standards. In this way the reasonableness of the standards would be presumed and the burden of proof would fall on the violator to prove them unreasonable. In any case, any person not satisfied with the stringency of the enacted standards could still pursue a remedy by means of a common law nuisance action.

A third issue raised at the public hearing pertains to the cost of enforcing the proposed ordinance. One individual who testified indicated the cost could run as high as \$300,000. An important factor which influences the cost of enforcement is the type of approach taken by the enforcement agency. This approach can vary between:

1. Vigorously seeking out violations wherever and whenever they occur, and
2. Investigating only those violations reported to the enforcing agency.

The expense of pursuing the first approach in a county of more than 100 square miles, with many miles of roads and navigable waters would be prohibitive. The second approach would be more feasible but would nonetheless require additional staff and equipment for the enforcing agency.

(Cont'd)

In summary the draft Noise Control Ordinance prepared by the Noise Control Committee represented a beginning effort in the development of this type of regulation for York County. However, many of the issues raised at the public hearing are valid concerns which would need to be resolved prior to the adoption of such an ordinance.

III. Estimated Equipment and Manpower Costs

To serve as a basis of discussion by the Board, the staff has prepared an estimate of the cost of enforcing a Noise Control Ordinance. The following cost estimate is predicated upon the assumption that:

1. Only objective, measurable performance standards will be contained in the ordinance, and
2. The County will only investigate violations reported to the Department of Code Compliance.

Staff Requirements: Although not specified in the ordinance, responsibility for enforcement of the proposed ordinance will be assigned to the Department of Code Compliance. This department is presently responsible for enforcement of the Building Code, Zoning Ordinance, Wake Control Ordinance, Dog Control Ordinance, Soil Erosion and Sedimentation Control Ordinance and will be responsible for enforcing the Solid Waste Ordinance if such is adopted. The present staffing level of this department is only marginally capable of meeting present responsibilities. The additional responsibility of a Noise Control Ordinance will necessitate the hiring of at least one and possibly two additional staff members. Estimated cost (including benefits) for one additional enforcement officer is approximately \$12,200/year.

Equipment Requirements: The attached list contains those items of equipment necessary to support enforcement efforts at a basic level. Each item with the exception of item No. 4 will be required in duplicate if two enforcement officers are hired and duplicates may be required in any event to provide continuity when equipment is inoperative.

<u>NO.</u>	<u>ITEM</u>	<u>FUNCTION</u>	<u>ESTIMATED COST</u>
1	Noise Level Analyzer	Measures instantaneous sound levels as well as various statistical noise level concepts	\$ 5,000.00
2	Alphanumeric Printer	Provides hard copy of output from Item No. 1, allows unattended operation	3,500.00
3	Weatherproof Microphone	Allows accurate measurements during all weather conditions	3,900.00
4	Sound Source Calibrator	Provides reference sound for calibration of sound level meters	200.00
5	Power Supply for Item No. 1	Allows operation on AC current and recharging of batteries	270.00
6	Power Supply for Item No. 3	Allows operation on AC current	300.00
7	Weatherproof Case	Protection of Items 1 and 2 from elements	370.00
8	Hand-held Sound Level Meter	Provides quick, convenient measurement of steady level noise or noise events where statistical information and unattended operation is not required	480.00
9	Graphic Level Recorder	Provides immediate documentation in field by providing graphic record of frequency and/or amplitude data, allow hand calculation of certain statistical data	2,800.00
10	Power Supply/Recharger, Case, Cables and Pens for Item No. 9	Self-explanatory	450.00
11	Miscellaneous Supplies	Needed to support above equipment	1,500.00
12	Motor Vehicle	Transportation for enforcement officer	<u>7,000.00</u>
		TOTAL	\$25,770.00

Proposed

COMMUNITY NOISE CONTROL ORDINANCE

ARTICLE I SHORT TITLE

This ordinance may be cited as the "Noise Control Ordinance of the County of York."

ARTICLE II DECLARATION OF FINDINGS AND POLICY: SCOPE

2.1 DECLARATION OF FINDINGS AND POLICY

WHEREAS excessive sound and vibration are a serious hazard to the public health and welfare, safety, and the quality of life; and WHEREAS a substantial body of science and technology exists by which excessive sound and vibration may be substantially abated; and, WHEREAS the people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or welfare or safety or degrade the quality of life; and, NOW, THEREFORE, it is the policy of the County of York to prevent excessive sound and vibration which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

2.2 SCOPE

This ordinance shall apply to the control of all sound and vibration originating within the limits of the County of York.

