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## ARTICLE 1. General Provisions.

### Section 108.1-1-1. Short title.

This Chapter may be referred to as the "Noise Ordinance" of the County of Fairfax.

(24-75-16A; 1-1-76)

### Section 108.1-1-2. Declarations of findings and policy.

~~It is hereby declared to be the public policy of Fairfax County, in cooperation with Federal, State and local governments and regional agencies, to promote an environment for its citizens free from noise that jeopardizes their health or welfare or degrades the quality of life. Nothing contained in this Chapter shall be construed to authorize or direct any action which shall result in any substantial increase in noise levels from any noise source in Fairfax County. The Board hereby finds and declares that certain noise is a serious hazard to the public health, welfare, peace and safety and the quality of life of the citizens of Fairfax County; that the people have a right to and should be ensured an environment free from such noise that may jeopardize the public health, welfare, peace and safety or degrade the quality of life; and that it is the policy of the Board to prevent such noise to the extent such action is not inconsistent with a citizen's First Amendment rights or noise that may be permitted pursuant to Federal or State law.~~

## ARTICLE 2. Definitions.

### Section 108.1-2-1. Definitions.

(a) The following words and phrases, when used in this Chapter, shall for the purposes of this Chapter, have the meanings respectively ascribed to them in this Section, except in those situations where the context clearly indicates a different meaning:

(1) *A-weighted sound pressure level* shall mean the sound pressure level as measured on a sound level meter using the A-weighted network. The level so read shall be postscripted dB(A) or dBA.

(2) *Board* shall mean the Fairfax County Board of Supervisors.

(3) *Continuous sound* shall mean a sound whose intensity remains essentially constant during the period of observation. Continuous noise for measurement purposes shall be defined as noise which is measured by the slow response setting of a noise level meter.

(24) *Decibel* shall mean a unit which describes the sound pressure level or intensity of sound. The sound pressure level in decibels is twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound in microbars to a reference pressure of 0.0002 microbar; abbreviated dB.

(35) *Device* shall mean any mechanism which is intended to, or which actually produces noise when operated or handled.

(6) *Discernible* shall mean that the noise is sufficiently distinct such that its source can be clearly identified.

(4) ~~*Disposal* shall mean the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land.~~

(57) *Emergency work* shall mean any work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from immediate exposure to danger, performed for the purpose of preventing or alleviating physical injury or illness or property damage threatened or caused by an emergency, including work performed by public service companies

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when emergency inspection, repair of facilities, or restoration of services is required for the immediate health, safety, or welfare of the community and the operation of police cars, fire trucks, ambulances, helicopters and other vehicles that are responding to emergencies.

~~(6) Equivalent sound level (Leq) shall mean 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 pressure level.~~

~~(8) Impulse sound shall mean brief bursts of sound including, but not limited to, the start up of a motor or engine.~~

~~(9) Instrument shall mean any musical instrument, radio, phonograph, compact disc player, amplifier or any other similar device which produces, reproduces or amplifies noise.~~

~~(710) Landfill shall mean a site used for the disposal of solid waste in a controlled manner by a person for the dumping of debris; or a disposal site operated by means of compacting and covering solid waste at least once a day with an approved material. This term is intended to include both debris landfills and sanitary landfills as defined in Chapters 104 and 109.1 of the Fairfax County Code.~~

~~(10) Mixed use area means the parcel on which one or more residential dwellings and at least one other non-residential use are located and any contiguous rights-of-ways, roads, streets, lanes, sidewalks, or other such means of egress and ingress to any such parcel.~~

~~(811) Motor vehicle shall mean any vehicle which is self-propelled or designed for self-propulsion including but not limited to, passenger cars, automobiles, trucks, truck-trailers, semitrailers, campers, motorcycles, mini-bikes, motor scooters and motor boats, and racing vehicles; and any motorcycle (including but not limited to motor scooters and mini-bikes) as defined in Paragraph 14 of § 46.1-1. Va. Code Ann Motor vehicles shall not include lawn mowers or other lawn equipment and nothing herein shall conflict with state law.~~

~~(912) Noise shall mean any sound which may cause or tend to cause an adverse psychological or physiological effect on human beings.~~

