

Chapter 15

NOISE CONTROL*

* **Cross References:** Animals, Ch. 2; carnivals and shows, Ch. 4; street development and construction, Ch. 22; peddlers, vendors and canvassers, Ch. 30; public dance halls, Ch. 36.

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§ 15-1. Short title.

This chapter shall be known and may be cited as the "Noise Control Ordinance of Arlington County, Virginia."
(1-1-75; 8-14-76)

§ 15-2. Authorization and declaration of policy.

There is hereby established in the County of Arlington, Virginia, a noise control program for the purpose of promoting the health, safety and welfare and to foster the comfort of its inhabitants. To the maximum extent possible, such noise control program shall be conducted in coordination with any similar programs of other local jurisdictions, Council of Governments (COG), and of the state and federal governments.
(1-1-75; 8-14-76; 8-25-81)

§ 15-3. Definitions.

For the purpose of this chapter, the words used in the present tense include the future; words in the singular number include the plural number and vice versa; the word "shall" is mandatory and not directory; the following phrases and words shall have the meanings assigned below except in those instances where the context clearly indicates a different meaning:

- (1) *Acoustical terminology, definitions of* shall be those contained in ANSI S1.1 "Acoustical Terminology" (1971).
- (2) *ANSI* shall denote the American National Standards Institute or its successor bodies.
- (3) *Ambient noise* shall denote the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.
- (4) *Continuous noise* shall denote a noise 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 sound level meter.
- (5) *County manager* shall mean and include the county manager of Arlington County or any of his duly

authorized deputies or agents.

- (6) *Daytime* shall denote the local time of day between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and from 10:00 a.m. to 9:00 p.m. on Saturdays, Sundays and legal holidays.
- (7) *Decibel (dB)* shall denote the unit of sound magnitude equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the sound pressure being measured to a reference sound pressure, twenty (20) micronewtons per square meter (20 micropascals).
- (8) *Decibel-A-weighted (dBA)* shall denote the sound level, in decibels, measured with a sound level meter using the A-weighting network or scale as specified in ANSI S1.4-1974 specification for sound level meters.
- (9) *Impulsive noise* shall denote noise characterized by brief excursions (usually less than one (1) second) of sound pressure which significantly exceed the ambient environment sound pressure.
- (10) *Reserved.*
- (11) *Motorcycle* shall mean unenclosed motor vehicle having two (2) or three (3) wheels and includes, but is not limited to, motor scooters and minibikes and mopeds.
- (12) *Nighttime* shall denote those times of day excluded from the definition of "daytime."
- (13) *Noise* shall denote the intensity, frequency, duration and character of undesired sounds from a single source or number of sources.
- (14) *Noise disturbance* shall denote 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. Exceeds the applicable maximum permissible noise levels as they appear in Tables I and II.
- (15) *Stationary source* shall denote any equipment or activity capable of generating noise, operating or occurring on any parcel of property or public space.
- (16) *Zoning district classification* shall denote the scheme contained in Section 2B, Arlington County, Virginia, Zoning Ordinance as contained in the appendix of the Arlington County Code, or similar classifications contained in zoning districts in adjoining jurisdictions.

(1-1-75; 8-14-76; 8-25-81)

§ 15-4. Duties and powers of the county manager.

- (a) The administration and enforcement of this chapter shall be the duty of the county manager, who is hereby authorized to take such actions, including the promulgation of rules and regulations necessary to enforce the provisions of this chapter.
- (b) In addition to any other powers vested in him by law, the county manager shall:
 - (1) Conduct studies, investigations and research relating to noise and its prevention, abatement and control.
 - (2) Issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings.
 - (3) Hold hearings relating to any aspect of or matter in the administration of this chapter.
 - (4) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise.

- (5) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of noise.
- (6) Advise, consult and cooperate with other local governmental units, agencies of the state, industries, interstate or interlocal agencies and the federal government and with interested persons or groups.
- (7) Review those matters having a bearing upon excessive noise referred by public agencies.
- (8) Collect and disseminate information and conduct educational and training programs relating to excessive noise, its effects and its control.
- (9) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of this chapter.
- (10) Do any and all acts which may be necessary for the successful prosecution of the intent of this chapter and such other acts as may be specifically enumerated herein.
- (11) Allocate police department resources, as shall be required to assist his duly authorized agent upon request by same, in the enforcement of this chapter.