ARTICLE III DEFINITIONS

3.1 TERMINOLOGY

All terminology used in this ordinance, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

3.2.1 "A-WEIGHTED SOUND LEVEL" MEANS

The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

3.2.2 "COMMERCIAL AREA" MEANS

As defined in the community zoning ordinance.

3.2.3 "CONSTRUCTION" MEANS

Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

3.2.4 "DAY-NIGHT AVERAGE SOUND LEVEL (Ldn)" MEANS

The 24-hour energy average of the A-weighted sound pressure level, with the levels during the period 10:00 p.m. to 7:00 a.m. the following day increased by 10 dBA before averaging.

3.2.5 "DECIBEL (dB)" MEANS

A unit for measuring the volume of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

3.2.6 "DEMOLITION" MEANS

Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

3.2.7 "EMERGENCY" MEANS

Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

3.2.8 "EMERGENCY WORK" MEANS

Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

3.2.9 "EQUIVALENT A-WEIGHTED SOUND LEVEL (Leq)" MEANS

The constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. (For the purposes of this ordinance, a time period of 24 hours shall be used, unless otherwise specified.)

3.2.10 "IMPULSIVE SOUND" MEANS

Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, and the discharge of firearms.

3.2.11 "INDUSTRIAL AREA" MEANS

As defined in the community comprehensive plan zoning ordinance.

3.2.12 "MOTOR VEHICLE" MEANS

Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles, but not including motorcycles.

3.2.13 "MOTORBOAT" MEANS

Any vessel other than a vessel used for military or international commerce which operates on water and which is propelled by a motor, including, but not limited to, boats, barges, amphibious craft, water ski towing devices and hover craft.

3.2.14 "MOTORCYCLE" MEANS

An unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

3.2.15 "MUFFLER OR SOUND DISSIPATIVE DEVICE" MEANS

A device for abating the sound of escaping gases of an internal combustion engine.

3.2.16 "NOISE" MEANS

Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

3.2.17 "NOISE DISTURBANCE" MEANS

Any sound which (a) endangers or injures the safety or health of humans or animals, or (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal or real property.

3.2.18 "NOISE SENSITIVE ZONE" MEANS

Any area designated pursuant to Section 4.2.8 of this ordinance for the purpose of ensuring exceptional quiet.

3.2.19 "PERSON" MEANS

Any individual, association, partnership, or corporation, and includes any officer, employee,

department, agency or instrumentality of a State or any political subdivision of a State.

3.2.20 "POWERED MODEL VEHICLE" MEANS

Any self-propelled airborne, waterborne, or landborne plane, vessel, or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car, or rocket.

3.2.21 "PUBLIC RIGHT-OF-WAY" MEANS

Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

3.2.22 "PUBLIC SPACE" MEANS

Any real property or structures thereon which are owned or controlled by a governmental entity.

3.2.23 "PURE TONE" MEANS

Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of this ordinance, a pure tone shall exist if the one-third octave band sound pressure

level in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies of 500 Hz and above and by 8 dB for center frequencies between 160 and 400 Hz and by 15 dB for center frequencies less than or equal to 125 Hz.

3.2.24 "REAL PROPERTY BOUNDARY" MEANS

An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

3.2.25 "RESIDENTIAL AREA" MEANS

As defined in the county zoning ordinances.

3.2.26 "RMS SOUND PRESSURE" MEANS

The square root of the time averaged square of sound pressure, denoted P_{rms} .

3.2.27 "SOUND" MEANS

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.

3.2.28 "SOUND LEVEL" MEANS

The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI SI.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

3.2.29 "SOUND LEVEL METER" MEANS

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

3.2.30 "SOUND PRESSURE" MEANS

The instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

3.2.31 "SOUND PRESSURE LEVEL" MEANS

20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals (20×10^{-6} N/M²). The sound pressure level is denoted L_p or SPL and is expressed in decibels.

3.2.32 "VIBRATION" MEANS

An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.

3.2.33 "WEEKDAY" MEANS

Any day Monday through Friday which is not a legal holiday.

ARTICLE IV POWERS AND DUTIES OF THE COUNTY ADMINISTRATOR

4.1 LEAD OFFICIAL

The noise control program established by this ordinance shall be administrated by the County Administrator or his designee.