~~(13) Non-residential area shall mean a parcel in a residential district that does not contain a residential dwelling and contains non-residential uses such as schools, parks, places of worship, fire stations and sewage treatment plants.~~

~~(10) Noise disturbance shall mean any unnecessary sound which annoys, disturbs, or perturbs reasonable persons with normal sensitivities; or any unnecessary sound which reasonably may be perceived to injure or endanger the comfort, repose, health, peace or safety of any person.~~

~~(11) Octave band analyzer shall mean an instrument to measure the octave band composition of a sound by means of a bandpass filter. It shall meet the specifications of the American National Standards Institute publications: S1.4-1961, S1.6-1967, and S1.11-1966, or their successor publications.~~

~~(4214) Person shall mean any individual, corporation, cooperative, partnership, firm, association, trust, estate, private institution, group, agency, or any legal successor, representative, agent, or agency thereof.~~

~~(15) Plainly audible shall mean the sound can be heard by the human ear with or without a medically approved hearing aid or device.~~

~~(4316) Powered model vehicles shall mean any mechanically powered vehicle, either airborne, waterborne or landborne, which is not designed to carry persons or property including, but not limited to, model airplanes, boats, cars, drones and rockets.~~

~~(17) Recreational grounds shall mean any playground, athletic field, park or open space area that is publicly or privately owned, including land owned by a homeowner's or condominium association. Recreational grounds shall not include areas that are located on individual single family residential dwelling lots.~~

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(18) Residential area shall mean a parcel on which a residential dwelling is located and any contiguous rights of way, roads, streets, lanes, sidewalks, or other such means of egress and ingress to any such parcel.

(19) Residential dwelling shall mean any structure in which one or more persons live on a permanent or temporary basis, including, but not limited to, single family dwellings, multiple family dwellings, hotels and motels.

~~(1420) Public Road right-of-way shall mean any street, avenue, boulevard, highway, or alley or public space which is owned or controlled by a public governmental entity open to the public.~~

~~(15) Solid waste shall mean any garbage, trash, refuse, debris, construction rubble and other discarded material.~~

~~(1621) Sound shall mean a temporal and spatial oscillation in pressure, or other physical quantity, in a medium with internal forces that causes compression and rare fraction of that medium, and which propagates at finite speed to distant points 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.~~

~~(1722) Sound level meter shall mean an instrument to measure sound pressure levels which shall meet or exceed performance standards the American National Standards Institute (ANSI) Standard S1.4 for a "Type Two" meter as specified by the American National Standards Institute and shall be calibrated by the manufacturer or a company that can certify the calibration at least one (1) time each year.~~

(23) Sound generation or to generate sound shall mean any conduct, activity or operation, whether human, mechanical, electronic or other, including but not limited to, any animal or bird, and any instrument, machine or device, whether continuous, intermittent or sporadic, and whether stationary or ambulatory in nature, which produces or results in a sound that is plainly audible and discernible to the human ear.

~~(18) Sound pressure shall mean the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space.~~

~~(19) Stationary noise source shall mean any equipment or facility, fixed or movable, capable of emitting sound beyond the property boundary of the property on which it is used.~~

(24) Transportation facility shall mean bus and rail facilities to include stations, platforms, garages, maintenance and staging areas, associated parking areas, and other associated mechanical appurtenances such as traction power stations, communication rooms, train control rooms, tie-breaker stations and other similar facilities

~~(2025) Zoning administrator shall mean the Fairfax County Zoning Administrator or his/her duly authorized agent.~~

(2426) Zoning district classification: Refers to the scheme of land use classification contained in the Fairfax County Zoning Ordinance.

(7-17-68, § 17-5.2; 24-75-16A; 1961 Code, § 16A.2.1; 3-79-108; 37-81-108.)

### **ARTICLE 3. Administration, Penalties and Authority and Duties.**

#### **Section 108.1-3-1. Administration of the Ordinance and Enforcement.**

(a) The provisions of this Chapter shall be administered and enforced by the Zoning Administrator and/or his/her duly authorized agent, including the Department of Code Compliance, and shall be assisted by other County departments as applicable.

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(b) In addition, Paragraphs (j) and (k) of Sect. 108.1-4-1 may also be enforced by the Police Department. If so enforced by the Police Department, the civil remedies referenced below shall not be applicable.

