

**ORD-3180**

1 AN ORDINANCE TO REPEAL SECTIONS 6-110 AND 21-  
2 251 AND TO AMEND SECTIONS 23-63 THROUGH 23-65  
3 and 23-68 THROUGH 23-72 OF THE CITY CODE,  
4 PERTAINING TO NOISE

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6 SECTIONS REPEALED: §§ 6-110 and 21-251  
7 SECTIONS AMENDED: §§ 23-63 through 23-65 and 23-68 through  
8 23-72  
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10 WHEREAS, excessive sound vibration and inadequately controlled noise are  
11 serious hazards to the public health, safety and welfare, and a source of annoyance to  
12 the populace; and  
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14 WHEREAS, the residents of and visitors to the City of Virginia Beach are entitled  
15 to an environment free from excessive sound vibration and inadequately controlled  
16 noise that may endanger their health or welfare, or degrade their quality of life, comfort,  
17 repose or peace; and  
18

19 WHEREAS, it is the policy of the City of Virginia Beach to protect the health,  
20 safety and welfare of its residents and visitors and to promote an environment free from  
21 sound and noise disruptive of peace and good order; and  
22

23 WHEREAS, it is the policy of the City of Virginia Beach to seek voluntary  
24 compliance, or if necessary, citizen witness assistance in the prevention of excessive  
25 noise that may endanger the health or welfare, or degrade the quality of life, comfort,  
26 repose or peace of residents and visitors;  
27

28 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY  
29 OF VIRGINIA BEACH, VIRGINIA:  
30

31 That Sections 6-110 and 21-251 are repealed and Sections 23-64 through 23-65  
32 and 23-68 through 23-72 of the City Code are hereby amended as follows:  
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34 **Chapter 6. BEACHES, BOATS AND WATERWAYS**

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36 **ARTICLE V. BOATING, SKIING AND SURFING**

37 . . . .

38  
39 ~~Sec. 6-110. Noise created by persons aboard boat or other water craft; boat~~  
40 ~~operator responsible for noise created by operation of boat.~~

41  
42 (a) ~~It shall be unlawful and a Class 4 misdemeanor for any person, while~~  
43 ~~aboard any motor boat, vessel, barge or any other water craft, whether~~  
44 ~~under way, drifting, berthed or at anchor, to make or create any loud,~~

45 ~~disturbing or unreasonable noise of such character, intensity or duration~~  
46 ~~as to be detrimental to the health or life of any person or to unreasonably~~  
47 ~~disturb or annoy the quiet, comfort or repose of any person.~~

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49 ~~(b) It shall be unlawful and a Class 4 misdemeanor for any person to operate~~  
50 ~~any motor boat, vessel, barge or any other water craft, whether under~~  
51 ~~way, drifting, berthed or at anchor, in such a way as to make or create any~~  
52 ~~loud, disturbing or unreasonable noise of such character, intensity or~~  
53 ~~duration as to be detrimental to the health or life of any person or to~~  
54 ~~unreasonably disturb or annoy the quiet, comfort or repose of any person.~~

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58 **Chapter 21 MOTOR VEHICLE AND TRAFFIC CODE**

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61 **ARTICLE II. VEHICLE OPERATION**

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63 ~~**Sec. 21-251. Unreasonable loud, disturbing, etc., noise from operation of**~~  
64 ~~**motorcycle.**~~

65  
66 ~~It shall be unlawful and a Class 4 misdemeanor for any person, in operating a~~  
67 ~~motorcycle within the City, to create in the operation thereof any unreasonably loud,~~  
68 ~~disturbing or unnecessary noise. In operating a motorcycle, the following acts, among~~  
69 ~~others, are declared to create unreasonably loud, disturbing and unnecessary noise in~~  
70 ~~violation of this Section, but such enumeration shall not be deemed to be exclusive:~~

71  
72 ~~(1) The use of a motorcycle so out of repair as to cause thereby loud and~~  
73 ~~unnecessary grating, grinding, rattling or any of such noises, or any other~~  
74 ~~unnecessary noise.~~

75  
76 ~~(2) The practice of unnecessarily racing the motor of a motorcycle while~~  
77 ~~standing or moving, thereby causing unnecessary noise from such motor.~~

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79 ~~(3) The practice of unnecessarily retarding the spark to the motor and thereby~~  
80 ~~causing unnecessary, loud and explosive noise from such motor.~~

