

XX-15-108
(See also XX-15-108.1 and XX-15-5
adopted simultaneously)

ADOPTION OF AN AMENDMENT TO
CHAPTER 108 (NOISE ORDINANCE)
OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, November 17, 2015, the Board after having first given notice of its intention so to do, in the manner prescribed by law, repealed Chapter 108 (Noise Ordinance) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA:

That Chapter 108 (Noise Ordinance) is repealed in its entirety, as follows:

Amend Chapter 108, Noise, by repealing it in its entirety.

ARTICLE 1. General Provisions.

Section 108-1-1. Short title.

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

Section 108-1-2. 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.~~

Section 108-1-3. Penalties.

~~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.~~

Section 108-1-4. 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.~~

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.~~

ARTICLE 2. Definitions.

Section 108-2-1. 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) *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.~~
 - ~~(3) *Device* shall mean any mechanism which is intended to, or which actually produces noise when operated or handled.~~~~

- (4) ~~*Disposal* shall mean the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land.~~
- (5) ~~*Emergency work* shall mean 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, including work performed by public service companies when emergency inspection, repair of facilities, or restoration of services is required for the immediate health, safety, or welfare of the community.~~
- (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.~~
- (7) ~~*Landfill* shall mean a site used for the disposal of solid waste.~~
- (8) ~~*Motor vehicle* shall mean any vehicle which is self-propelled or designed for self-propulsion including but not limited to, passenger cars, trucks, truck trailers, semitrailers, campers, motor boats and racing vehicles; and any motoreycle (including but not limited to motor scooters and mini-bikes) as defined in Paragraph 14 of § 46.1-1. Va. Code Ann.~~
- (9) ~~*Noise* shall mean any sound which may cause or tend to cause an adverse psychological or physiological effect on human beings.~~
- (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.~~
- (12) ~~*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.~~
- (13) ~~*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 and rockets.~~
- (14) ~~*Public right of way* shall mean any street, avenue, boulevard, highway, alley or public space which is owned or controlled by a public governmental entity.~~
- (15) ~~*Solid waste* shall mean any garbage, trash, refuse, debris, construction rubble and other discarded material.~~

- (16) ~~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.~~
- (17) ~~Sound level meter shall mean an instrument to measure sound pressure levels which shall meet or exceed performance standards for a "Type Two" meter as specified by the American National Standards Institute.~~
- (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.~~
- (20) ~~Zoning Administrator shall mean the Fairfax County Zoning Administrator or his duly authorized agent.~~
- (21) ~~Zoning district classification: Refers to the scheme of land use classification contained in the Fairfax County Zoning Ordinance.~~

~~ARTICLE 3. Administration, Authority and Duties.~~

~~Section 108-3-1. Administration of the Ordinance.~~

~~The provisions of this Chapter shall be administered and enforced by the Zoning Administrator or his duly authorized agent.~~

~~Section 108-3-2. Authority and duties of the Zoning Administrator.~~

~~In addition to any other authority vested in him by law, 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.~~
- (c) ~~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.~~

- ~~(d) 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.~~
- ~~(f) 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.~~
- ~~(i) 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.~~
- ~~(k) 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;~~

ARTICLE 4. Noises Prohibited.

Section 108-4-1. Specific prohibitions.

The following acts are violations of this Chapter:

- ~~(a) Using or operating a loudspeaker or other sound amplification device in a fixed or movable position exterior to any building, or mounted upon any 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.~~

- ~~(b) Operating or causing to be operated any equipment used in construction, repair, alteration, or demolition work on buildings, structures, streets, alleys, or appurtenances thereto 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. on 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.~~
- ~~(e) The collection of trash or refuse in residential use districts between the hours of 9 p.m. and 6 a.m. the following day.~~
- ~~(f) Loading or unloading trucks in the outdoors within one hundred (100) yards of a residence between the hours of 9 p.m. and 6 a.m. the following day. 24-75-16A; 1961~~

~~**Section 108-4-2. 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."~~

~~**Section 108-4-3. 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 Sup paragraph (b) of this Section; provided conspicuous signs are displayed in adjacent or continuous 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 108-4-4. Maximum permissible sound pressure levels.**~~

- ~~(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 which exceeds the limits set forth in the table following titled "Maximum Sound Pressure Levels" when measured~~

at the property boundary of the noise source or at any point within any other property affected by the noise. When a noise source can be identified and its noise measured in more than one zoning district classification, the limits of the most restrictive classification shall apply.

- (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	dB
			HERTZ (HZ)	
		31.5	70	
		63	69	
		125	64	
		250	59	
RESIDENTIAL	55	500	53	
		1,000	47	
		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	
		63	84	

		125	79
		250	74
INDUSTRIAL	72	500	68
		1,000	62
		2,000	57
		4,000	53
		8,000	50

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

Vehicle Class	Sound Pressure Level, dB(A) Speed limit 35 mph or less	Speed limit above 35 mph
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	86	90
Any motorcycle	82	86
Any other motor vehicle and any combination of vehicles towed by such motor vehicle	76	82

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.~~
- (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.~~

- (e) ~~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 108-4-7. 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 which:~~

- (a) ~~When measured at any point within any other property affected by the noise, 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 103.² [H](#)~~

~~**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.~~

~~**ARTICLE 5. Reserved.**~~

~~**ARTICLE 6. Variances and Exemptions Permitted.**~~

~~**Section 108-6-1. Emergencies.**~~

~~An exemption from the 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.~~

~~Section 108-6-2. Undue hardship.~~

- ~~(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 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.~~

This amendment shall become effective on February 17, 2016 at 12:01 a.m.

GIVEN under my hand this 17th day of November, 2015.

CATHERINE A. CHIANESE
Clerk to the Board of Supervisors