(c) The person operating or controlling the sound generation or source shall be guilty of any violation caused by that generation or source. If it cannot be determined which person is operating or controlling the sound generation or source, any owner, tenant, resident or manager physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the sound generation or source.

### **Section 108.1-3-2. Penalties.**

(a) Any violation of any provision of this Chapter shall constitute a misdemeanor and, any person violating this Chapter shall, upon conviction, be punishable by imprisonment not to exceed thirty (30) days or by a fine not to exceed one thousand dollars (\$1,000.00), or both. Each separate act on the part of the person violating the Chapter shall be deemed a separate offense, and each day a violation is permitted to continue unabated shall be deemed to constitute a separate offense upon conviction thereof, shall be punishable by a fine of not less than \$10 and not more \$1,000. Failure to abate any such violation within the time period established by the Court shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1,000, and any such failure during any succeeding ten (10) day period shall constitute a separate misdemeanor offense for each ten (10) day period punishable by a fine of not less than \$100 nor more than \$1,500.

(b) In lieu of the criminal penalties set forth above, a violation of any provision of this Chapter may be punishable by a civil penalty of \$200 for the first violation; and subsequent violations arising from the same set of operative facts shall be punishable by a civil penalty of \$500 for each separate offense.

(c) Each day during any violation of the provisions under Par. (b) above is found to have existed shall constitute a separate offense. However, in no event shall any such violation arising from the same set of operative facts be charged more frequently than one in any ten (10) day period, nor shall a series of such violations arising from the same set of operative facts result in civil penalties that exceed a total of \$5,000. If the civil penalties total more than \$5,000, the violation may be prosecuted as a criminal misdemeanor.

(d) In addition to, and not in lieu of, the penalties prescribed in this section, the Board may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this Chapter and may seek any other remedy or relief authorized by law.

### **Section 108.1-3-3. Authority and duties of the Zoning Administrator.**

In addition to any other authority vested in him by law, the Zoning Administrator:

(a) May conduct, or cause to be conducted, studies, research and monitoring related to noise and its prevention, abatement and control.

(b) May conduct programs of public education regarding the causes and effects of noise and the means for its abatement, and encourage the participation of public interest groups in related public information efforts.

(ea) May coordinate the noise control activities of all agencies and departments of the Fairfax County government and advise, consult, cooperate and coordinate noise control activities with other local governmental units, state agencies, interstate and interlocal agencies, the Federal government, and with interested persons and groups with respect to the provisions of this Chapter.

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(db) Shall issue such orders, rules and regulations and measurement procedures and methodologies as may be necessary to effectuate the provisions of this Chapter and enforce the same by all appropriate administrative and judicial proceedings.

~~(e) May make recommendations to the Board of Supervisors for changes to this Chapter to make it consistent with all preemptive State and Federal legislation.~~

(fc) May enter and inspect any property, premises or place at any reasonable time for the purpose of ascertaining compliance with any provision of this Chapter when granted permission by the owner, or some person with reasonably apparent authority to act for the owner. When permission is refused or cannot be obtained, a proper search warrant may be obtained from a Court of competent jurisdiction upon showing of probable cause to believe that a violation of this Chapter may exist.

~~(g) May administer grants or other funds or gifts from public and private agencies, including the State and Federal governments, for the purpose of carrying out any of the provisions of this Chapter.~~

~~(h) May secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise.~~

(id) May obtain warrants for violations of any of the provisions of this Chapter and apply to any court of competent jurisdiction for such injunctive relief as shall be necessary to terminate continuing violations of this Chapter.

~~(j) Shall make an annual report to the Board of Supervisors on the status and effectiveness of the Noise Ordinance, including the reasonableness of the noise standards prescribed therein, and shall make recommendations for improvement of this Ordinance.~~

(e) Shall adhere to the notice and procedure requirements of Part 9 of Article 18 of the Fairfax County Zoning Ordinance in order to prosecute any civil or criminal violation of this Chapter

(kf) May perform such other acts as may be necessary to carry out the functions of this Chapter and such other acts as may be specifically enumerated herein. (24-75-16A; 1961 Code, § 16A.3.2; 3-79-108.)