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82 ~~(4) In starting a motorcycle from a standing position the practice of gaining~~  
83 ~~speed unnecessarily quickly and thereby causing unnecessary and loud~~  
84 ~~noise from the motor.~~

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86 ~~(5) The practice of coming to an unreasonably quick stop with a motorcycle~~  
87 ~~and thereby causing unnecessary grinding of brakes and screeching of~~  
88 ~~tires, or either of such noises.~~

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91 **Chapter 23. OFFENSES**

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**ARTICLE I. MISCELLANEOUS OFFENSES**

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**ARTICLE II. NOISE**

**Sec. 23-63. Declaration of findings and policy.**

City council hereby finds and declares that excessive sound is a serious hazard to the public health, welfare, peace and safety and the quality of life; that a substantial body of science and technology exists by which excessive sound may be substantially abated; that the people have a right to and should be ensured an environment free from excessive sound that may jeopardize the public health, welfare, peace and safety or degrade the quality of life; and that it is the policy of the city to prevent such excessive sound to the extent such action is not inconsistent with a citizen's First Amendment rights.

**Sec. 23-64. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*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.

*Audible and discernable* means the sound can be heard by the human ear, and the sound is sufficiently distinct such that its source can be clearly identified.

*Background noise level* shall mean the aggregate of all sound sources impacting at the place where a specific sound generation is measured or evaluated, excluding the specific sound generation itself.

*Decibel (dB)* means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

*Emergency* means any occurrence or set of circumstances involving actual or imminent physical injury or illness or property damage that requires immediate action.

*Emergency work* means any work performed for the purpose of preventing or alleviating the physical injury or illness or property damage threatened or caused by an emergency.

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*Gross vehicle weight rating (GVWR)* means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

*Instrument, machine or device* means and refers to any musical instrument, radio, phonograph, compact disc player, cassette tape player, amplifier or any other machine or device for producing, reproducing or amplification of sound.

*Motor carrier vehicle engaged in interstate commerce* means any vehicle for which regulations apply pursuant to section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

*Motorcycle* means any motor vehicle designed to travel on not more than three (3) wheels in contact with the ground and any four-wheeled vehicle weighing less than five hundred (500) pounds and equipped with an engine of less than six (6) horsepower, excepting farm tractors.

*Motor vehicle* means any self-propelled device or device designed for self-propulsion, upon or by which any person or property is or may be drawn or transported upon a street or highway, except devices moved by human power or used exclusively upon stationary wheels or tracks.

*Noise* means any audible sound which ~~annoys or~~ disturbs or tends to disturb humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

*Public area* means any real property owned by the government, including, but not limited to, public rights-of-way, sidewalks, parks, and buildings.

*Residential dwelling* means any building or other structure in which one or more persons resides on a permanent or temporary basis, including, but not limited to, houses, apartments, condominiums, hotels, and motels.

*Restaurant* means any building or structure where in the normal course of business food or drink is available for eating on the premises, in consideration for payment. For purposes of this chapter, the term restaurant includes, but is not limited to, bars, lounges, taverns, coffee shops and cafes.

*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.

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*Sound generation* means any conduct, activity or operation, whether human, mechanical, electronic or other, and whether continuous, intermittent or sporadic, and whether stationary or ambulatory in nature, which produces or results in an audible sound.

*Sound level* means the weighted sound pressure level obtained by the use of a sound level meter and the A-frequency weighting network, as specified in American National Standards Institute specifications for sound level meters.

*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.

**Sec. 23-65. Administration and enforcement.**

- (a) The police department ~~shall be responsible~~ may issue a summons for enforcement of the noise control program established by this article and may be assisted by other city departments as required.
- (b) Nothing in this section shall preclude a private citizen from obtaining a magistrate's summons based upon a probable cause determination by the magistrate's office.

**Sec. 23-66. Violations.**

(a) Any person who violates any provision of this article shall be deemed to be guilty of a Class 3 misdemeanor for a first offense. Any person who violates a provision of this article within one (1) year after a previous conviction under this article shall be guilty of a Class 2 misdemeanor.

(b) The person operating or controlling a noise source shall be guilty of any violation caused by that source. If that cannot be determined, 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 noise source.

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

**Sec. 23-67. Exceptions.**

No provisions of this article shall apply to (1) the emission of sound for the purpose of alerting persons to the existence of an emergency; (2) the emission of sound in the performance of emergency work; (3) activities sponsored by the city; (4) activities

230 authorized by a permit issued pursuant to sections 4-1 or 24-6 by the city; or (5)  
231 activities for which the regulation of noise has been preempted by federal law.