(1-1-75; 8-14-76)

§ 15-5. Reserved.

§ 15-6. Maximum noise levels.

(a) *Noise sources.* Noise levels from stationary sources and mobile sources while stationary shall not exceed those noise limits presented in Table I for each of the zoning districts listed there during the time of day indicated. The maximum permissible noise level shall be that associated with the zoning district classification of the receiving property, except for vehicles on public or private streets.

(b) *Small power equipment:*

- (1) Any small power equipment which exceeds the permissible noise levels established in section 15-6(a) may only be operated during the daytime.
- (2) Noise measurements made to determine compliance with sections 15-6(a) and 15-6(b)(1) shall be made not less than four (4) feet above the ground and not closer to the noise source than the boundary of the property on which the noise source is located.

(c) *Mobile sources.* Mobile sources are noise levels generated by moving vehicles which conform to the standards set forth in Table II.

(d) *Measurement standards.* Noise measurements made to determine compliance with section 15-6(c) shall be taken on a level surface at a distance of not less than fifty (50) feet from the noise.

(e) *Noise sensitive zones:*

- (1) Whenever the protection of the public health and welfare so require, the county manager, after a duly advertised public hearing conducted by the county board, with the approval of the county board, may designate any geographical area of Arlington County as a noise sensitive zone. Such designation shall include a description of the subject area and the reasons for determination as a noise sensitive zone.
- (2) In noise sensitive zones, noise levels originating from stationary sources shall not exceed those presented in Table I of this chapter.

(f) *Construction noise:*

- (1) Any construction activities which produce noise levels which exceed the maximum permissible noise levels established in Table I shall be permitted only during the daytime. This section shall not apply to emergency repairs to public utilities.

(2) All feasible procedures shall be undertaken to minimize noise generated by construction activities. In no instance shall noise levels originating from construction sites exceed ninety (90) dBA. Measurements are to be taken in accordance with the procedures established in section 15-6(b)(2).

(g) *Special events.* Short-term or seasonal activities sponsored by a county agency or any organization, which have been reviewed and approved through the special event review process may not exceed ninety (90) dBA for the duration of the event and associated clean-up. Such events may not extend beyond 9:00 p.m. on Sunday through Thursday, and 10:00 p.m. on Fridays, Saturdays and legal holidays.

TABLE I

MAXIMUM PERMISSIBLE NOISE LEVELS FROM STATIONARY SOURCES

Zoning District	Time of Day	Continuous Noise (dBA)	Impulsive Noise (dB)	Continuous Octave Band	
				Center Frequency (Hz)	dB
CM	ALL	70	120	31.5	85
				63	84
				125	79
				250	74
				500	68
				1000	62
				2000	57
				4000	53
				8000	50
				31.5	80
C	ALL	65	100	63	79
				125	74
				250	69
				500	63
				1000	57
				2000	52
				4000	48
				8000	45
				31.5	75
				63	74
R	DAY	60	95	63	74
				125	69
				250	64
				500	58
				1000	52
				2000	47
				4000	43
				8000	40
				31.5	70
				63	69
F	NIGHT	55	90	63	69
				125	64
				250	59
				500	53
				1000	47
				2000	42
				4000	38
				8000	35
				31.5	70
				63	69
Noise Sensitive Zones	ALL			8000	35

TABLE II

MAXIMUM PERMISSIBLE NOISE LEVELS FROM MOBILE SOURCES

Source	To 35 MPH	Above 35 MPH
Motorcycle	80 dBA	84 dBA
Mobile sources with gross weight less than 10,000 lbs.	70 dBA	79dBA
Mobile sources with gross weight more than 10,000 lbs.	86 dBA	90 dBA

(1-1-75; 8-14-76; 8-25-81; Ord. No. 04-24, 9-18-04)

§ 15-7. Prohibited acts.

(a) It shall be unlawful for any person to sound a vehicular horn or other audible signal device except as an emergency warning signal.

(b) It shall be unlawful for any person to sell anything by outcry during the nighttime. The selling by outcry of merchandise, food and beverages at licensed entertainment events is excluded.