## **ARTICLE 4. Noises Prohibited.**

### **Section 108.1-4-1. Specific prohibitions.**

The following acts are violations of this Chapter:

~~(a) Using or operating Use of a loudspeaker or other sound amplification device in a fixed or movable position that is mounted on the exterior te of any building, or mounted upon any structure or motor vehicle for the purpose of commercial advertising, giving instructions, information, directions, talks, addresses, lectures, or providing entertainment to any persons or assemblage of persons on any private or public property, between the hours of 11 p.m. and 7 a.m. the following day Monday through Friday and between 11 p.m. and 9 a.m. on Saturdays, Sundays and Federal holidays.~~

~~(b) Operating or causing to be operated any equipment used in equipment used in Any action related to the construction, repair, alteration, or maintenance, remodeling or demolition, work on buildings, structures, streets, alleys, or appurtenances thereto grading or other improvement of real property in the outdoors between the hours of 9 p.m. and 7 a.m. the following day except that no such activity shall commence prior to 9 a.m. Monday through Friday and between 9 p.m. and 9 a.m. on Saturdays, Sundays and Federal holidays.~~

~~(c) Repairing, rebuilding, or modifying, any motor vehicle or other mechanical device in the outdoors between the hours of 9 p.m. and 7 a.m. the following day.~~

~~(d) Operating or permitting The operation of powered model vehicles in the outdoors between the hours of 9 p.m. and 7 a.m. the following day.~~

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(e) The collection of trash or refuse in residential use districts and/or within 100 yards of a residential dwelling between the hours of 9 p.m. and 6 a.m. the following day.

(f) The operation of a landfill within 100 yards of a residential dwelling between the hours of 9 p.m. and 6 a.m.

(g) Loading or unloading trucks in the outdoors within one hundred (100) yards of a residence residential dwelling between the hours of 9 p.m. and 6 a.m. the following day. (7-17-68, § 17.9; 24-75-16A; 1961 Code, § 16A.4.1; 34-76-108; 24-98-108.)

(h) Unless otherwise addressed by this chapter, the operation of power lawn equipment, including but not limited to lawn mowers, leaf blowers, chain saws, trimmers and edgers:

(1) between 9 p.m. and 7 a.m. when located within 100 yards from a residential dwelling, and

(2) between 9 p.m. and 6 a.m. when located 100 yards or from of a residential dwelling.

(i) Unless otherwise excepted by this Chapter, the operation of mechanical devices within 100 yards of a residential dwelling for the cleaning of outdoor parking, pedestrian and/or loading areas between 9 p.m. and 7 a.m.

(j) Unless otherwise excepted by this Chapter, any person, motor vehicle or instrument that permits, operates, or causes any source of sound or sound generation to create a noise that is plainly audible in any other person's residential dwelling with the doors and windows closed between 11 p.m. and 7 a.m. In addition, the source of noise or sound generation must be discernible regardless of whether such doors and windows are closed.

(k) Any owner or person in control of any animal that allows or otherwise permits any such animal to bark, howl, bay, meow, squawk, quack, crow or make such other noise for more than ten (10) consecutive or non-consecutive minutes in any thirty (30) minute period of time, if throughout the ten (10) minute period the sound generated by the animal is plainly audible and discernible:

(1) across real property boundaries, or

(2) through partitions common to residential dwellings, or

(3) at a distance of fifty (50) feet or more from the sound source.

The provisions of this paragraph shall not apply to any animal that, at the time of the noise or sound generation, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or when the animal is a police dog that is engaged in the performance of its duties at the time of making the sound.

#### **Section 108.1-4-2. Places of public entertainment or assembly.**

It shall be unlawful after the Zoning Administrator has given appropriate notice requesting abatement, for any person to operate, or permit to be operated, any loudspeaker or other device for the production of sound in any place of public entertainment or other place of public assembly which produces sound pressure levels of 90 dB(A) or greater at any point that is normally occupied by a person, as read with the slow response on a sound level meter, unless a conspicuous and legible sign is located outside such place, near the entrance, stating "WARNING! PROLONGED EXPOSURE TO SOUND ENVIRONMENT WITHIN MAY CAUSE HEARING IMPAIRMENT." (24-75-16A; 1961 Code, § 16A.4.2; 3-79108.)