4.2 POWERS OF THE COUNTY ADMINISTRATOR

In order to implement and enforce this ordinance and for the general purpose of sound and vibration abatement and control, the County Administrator shall have, in addition to any other authority vested in it, the power to:

4.2.1 STUDIES

Conduct, or cause to be conducted, research, monitoring, and other studies related to sound and vibration.

4.2.2 EDUCATION

(a) Conduct programs of public education regarding:

(1) The causes, effects and general methods of abatement and control of noise and vibration;

(2) The actions prohibited by this ordinance and the procedures for reporting violations;

(b) Encourage the participation of public interest groups in related public information efforts.

4.2.3 COORDINATION AND COOPERATION

(a) Cooperate to the extent practicable with all appropriate County, State and Federal agencies;

- (b) Enter into contracts for the provision of technical and enforcement services.

4.2.4 REVIEW OF PUBLIC AND PRIVATE PROJECTS

Review public and private projects, subject to mandatory review or approval by other departments, for compliance with this ordinance, if such projects are likely to cause sound or vibration in violation of this ordinance.

4.2.5 INSPECTIONS

- (a) Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this ordinance may exist. Such inspection may include administration of any necessary tests.
- (b) Stop any motor vehicle, motorcycle, or motorboat operated on a public right-of-way, public space, or public waterway reasonably suspected of violating

any provision of this ordinance, and issue a notice of violation or abatement order which may require the motor vehicle, motorcycle or motorboat to be inspected or tested as the County Administrator may reasonably require.

4.2.6 RECORDS

Require the owner or operator of any commercial or industrial activity to establish and maintain records and make such reports as the County Administrator may reasonably prescribe.

4.1.7 MEASUREMENTS BY THE OWNER OR OPERATOR

Require the owner or operator of any commercial or industrial activity to measure the sound level of or the vibration from any source in accordance with the methods and procedures and at such locations and times as the County Administrator may reasonably prescribe and to furnish reports of the results of such measurements to the County Administrator. The County Administrator may require the measurements to be conducted in the presence of its enforcement officials.

4.2.8 NOISE SENSITIVE ZONE RECOMMENDATIONS

Prepare recommendations for the designation of noise sensitive zones which contain noise sensitive

activities. Noise sensitive activities include, but are not limited to, operations of schools, libraries open to the public, churches, hospitals, and nursing homes.

4.3 DUTIES OF THE COUNTY ADMINISTRATOR

In order to implement and enforce this ordinance effectively, the County Administrator shall within a reasonable time after the effective date of the ordinance:

4.3.1 INVESTIGATE AND PURSUE VIOLATIONS

In consonance with Section 4.2.5, Article X, and other provisions of this ordinance, investigate and pursue possible violations of this ordinance.

4.3.2 TRUCK ROUTES AND TRANSPORTATION PLANNING

(a) Study the existing transportation systems, such as truck routes within the community; determine areas with sensitivity to sound and vibration caused by transportation; recommend changes or modifications to transportation systems to minimize the sound and vibration impact on residential areas and noise sensitive zones.

(b) Assist in or review the total transportation planning of the community, including planning for new roads and highways, bus routes, airports, and other systems for public transportation, to ensure that the impact of sound and vibration receives adequate consideration.

4.3.3 PERIODIC REPORT

Evaluate and report, every 1 year following the effective date of this ordinance, on the effectiveness of the noise control program and make recommendations for any legislative or budgetary changes necessary to improve the program.

ARTICLE V PROHIBITED ACTS

5.1 NOISE DISTURBANCES PROHIBITED

No person shall unreasonably make, continue, or cause to be made or continued, any noise disturbance. Non-commercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this Section.

5.2 SPECIFIC PROHIBITIONS

The following acts, and the causing thereof, are declared to be in violation of this ordinance:

5.2.1 RADIOS, TELEVISION SETS, MUSICAL INSTRUMENTS AND
SIMILAR DEVICES

Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound:

- (a) Between the hours of 10 p.m. and 8 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone, (except for activities open to the public and for which a permit has been issued by the County Administrator).
- (b) In such a manner as to create a noise disturbance at 50 feet (15 meters) from such device, when operated in or on a motor vehicle on a public-right-of-way or public space, or in a boat on public waters;
- (c) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier;
- (d) This section shall not apply to non-commercial spoken language covered under Section 5.2.2.

5.2.2 LOUDSPEAKERS/PUBLIC ADDRESS SYSTEMS

- (a) Using or operating for any non-commercial purpose any loudspeaker, public address system, or similar device between the hours of 10:00 p.m. and 8:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.