(c) It shall be unlawful for any person to use any machine or device for the production or reproduction of sound which is cast upon public streets or lands for the purpose of commercial advertising or of attracting the attention of the public to any building, structure or activity during the nighttime.

(d) It shall be unlawful for any person to operate, play or permit the operation or playing of any radio, television, phonograph, tape player, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance within any nearby dwelling unit or across a real property boundary.

(e) It shall be unlawful for any person or group of persons to unreasonably make, continue or cause to be made or continued any noise disturbance.

(f) It shall be unlawful for any person to collect refuse with a refuse vehicle during the nighttime.

(g) It shall be unlawful for any operator to run the propulsion engine of a commercial motor vehicle for more than three (3) minutes when the vehicle is parked, left unattended, or is stopped for other than traffic or maintenance reasons, except when the propulsion engine provides auxiliary service other than heating, or air conditioning.

(h) It shall be unlawful for any person who owns, possesses or harbors any animal or bird to permit that animal or bird to create a frequent or continued noise disturbance across a real property boundary or within a nearby dwelling unit.
(1-1-75; 8-14-76; 8-25-81)

§ 15-8. Noise suppression devices.

(a) No person shall cause, suffer, allow or permit the removal, disconnection or disabling of any noise suppression system or device which has been installed on any noise source:

- (1) In accordance with federal or state laws or regulations.
- (2) As a requirement for obtaining a permit to construct, modify or install such noise source.

(b) No person shall defeat the design purpose of any noise suppression system or device by installing therein or thereon any part or component which does not meet the minimum design specifications for that system or device.

(c) No noise source shall be operated with its noise suppression system or device removed or otherwise

rendered inoperable.
(1-1-75; 8-14-76)

§ 15-9. Inspections.

(a) The county manager is hereby authorized and directed to make or cause to be made inspections in response to complaints that an alleged violation of the provisions of this chapter or of applicable rules or regulations pursuant thereto which may exist when he has valid reason to believe that a violation of this chapter has been or is being committed, or as part of a systematic survey program.

(b) The county manager shall have authority, with the consent of the owner; occupant; operator or agent, to enter and inspect all premises subject to the provisions of this chapter for the purpose of determining whether there is compliance with its requirements.

(c) If any owner, occupant, operator or agent fails to allow or refuses free access and entry to the premises where a noise source is located, or any part thereof, with respect to which an inspection authorized by this chapter is sought to be made, the county manager may, upon a showing that probable cause exists for the inspection, petition and obtain an order from a court of competent jurisdiction authorizing such an inspection.

(d) All evidence which may be discovered or obtained in the course of an inspection made pursuant to this section shall not be disclosed except as may be necessary in the judgment of the county manager or the attorney for the commonwealth for the proper and effective administration and enforcement of the provisions of this chapter and regulations issued pursuant thereto.
(1-1-75; 8-14-76)

§ 15-10. Enforcement.

(a) Whenever the county manager or his agent determines that any noise source fails to meet the requirements set forth in this chapter or in applicable regulations issued pursuant thereto, he may obtain a warrant or summons for the prosecution of such violation. In addition, if the agent is a duly qualified law enforcement officer of Arlington County, he may issue a summons to, or arrest without a warrant, any person who, in the presence of the officer, violates this chapter. Furthermore, the county manager or his agent may issue a notice of violation setting forth the alleged failures and advising the owner, occupant, operator or agent that such failures must be corrected. Such notice shall:

- (1) Be in writing,
- (2) Set forth the alleged violations of this chapter or of applicable regulations issued pursuant thereto,
- (3) Describe the premises where the violations are alleged to exist and/or other identifications of the noise source,
- (4) Set forth a reasonable time within which any violation alleged is required to be corrected,
- (5) Be served upon the owner, occupant or operator of the noise source, or upon the agent of any of the foregoing, by:
 - a. Personally delivering the same to such person; or
 - b. Mailing the same to such person by certified mail, return receipt requested, addressed to the last known place of residence of such person; or
 - c. Posting the same in or about the premises described in the notice if service under section 15-10(a)(5)a. or b.

(b) At the end of the period of time allowed for correction of any violation alleged, the county manager shall reinspect the noise source described in the notice.