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**Section 108.1-4-3. Quiet zone.**

~~(a) It shall be unlawful for any person to create any noise in excess of that prescribed within any area designated as a "quiet zone" in conformance with the provisions of Sub-paragraph (b) of this Section; provided, conspicuous signs are displayed in adjacent or contiguous streets indicating that said area is a quiet zone.~~

~~(b) Whenever the protection of the public health, safety and welfare so require, after a duly advertised public hearing, the Board of Supervisors may designate any geographical area of Fairfax County as a "quiet zone." Such designation shall include a description of the subject area, the reasons for its designation as a quiet zone, and shall prescribe the level of noise which shall be permitted in such quiet zone. (24-75-16A; 1961 Code, § 16A.4.3.)~~

**Section 108.1-4-2. Maximum permissible sound pressure levels Sound generation.**

~~(a) It shall be unlawful for any person to operate, or permit to be operated, any stationary noise source in such a manner as to create a sound pressure level Unless otherwise addressed by this Chapter, no person shall permit, operate, or cause any source of sound or sound generation to create a sound which exceeds the limits set forth in the following table titled "Maximum Sound Pressure Levels" when measured at the property boundary of the noise sound source or at any point within any other property affected by the noise sound. When a noise sound source can be identified and its noise sound measured in more than one (1) zoning district classification, the limits of the most restrictive classification shall apply. the sound shall not exceed the sound limits set forth in the following table for the zoning district or area in which the source of sound is located, and the sound levels on the affected properties shall not exceed the sound levels set forth in the table for the affected property.~~

~~(b) Notwithstanding the provisions of the foregoing Subsection, sound created by the operation of power equipment, such as power lawn mowers and chain saws, between the hours of 7 a.m. and 9 p.m. the same day shall be permitted so long as they do not constitute a noise disturbance. (7-17-68, § 17-4-3; 24-75-16A; 1961 Code, § 16A.4.4.; 34-76-108.)~~

**MAXIMUM SOUND PRESSURE LEVELS**

| ZONING DISTRICT CLASSIFICATION | MAXIMUM dBA | OCTAVE BAND LIMIT           |    |
|--------------------------------|-------------|-----------------------------|----|
|                                |             | CENTER FREQUENCY HERTZ (HZ) | dB |
|                                |             | 31.5                        | 70 |
|                                |             | 63                          | 69 |
|                                |             | 125                         | 64 |
|                                |             | 250                         | 59 |
| RESIDENTIAL                    | 55          | 500                         | 53 |
|                                |             | 1,000                       | 47 |

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|            |    |               |    |
|------------|----|---------------|----|
|            |    | 2,000         | 42 |
|            |    | 4,000         | 38 |
|            |    | 8,000         | 35 |
|            |    | 31.5          | 75 |
|            |    | 63            | 74 |
|            |    | 125           | 69 |
|            |    | 250           | 64 |
| COMMERCIAL | 60 | 500           | 58 |
|            |    | 1,000         | 52 |
|            |    | 2,000         | 47 |
|            |    | 4,000         | 43 |
|            |    | 8,000         | 40 |
|            |    | 31.5          | 85 |
|            |    | <del>63</del> | 84 |
|            |    | 125           | 79 |
|            |    | 250           | 74 |
| INDUSTRIAL | 72 | 500           | 68 |
|            |    | 1,000         | 62 |
|            |    | 2,000         | 57 |
|            |    | 4,000         | 53 |
|            |    | 8,000         | 50 |