232

233 **Sec. 23-68. Use of sound level meters.**

234

235 The decibel level of any noise regulated on a decibel basis by this article shall be  
236 measured by a sound level meter. The test results shall be prima facie evidence if  
237 administered in accordance with Code of Virginia § 19.2-270.7. In order to implement  
238 and enforce this article effectively, the chief of police shall promulgate standards and  
239 procedures for using and testing sound level meters used in the enforcement of this  
240 article.

241

242 **Sec. 23-69. Maximum sound levels and residential dwellings.**

243

244 (a) *Nighttime.* No person shall permit, operate or cause any source of sound to  
245 create a sound level that can be heard in another person's residential dwelling during  
246 the hours between 10:00 p.m. and 7:00 a.m. in excess of 55 dBA when measured  
247 inside the residence at least four (4) feet from the wall nearest the source, with doors  
248 and windows to the receiving area closed, ~~and windows in the normal position for the~~  
249 ~~season.~~

250

251 (b) *Daytime.* No person shall permit, operate or cause any source of sound to  
252 create a sound level in another person's residential dwelling during the hours between  
253 7:00 a.m. and 10:00 p.m. in excess of 65 dBA when measured inside the residence at  
254 least four (4) feet from the wall nearest the source, with doors and windows to the  
255 receiving area closed, ~~and windows in the normal position for the season.~~

256

257 (c) *Measurements in multifamily dwellings or mixed use structures.* In a  
258 structure used as a multifamily dwelling or a mixed use structure, the police department  
259 may take measurements to determine sound levels from indoor common areas or other  
260 dwelling units within ~~or outside~~ the structure ~~or from other dwelling units within the~~  
261 ~~structure~~, when requested to do so by the a residential occupant in possession and  
262 control thereof. Such measurement shall be taken at a point at least four (4) feet from  
263 the wall, ceiling or floor nearest the noise source, with doors and windows to the  
264 receiving area closed ~~and windows in the normal position for the season.~~

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266 (d) *Exemptions.* The following activities or sources of noise shall be exempt  
267 from the daytime prohibition set forth in subsection (b) of this section:

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269 (1) Band performances or practices, athletic contests or practices and other  
270 school-sponsored activities on the grounds of public or private schools, colleges, or  
271 universities.

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273 (2) Athletic contests and other officially sanctioned activities in city parks or  
274 facilities.

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276 (3) Activities related to the construction, repair, maintenance, remodeling or  
277 demolition, grading or other improvement of real property.

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279 (4) Gardening, lawn care, tree maintenance or removal, and other landscaping  
280 activities.

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282 (5) Agricultural activities.

283  
284 (6) Church bells, carillons, or calls to worship by other sound-producing devices.

285  
286 (7) Religious or political gatherings to the extent that those activities are  
287 protected by the First Amendment to the United States Constitution.

288  
289 (8) ~~(7)~~ Public transportation, refuse collection and sanitation services.

290  
291 **Sec. 23-70. Motor vehicle maximum sound levels; amplified sound from vehicles.**

292  
293 (a) No person shall operate or cause to be operated a public or private motor  
294 vehicle or motorcycle on a public right-of-way at any time in such a manner that the  
295 sound level emitted by the operation of the motor vehicle or motorcycle, when  
296 measured at a distance of ~~fifty (50)~~ one-hundred (100) feet or more, is audible and  
297 discernable or exceeds the level set forth in the following table:

298  
299 TABLE INSET:

300

Vehicle Class	Sound level in dBA	
	Speed limit 35 MPH or less	Speed limit over 35 MPH
All motor vehicles of GVWR or GCWR of 6,000 lbs. or more	86	90
Any motorcycle	82	86
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	82

301  
302 (b) This section shall not apply to any motor carrier vehicle engaged in  
303 interstate commerce.

304  
305 (c) Notwithstanding any other provisions of this section or article, it shall be  
306 unlawful for any person to play or operate, or permit the playing, use or operation of,  
307 any radio, tape player, compact disc player, loud speaker or other electronic device  
308 used for the amplification of sound, which is located within a motor vehicle being  
309 operated or parked on public or private property within the city, including any public or  
310 private street or alley, in such a manner as to be audible and discernable ~~to the human~~

311 ear at a distance of one hundred (100) or more feet from the vehicle in which it is  
312 located.