- (c) Reserved.

- (d) Reserved.
 - (e) Reserved.
 - (f) Referral to commonwealth's attorney, injunction, etc. If the county manager determines that the violation has not been corrected, the county manager may:
 - (1) Refer the matter to the commonwealth's attorney for prosecution pursuant to section 15-13(a); or
 - (2) Apply to a court of competent jurisdiction for any and all injunctive relief as the court may deem proper to enforce the provisions of this chapter; or
 - (3) Extend the time for compliance for a reasonable time.
- (1-1-75; 8-14-76)

§ 15-11. Emergency procedures.

- (a) Whenever, in the judgment of the county manager, an emergency exists which requires immediate action to protect the public health, safety or welfare, an order may be issued, without notice, conference or hearing, directing the owner, occupant, operator or agent to take such action as is appropriate to correct or abate the emergency. If circumstances warrant, the county manager may act to correct or abate the emergency.
 - (b) The owner, occupant, operator or agent shall be granted a conference on the matter upon his request, as soon as practicable, but such conference shall in no case stay the abatement or correction of such emergency.
 - (c) Any person aggrieved by an order of the county manager, pursuant to any provision of this chapter, may appeal that order to a court of competent jurisdiction.
- (1-1-75; 8-14-76)

§ 15-12. Exemptions.

- (a) Any person responsible for any noise source may apply to the county manager for an exemption or partial exemption from the provisions of this chapter. The application shall be accompanied by such information and data as he may require. The county manager may grant such exemption or partial exemption if he finds that:
 - (1) The potential danger to the community is outweighed by the benefit to the public interest during the period of exemption.
 - (2) Compliance with the provisions of this chapter from which exemption is sought would produce serious hardship without equal or greater benefits to the public.
 - (b) No exemption or partial exemption issued pursuant to this section shall be granted for a period to exceed one (1) year; but any such exemption or partial exemption may be renewed for like periods if, after being duly considered at a hearing held by the county manager, he finds that renewal is justified under section 15-12(a). No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the exemption or partial exemption. Any renewal granted pursuant to this section shall be on the same grounds and subject to the same limitations and requirements as provided in section 15-12(a).
 - (c) An exemption, partial exemption or renewal thereof shall not be a right of the applicant or holder thereof but shall be at the discretion of the county manager. Copy of exemption to be posted with the source of noise.
 - (d) Audible signal devices which are employed as warning or alarm signals in case of fire, collision or imminent danger are specifically exempt from the provisions of this chapter.
 - (e) Nothing in this section and no exemption, partial exemption or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provision and procedures of section 15-11(a) of this chapter to any person or his property.
- (1-1-75; 8-14-76; 8-25-81)

§ 15-13. Penalties.

(a) All violations of this chapter shall be misdemeanors and shall, upon conviction, be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than two thousand five hundred dollars (\$2,500.00), or by imprisonment in the county jail for a period of not more than thirty (30) days, or both, for each offense; and each day of violation shall constitute a separate offense.

(b) The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue.

(c) Nothing in this chapter shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injuries to persons or property and to maintain any action or other appropriate proceeding therefor.

(1-1-75; 8-14-76; Ord. No. 91-34, 9-18-91)

§ 15-14. Severability.

Should any section, subsection, sentence, clause or phrase of this chapter be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the chapter in its entirety or of any part thereof other than that so declared to be invalid.

(1-1-75; 8-14-76)

§ 15-15. Conflict of ordinance.

In any case where a provision of this chapter is found to be in conflict with any other provision of the Arlington County Code existing on the effective date of this chapter, the provision which establishes the more stringent standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with any other provision of the Arlington County Code existing on the effective date of this chapter which established a less stringent standard for the promotion and protection of the health and safety of the people, the provisions of this chapter shall be deemed to prevail; and such other provisions are hereby declared to be repealed to the extent that they may be found in conflict with this chapter.

(1-1-75; 8-14-76)

§ 15-16. Exemption for County Activities.

The provisions of this chapter shall not apply to operations at County facilities as designated by the County Manager and engaged in by County employees or County contractors, or to County residential refuse and leaf collection programs if such programs are operated by the County or by an entity under contract to the County.

(Ord. No. 06-02, 2-28-06)