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**MAXIMUM SOUND LEVELS**

| <u>Use and Zoning District Classification</u>                         | <u>Time of Day</u>       | <u>Continuous Sound (dBA)</u> | <u>Impulse Sound (dBA)</u> |
|---|--------------------------|-------------------------------|----------------------------|
| <u>Residential Areas (as defined herein) in Residential Districts</u> | <u>7 a.m. to 11 p.m.</u> | <u>60</u>                     | <u>100</u>                 |
| <u>Residential Areas (as defined herein) in Residential Districts</u> | <u>11 p.m. to 7 a.m.</u> | <u>55</u>                     | <u>90</u>                  |
| <u>Non-Residential Areas in Residential Districts</u>                 | <u>All</u>               | <u>60</u>                     | <u>100</u>                 |
| <u>Mixed Use Area (as defined herein)</u>                             | <u>All</u>               | <u>60</u>                     | <u>100</u>                 |
| <u>Commercial Districts</u>   | <u>All</u>               | <u>60</u>                     | <u>100</u>                 |
| <u>Industrial Districts</u>   | <u>7 a.m. to 11 p.m.</u> | <u>72</u>                     | <u>120</u>                 |
| <u>Industrial Districts</u>   | <u>11 p.m. to 7 a.m.</u> | <u>65</u>                     | <u>100</u>                 |

**Section 108-4-5. Permissible motor vehicle sound pressure levels.**

- (a) ~~The maximum sound pressure level emitted by motor vehicles not equipped with a muffler conforming to the requirements of §§ 46.1-301 and 46.1-302, Va. Code Ann., operated on a public right-of-way as measured at a point fifty (50) feet from the motor vehicle shall be as provided in the table below titled "Motor Vehicle Noise Limits."~~

**MOTOR VEHICLE NOISE LIMITS**

| <u>Vehicle-Class</u>   | <u>Sound Pressure Level, dB(A) Speed limit 35 mph or less</u> | <u>Speed limit above 35 mph</u> |
|--|---|---------------------------------|
| <del>Any motor vehicle with a manufacturers gross vehicle rating of 10,000 pounds or more, and any combination of vehicles towed by such motor vehicle</del> | <del>86</del>   | <del>90</del>                   |
| <del>Any motorcycle</del>  | <del>82</del>   | <del>86</del>                   |
| <del>Any other motor vehicle and any combination of vehicles towed by such motor vehicle</del>   | <del>76</del>   | <del>82</del>                   |

(24-75-16A; 1961 Code, § 16A.4.5.)

**Section 108-4-6. Civil transport category airplane operations; noise limitations.**

- (a) ~~No person may operate, to or from an airport wholly or partially located within Fairfax County, Virginia, any civil transport category airplane unless:~~
- ~~(1) That airplane complies with the noise level requirements of the Federal Aviation Administration (14 CFR, Part 36) for subsonic transport category airplanes; or~~
  - ~~(2) That airplane had flight time before December 31, 1974.~~

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- (b) ~~This amendment shall remain in full force and effect only until such time as its provisions are superseded by FAA standards (established under § 711 of the FAA Act) which can be enforced by any citizen of Fairfax County.~~
- (c) ~~Notwithstanding any other provision of this ordinance, the Zoning Administrator shall enforce the noise limitations for civil transport category airplane operations only in the following manner. He shall serve a notice of violation on any person who violates these provisions, providing a reasonable time for abatement or discontinuance of the violation. Should the person in violation of these provisions fail to take such corrective steps, the Zoning Administrator shall request the County Attorney to seek injunctive relief.~~

~~(3-76-108; 21-76-208; 3-79-108.)~~

### **~~Section 108.1-4-3. Landfills; maximum sound pressure levels.~~**

~~It shall be unlawful for any person to operate, or permit to be operated, any motor vehicle, stationary noise source or device, or any combination thereof, at a landfill in such a manner as to create noise sound which:~~

~~(a) When measured at any point within any other property affected by the noise sound, exceeds the following equivalent sound levels (Leq):~~

- ~~(1) Property used for residential—Leq of 55 dB(A).~~
- ~~(2) Property used for commercial—Leq of 60 dB(A).~~
- ~~(3) Property used for industrial—Leq of 72 dB(A).~~

~~or~~

~~(b) When measured at the property boundary of the landfill or at any point within any other property affected by the noise exceeds an A-weighted sound pressure level of seventy-five (75) dB(A).~~

~~For the purpose of this Section, a minimum test period of one (1) hour shall be used for the Leq, and the survey shall be conducted in accordance with the standards and procedures specified in Procedural Memorandum [103](#)<sup>2</sup>.~~

~~(37-81-108.)~~

### **~~Section 108-4-8. Measurement procedures.~~**

- ~~(a) Field measurement procedures for the enforcement of the sound pressure levels set forth in this Chapter shall be promulgated by the Zoning Administrator.~~
- ~~(b) Noise shall be measured with a sound level meter and octave band analyzer.~~