- (b) Using or operating for any commercial purpose any loudspeaker, public address system, or similar device (1) such that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive zone; or (2) between the hours of 9 p.m. and 7 a.m. the following day on a public right-of-way or public space.

5.2.3 STREET SALES

Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the county (except by permit issued by the County Administrator according to criteria set forth in 6.2.

5.2.4 ANIMALS AND BIRDS

Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks,

meows, squawks, or makes other sounds which create a noise disturbance across a residential real property boundary or within a noise sensitive zone.

5.2.5 LOADING AND UNLOADING

Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 9 p.m. and 7 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

5.2.6 CONSTRUCTION

Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work:

- (a) Between the hours of 9 p.m. and 7 a.m. the following day on weekdays or at any time on Sundays or holidays, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone, except for emergency work of public service utilities or by special variance issued pursuant to Section 6.2;

(b) At any other time such that the sound level at or across a real property boundary exceeds an Leg of 65 dBA for the daily period of operation.

(c) This section shall not apply to the use of domestic power tools subject to Section 5.2.15.

5.2.7 VEHICLE OR MOTORBOAT REPAIRS AND TESTING

Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

5.2.8 AIRPORT AND AIRCRAFT OPERATIONS

(a) The County Administrator shall consult with the airport manager to recommend changes in airport operations to minimize any noise disturbance which the manager may have authority to control in its capacity as manager.

(b) Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin, or in any manner regulate the movement of aircraft which are in all respects conducted in accordance with, or pursuant to, applicable Federal laws or regulations.

5.2.9 EXPLOSIVES, FIREARMS, AND SIMILAR DEVICES

The use or firing of explosives, firearms, or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space of right-of-way, without first obtaining a special variance issued pursuant to Section 6.2.

5.2.10 POWERED MODEL VEHICLES

Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of 9 p.m. and 8 a.m. the following day. Maximum sound levels in a public space during the permitted period of operations shall conform to those set forth for residential land use in Table 1 of Section 7.1 and shall be measured at a distance of ___feet (meters) from any point on the path of the vehicle. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by Section 7.1 and Section 5.2.14, respectively.

5.2.11 VIBRATION

Operating or permitting the operation of any device that creates vibration which is above the

perception threshold of an individual at or beyond the property boundary of the source. For the purposes of this section, "vibration perception threshold" means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

5.2.12 EMERGENCY SIGNALING DEVICES

The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing.

5.2.13 MOTORBOATS

Operating or permitting the operation of any motorboat in any lake, river, stream, or other waterway in such a manner as to exceed a sound level of 85 dBA at 50 feet (15 meters) or the nearest shoreline, whichever distance is less.

5.2.14 NOISE SENSITIVE ZONES

- (a) Creating or causing the creation of any sound within any noise sensitive zone designated pursuant t

Section 4.2.8, so as to disrupt the activities normally conducted within the zone, provided that conspicuous signs are displayed indicating the presence of the zone; or

- (b) Creating or causing the creation of any sound within any noise sensitive zone, designated pursuant to Section 4.2.8, containing a hospital, nursing home, or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity, provided that conspicuous signs are displayed indicating the presence of the zone.

5.2.15 DOMESTIC POWER TOOLS

Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower, or similar device used outdoors in residential areas between the hours of 9 p.m. and 7 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.

5.2.16 TAMPERING

The following acts or the causing thereof are prohibited:

- (a) The removal or rendering inoperative by any person

other than for purposes of maintenance, repair, or replacement, of any noise control device or element of design or noise label of any product. The County Administrator may, by regulation, list those acts which constitute violation of this provision.

- (b) The removing or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by or for the County Administrator, provided such device or the immediate area is clearly labeled, in accordance with County Administrator's regulations, to warn of the potential illegality.

ARTICLE VI EXCEPTIONS AND VARIANCES

6.1 EMERGENCY EXCEPTION

The provisions of this ordinance shall not apply to (a) the emission of sound for the purpose of alerting persons to the existence of an emergency, or (b) the emission of sound in the performance of emergency work.

6.2 SPECIAL VARIANCES

- (a) The County Administrator shall have the authority, consistent with this section, to grant special variances which may be requested pursuant to

Section 5.2.6 (Construction) and 5.2.9 (Explosives, Firearms, and Similar Devices).