313  
314 The provisions of this subsection shall not apply to motor vehicles driven in a  
315 duly authorized parade, nor to motor vehicle alarms or other security devices, nor to the  
316 emission of sound for the purpose of alerting persons to the existence of an emergency  
317 or the emission of sound in the performance of emergency work.

318  
319 **Sec. 23-71. Specific prohibitions.**

320  
321 The following acts are declared to be violations of this article. This enumeration  
322 shall not be construed to limit, in any way, the general prohibitions contained in Section  
323 23-69:

324  
325 (a) *Vehicle horns, signaling devices and similar devices.* Sounding any horn,  
326 signaling device, or similar device on any automobile, motorcycle or other vehicle on  
327 any right-of-way or in any public space continuously or intermittently for more than ten  
328 (10) consecutive seconds, except when the sounding of any such device is intended as  
329 a danger warning.

330  
331 (b) *Non-emergency signaling devices.* Sounding or permitting the sounding  
332 of any amplified signal continuously or intermittently from any bell, chime, siren, whistle  
333 or similar device intended primarily for non-emergency purposes from any one location  
334 for more than ten (10) consecutive seconds in any hourly period; provided, however,  
335 that this subsection shall not apply to the sounding of such devices by religious uses or  
336 by public bodies or agencies for testing, traffic control or other public purposes.

337  
338 (c) *Emergency signaling devices, security, burglar and fire alarms, etc.*  
339 Sounding or permitting the continuous or intermittent sounding outdoors of any  
340 emergency signaling device, or any security, burglar or fire alarm, siren, whistle, or  
341 similar device, including without limitation any motor vehicle security alarm, siren,  
342 whistle, or similar device, for a period in excess of ten (10) minutes in any residential  
343 area and fifteen (15) minutes in any other area, except in response to a burglary,  
344 attempted burglary, fire, or other emergency.

345  
346 (d) *Audio and audio-visual devices, musical instruments, amplified sound etc.,*  
347 *excluding those in motor vehicles.* The playing or operation of any television, boombox,  
348 stereo, phonograph, radio, tape player, compact disc player, MP3 player, video player,  
349 musical instrument, drum, amplifier or any other device that produces, reproduces or  
350 amplifies sound, including any such device in a motor vehicle except for those located in  
351 motor vehicles, where the sound, when measured in any public area including but not  
352 limited to any public street or sidewalk, or from other private property between the hours  
353 of 7:00 a.m. and 11:00 p.m. exceeds eighty (80) dB(A), or between the hours of 11:00  
354 p.m. and 7:00 a.m. exceeds seventy-five (75) dB(A) is plainly audible to any person  
355 other than the players(s) or operator(s) of the device and those who are voluntarily  
356 listening to the sound and is plainly audible and discernable at a distance of fifty (50)

357 ~~feet or more from the source of the sound~~; provided, however that the provisions of this  
358 subsection shall not apply to any outdoor performance, parade, gathering, dance,  
359 concert, show, sporting event, or other event sponsored by the city or for which the city  
360 has granted a permit.

361  
362 (e) *Noise-sensitive areas.* The making of any unreasonably loud and raucous  
363 noise within two hundred (200) feet of any school, place of worship, court, hospital,  
364 nursing home, or assisted-living facility while the same is being used as such, that  
365 substantially interferes with the workings of the institution.

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367 (f) *Construction equipment.* The operation of any bulldozer, crane, backhoe,  
368 front loader, pile driver, jackhammer, pneumatic drill, or other construction equipment  
369 between the hours of 9:00 p.m. and 7:00 a.m. ~~except when operated in the course of~~  
370 ~~emergency work or~~ as provided in § 23-67 above, or as specifically deemed necessary  
371 and authorized by a written document issued by the City Manager or his designee.

372  
373 **Sec. 23-72. Sound levels; restaurants.**

374  
375 No person shall permit, operate or cause any source of sound to create a sound  
376 level emanating from a restaurant during the hours between 7:00 a.m. and 11:00 p.m. in  
377 excess of eighty (80) dB(A), or between 11:00 p.m. and 7:00 a.m. (1) in excess of  
378 seventy-five (75) dB(A) when measured from any public area, including but not limited  
379 to adjacent any public streets or sidewalks, or other private property. ; or (2) that is  
380 plainly audible and discernable at a distance of fifty (50) feet from any of the  
381 restaurant's external walls when measured from any property other than the property on  
382 which the restaurant is located.

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Adopted by the City Council of the City of Virginia Beach, Virginia, this 24<sup>th</sup> day of  
May, 2011.