~~(24-75-16A; 1961 Code, § 16A.4.6; 3-76-108; 3-79-108; 37-81-108.)~~

## **ARTICLE 5. – Exceptions.**

### **Section 108.1-5-1. Emergencies~~Exceptions.~~**

~~(a) An exemption from the No provisions of this Chapter is granted for noise caused in the performance of emergency work. Nothing in this Section shall be construed to permit law enforcement, ambulance, fire or other emergency personnel to make excessive noise in the performance of their duties when such noise is clearly unnecessary. shall apply to:~~

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~~(b) Notwithstanding the provisions of the foregoing Subsection, sound created by the operation of power equipment, such as power lawn mowers and chain saws, between the hours of 7 a.m. and 9 p.m. the same day shall be permitted so long as they do not constitute a noise disturbance. (7-17-68, § 17-4-3; 24-75-16A; 1961 Code, § 16A.4.4.; 34-76-108.)~~

(a) The emission of sound for the purpose of alerting persons to the existence of an emergency, provided that such alarm signals cease once any such threat is no longer imminent.

(b) The emission of sound in the performance of emergency work.

(c) Activities for which the regulation of sound has been preempted by Federal or State law.

(d) Motor vehicles traveling on road right-of-way.

(e) Back-up generators subject to the following:

(1) The operation of back-up generators during power outages resulting from storms and other emergencies.

(2) The routine testing and maintenance of back-up generators provided that such activity occurs only between 9 a.m. and 7 p.m.

(f) Heat pumps and/or air conditioners located on property containing single family detached or attached residential dwellings that are operating in accordance with the manufacturer's specifications.

(g) Activities associated with the removal of snow and/or ice from walkways, parking areas and travel lanes.

(h) Impulse sound that occurs no more than three (3) consecutive or non-consecutive seconds in any thirty (30) minute time period, provided that the sound does not exceed the Maximum Sound Levels contained in the Maximum Sound Levels Table contained in Sect.108.1-4-4 above.

(i) Activities related to the construction, repair, maintenance, remodeling or demolition, grading or other improvement of real property between 7 a.m. and 9 p.m., except it shall be a violation of this Chapter to commence such activity before 9 a.m. on Saturdays, Sundays, and Federal holidays.

(j) Operation of power lawn equipment:

(1) between 7 a.m. and 9 p.m. when located within 100 yards from a residential dwelling, and

(2) between 6 a.m. and 9 p.m. when located 100 yards or more from a residential dwelling.

(k) Operation of mechanical devices to sweep or clean outdoor parking, pedestrian and/or loading areas, except it shall be a violation of this Chapter to operate such devices when located within 100 yards of a residential dwelling between 9 p.m. and 7 a.m.

(l) Trash collection, except it shall be a violation of this chapter to collect trash in residential districts and/or within 100 yards of a residential dwelling between 9 p.m. and 6 a.m.

(m) Operation of a landfill, except it shall be a violation of this chapter to operate a landfill within 100 yards of a residential dwelling between 9 p.m. and 6 a.m.

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(n) The testing of plainly audible signal devices which are employed as warning or alarm signals in case of fire, emergency, theft, or burglary, or imminent danger.

(o) Operation of transportation facilities between 7 a.m. and 9 p.m.

(p) Band performances or practices, athletic contests or practices and other such activities on school or recreational grounds, or any activity on recreational grounds customarily associated with its intended use shall not be subject to the provisions of this Chapter between 7 a.m. to 11:00 p.m. However, between 7 a.m. to 9 a.m. on Saturdays, Sundays, and Federal holidays no loud speakers shall be permitted and such activities shall be regulated by the Maximum Sound Levels contained in Sect. 108.1-4-2.

(q) Bells, carillons, and other calls to worship shall not be subject to this chapter between 7 a.m. and 11 p.m. provided that any such sounds do not occur for a duration of longer than five (5) minutes per hour.