- (b) Any person seeking a special variance pursuant to this section shall file an application with the County Administrator. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this ordinance would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Notice of application for a special variance shall be published according to jurisdictional procedures. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the County Administrator containing any information to support his claim. If the County Administrator finds that a sufficient controversy exists regarding an application, a public hearing may be held.
- (c) Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. non-compliance with any condition of the special

variance shall terminate it and subject the person holding it to those provisions of this ordinance regulating the source of sound or activity for which the special variance was granted.

- (d) Application for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances under subsection (b).

6.3 VARIANCES FOR TIME TO COMPLY

- (a) The owner of any commercial or industrial source of sound may apply to the County Administrator for variance in time to comply with Section 5.2.11 (Vibration) or Article VII. The County Administrator shall have the authority, consistent with this section, to grant such a variance.
- (b) Any person seeking a variance in time to comply shall file an application with the County Administrator. The application shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this ordinance prior to the date requested in the application would constitute an unreasonable hardship on the applicant, on the community, or on other persons.

Any individual who claims to be adversely affected by allowance of the variance in time to comply may file a statement with the County Administrator containing any information to support his claim. If the County Administrator finds that a sufficient controversy exists regarding an application, a public hearing may be held.

- (c) Variances in time to comply shall be granted to the applicant containing all necessary conditions, including a schedule for achieving compliance. The variance in time to comply shall not become effective until all conditions are agreed to by the applicant. Non-compliance with any condition of the variance shall terminate the variance and subject the person holding it to those provisions of this ordinance for which the variance was granted.
- (d) Application for extension of time limits specified in variances in time to comply or for modification of other substantial conditions shall be treated like applicants for initial variances under subsection (b), except that the County Administrator must find that the need for the extension or modification clearly out-weights any adverse impacts of granting the extension or modification.

Appeals of an adverse decision of the County Administrator shall be made to the appropriate court of law.

ARTICLE VII SOUND LEVELS BY RECEIVING LAND USE

7.1 MAXIMUM PERMISSIBLE SOUND LEVELS BY RECEIVING LAND USE

No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 when measured at or within the property boundary of the receiving land use.

Table 1. Sound Levels by Receiving Land Use

Receiving land-use category	Time	Sound level limit, dBA
Residential	7 a.m.-10 p.m.	55
	10 p.m.-7 a.m.	50
Commercial	At all times	60
Industrial	At all times	65

7.2 CORRECTION FOR CHARACTER OF SOUND

For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in Section 7.1 shall be reduced by 3 dBA.

7.3 EXEMPTIONS

The provisions of this article shall not apply to:

- (a) Activities covered by the following Sections:
5.2.6 (Construction), 5.2.8 (Aircraft and Airport Operations), 5.2.9 (Explosives, Firearms, and Similar Devices), 5.2.12 (Emergency Signaling Devices), 5.2.13 (Motorboats), 5.2.15 (Domestic Power Tools), 8.3 (Recreational Motorized Vehicles Operating Off Public Rights-of-way).

ARTICLE XIII ADEQUATE MUFFLERS OR SOUND DISSIPATIVE DEVICES

- (a) No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation;

- (b) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle.

8.2 MOTOR VEHICLE HORNS AND SIGNALING DEVICES

The following act and the causing thereof are declared to be in violation of this ordinance:

- (a) The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger.

8.3 RECREATIONAL MOTORIZED VEHICLES OPERATING OFF PUBLIC RIGHTS-OF-WAY

- (a) Except as permitted in subsection (b), no person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level, emitted therefrom exceeds the limits set forth in Table 2 at a distance of 50 feet (15 meters) or more from the path of the vehicle when operated on a public space or at or across the boundary of private property when operated on private property. This section shall apply to all recreational motorized vehicles, whether or not duly

licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go-cars, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats.

- (b) Permits for motor vehicle racing events may be obtained from appropriate authority.

Table 2. Recreational Motorized Vehicle Sound Limits
(Measured at 50 Feet or 15 Meters)

Vehicle Type	Sound level, dBA
Motorcycle	82 to 35 mph 86 above 35 mph
Any other vehicle	76 to 35 mph 82 above 35 mph

ARTICLE IX LAND USE

9.1 GENERAL PROVISIONS

- (a) No owner of any land shall commence or cause to be commenced construction of any structure covered by Sections 9.2 unless approved by the County Administrator as provided in this Article.
- (b) Any application for approval required by this Article shall be submitted in writing to the County Administrator by the owner of the land on which the structure is proposed to be constructed and shall contain the following information:
- (1) identification of the land on which the construction is proposed;
 - (2) The section of this Article under which approval is requested;
 - (3) information and data supporting the claim that the appropriate requirements will be met;
 - (4) any other information which the County Administrator may reasonably require.

9.2 COMMERCIAL AND INDUSTRIAL CONSTRUCTION

No new or substantially modified structure on land use or zoned as commercial or industrial shall be approved for construction unless the owner or developer of such land has demonstrated, in accordance with guidelines published by the County Administrator, that the completed

structure and the activities associated with and on the same property as the structure, will comply with the provisions of Article VII at the same time for initial full-scale operation of such activities.

9.3 SOUND FROM NEW TRANSPORTATION SYSTEMS IN RESIDENTIAL AREAS OR NOISE SENSITIVE ZONES

No plans for construction of new transportation systems or expansion of the capacity of existing transportation systems will be approved for location in or near residential areas or noise sensitive zones, regardless of the source of project funds, unless such plan includes all control measures necessary to ensure that the projected day-night average sound level (Ldn) due to the operation of the transportation system does not exceed 65 dBA at any point on residential property within 1 year after the expected completion of the project.

ARTICLE X ENFORCEMENT

10.1 PENALTIES

- (a) Any person who violates any provision of this ordinance shall be fined for each offense not more than \$50.

(b) Any person who willfully or knowingly violates any provision of this ordinance shall be fined for each offense a sum of not less than \$25 and not more than \$1000.

(c) Each day of violation of any provision of this ordinance shall constitute a separate offense.

10.2

ABATEMENT ORDERS

(a) Except as provided in subsection (b), in lieu of issuing a notice of violation as provided for in Section 10.3, the County Administrator or other official responsible for enforcement of any provision of this ordinance may issue an order requiring abatement of any source of sound or vibration alleged to be in violation of this ordinance within a reasonable time period and according to guidelines which the County Administrator may prescribe.

10.3

NOTICE OF VIOLATION

Violation of any provision of this ordinance shall be cause for a notice of violation to be issued by the County Administrator or other responsible enforcement official according to procedures set forth in this ordinance.

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- 5.2.7 (Vehicle or Motorboat Repairs and Testing)
 - 5.2.9 (Explosives, Firearms, and Similar Devices)
 - 5.2.10 (Powered Model Vehicles)
 - 5.2.11 (Vibration)
 - 5.2.13 (Motorboats)
 - 5.2.16 (Tampering)
 - 5.2.15 (Domestic Power Tools)
 - 7.1 (Maximum Permissible Sound Levels by Receiving Land Use)
 - 8.3 (Motor Vehicle Racing Events)
 - 9.2 (Motor Vehicle Horns and Signaling Devices)
 - 10.4 OTHER REMEDIES

No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this ordinance from other law.

10.5 SEVERABILITY

If any provision of this ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

10.6 EFFECTIVE DATE

This law/ordinance shall take the effect on _____.

COUNTY OF YORK

MEMORANDUM

DATE: August 19, 2022

TO: York County Board of Supervisors

FROM: Neil A. Morgan, County Administrator



SUBJECT: Noise Ordinance Review - Update

In an email dated April 27, 2022, a citizen voiced their concern about a possible violation of the County's noise ordinance by a commercial entity. The business was approved by the Board of Supervisors with a Special Use Permit granted in 2019. Staff from the Department of Planning and Development Services visited the site over the summer to find that the noise was at times in excess of the decibels allowed. However, the business operates as normal / best practices would allow and the noise is not within audible distance to housing. Given that the business operates as would be expected, staff from Planning and Development Services, County Administration, and the County Attorney's office began a review of the County's noise ordinance to evaluate how the noise restrictions apply to business operations as opposed to nuisance noise complaints. As is our current practice, the County would not issue a Notice of Violation while an ordinance is under review.

Current Status:

We have established a team to review the ordinance, which consists of staff from the following County offices: Planning and Development Services, Sheriff's Department, County Attorney's Office, and County Administration. The team has met twice in the last two months to discuss the issues as they relate to their vocational areas. At this time, the consensus of the group is there is room for improvement in the ordinance. Several other localities in the Hampton Roads region, including Virginia Beach and Hampton, are currently examining their noise ordinances. The County Attorney's Office has agreed to draft any proposed changes to our current regulations. As the group evaluates noise regulations, we will be including an analysis of our neighboring jurisdictions' ordinances. You may expect additional updates as appropriate.

NAM/mlb:3309