#### **Section 108-1-5. Enforcement.**

~~(a) Whenever the Zoning Administrator has reason to believe that a violation of any provision of this Chapter or a rule or regulation issued pursuant thereto has occurred, he may give notice of such violation to the person failing to comply with this Chapter and order said person to take such corrective measures as are necessary within a reasonable time thereafter.~~

~~Such notice and order shall be in writing and shall be served personally upon the person to whom directed, or if he be not found, by mailing a copy thereof by certified mail to his usual place of abode and conspicuously posting a copy at the premises, if any, affected by the notice and order.~~

~~If such person fails to comply with the order issued hereunder, the Zoning Administrator may institute such actions as are necessary to terminate the violation, including obtaining criminal warrants, and applying to courts of competent jurisdiction for injunctive relief.~~

~~Failure on the part of such person to take steps to comply with such order within the time provided for therein shall constitute a separate violation of this Chapter. If such person complies with such order promptly, no further action to terminate the violation shall be required, but compliance shall not be deemed to inhibit prosecution of such person for the violation.~~

~~(b) If the noise source is a motor vehicle moving on a public right-of-way, violation of this Chapter shall be cause for the Zoning Administrator to obtain a criminal warrant forthwith.~~

~~(c) Except as hereinbefore provided in Subparagraph (a) of this Section, a warrant may be obtained for the violation of any provision of Article 5 of this Chapter only upon the sworn complaint of a police officer or two (2) persons who are not members of the same household alleging the specific violation complained of, that either or both of the complainants requested or made reasonable attempt to request abatement of the violation and that the violation continued after such request. Provided, however, that if there be no more than one household within one half mile of the noise source, a warrant may be issued upon the sworn complaint of one person making the foregoing allegations.~~

~~(d) [Section 108-5-2\(b\)](#) shall also be enforced by the Director of the Department of Animal Control, or his duly authorized agent.~~

(7-17-68, § 17-5; 24-75-16A; 1961 Code, § 16A.1.5; 3-75-108.)

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## **ARTICLE 6. Variances**

### **Section 108.1-6-1. Undue hardship Variances.**

(a) Any person responsible for any noise source may apply to the Zoning Administrator for a variance or partial variance from the provisions of this Chapter. The Zoning Administrator may grant such variance or partial variance if he finds that:

(1) The noise does not endanger the public health, safety or welfare; or

(2) Compliance with the provisions of this Chapter from which variance is sought would produce serious hardship without producing equal or greater benefit to the public.

(b) In determining whether to grant such variance, the Zoning Administrator shall consider the time of day when noise will occur, duration of the noise its loudness relative to the required limits of this Chapter, whether the noise is intermittent or continuous, its extensiveness, the technical and economic feasibility of bringing the noise into conformance with this Chapter and such other matters as are reasonably related to the impact of the noise on the health, safety and welfare of the community and the degree of hardship which may result from the enforcement of the provisions of this Chapter.

(c) No variance or partial variance issued pursuant to this Section shall be granted for a period to exceed one (1) year, but any such variance or partial variance may be renewed for like periods if the Zoning Administrator shall find that such renewal is justified after again applying the standards set forth in this Section. No renewal shall be granted except upon application therefor.

(d) Any person aggrieved by a decision of the Zoning Administrator made pursuant to ~~Article 6 of this Chapter~~ this Section may obtain review of such decision by the County Executive by delivering a written statement of grievance to the Office of the County Executive within thirty (30) days from the date of the decision.

The County Executive shall review all statements of grievances and shall, within sixty (60) days from the date of the Zoning Administrator's decision, either affirm or set it aside, making such further order as shall be necessary to effectuate the provisions of this Section.

## **ARTICLE 7. Proffered and Development Condition Applicability**

### **Section 108.1-7-1 Proffered and Development Condition Applicability.**

The provisions of this Chapter shall not negate any applicable proffered condition, development condition, special permit or special exception condition pertaining to noise or sound. In the event of any conflict between the conditions and this Chapter, the more restrictive of the conditions or the provisions of this Chapter shall be applicable.

## **ARTICLE 8. Severability**

### **Section 108.1-8-1. Severability.**

If any of the Articles, Sections, Paragraphs, sentences, clauses, or phrases of this Chapter shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity of the Chapter in its entirety or any of the remaining Articles, Sections, Paragraphs, sentences, clauses, and phrases.