

ORDINANCE # O-2023-14

AN ORDINANCE TO REPEAL TOWN CODE SECTIONS 92.02 THROUGH 92.10 AND TO REPLACE THEM WITH A NEW ARTICLE 2 IN CHAPTER 92, GENERALLY RELATING TO NOISE

BE IT ORDAINED by the Council for the Town of Occoquan, Virginia, meeting on this 5th day of September, 2023:

1. That the Town Council hereby repeals existing Town Code §§ 92.02 through 92.10 and replaces them with the following:

CHAPTER 92: HEALTH AND SANITATION

ARTICLE 2: NOISE

92.02 Declaration of Findings and Policy.

The Occoquan Town council hereby finds and declares that excessive noise is a serious hazard to the public health, welfare, commerce, peace and safety and the quality of life; that a substantial body of science and technology exists by which excessive noise may be substantially abated; that the people have a right to and should be ensured an environment free from excessive noise that may jeopardize the public health, welfare, commerce, peace and safety or degrade the quality of life; and that preventing such excessive noise serves a substantial governmental interest.. It is the intent of this ordinance to create reasonable, narrowly tailored, and content-neutral time, place, and manner restrictions that leave open ample alternative avenues for communication.

92.03 Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

A-weighted decibel means the sound level, in decibels, measured with a sound level meter using the A-weighting network or scale as specified in the ANSI S1.4-1983 (specification for sound level meters). The level so read shall be postscripted dB(A) or dBA.

ANSI means the American National Standards Institute, Inc., New York, New York.

Chief means the chief of police of the town police or their designee.

Daytime means the local time of day between the hours of 6:00 a.m. and 10:00 p.m. weekdays and from 9:00 a.m. to 10:00 p.m. on Saturdays, Sundays and legal holidays observed by the town government unless otherwise specified.

Decibel means a unit that describes the sound pressure level or intensity of sound. The sound pressure level in decibels is 20 times the logarithm to the base ten of the ratio of the pressure of the sound in microbars to a reference pressure of 0.0002 microbar; abbreviated dB.

Dwelling unit means one or more rooms arranged, designed or intended to be occupied as separate living quarters by one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Horn means any audible signaling device on any automobile, motorcycle or other vehicle.

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 two-wheeled or three-wheeled motor vehicle, 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.

Nighttime means those times excluded from the definition of daytime.

Noise means any steady-state or impulsive sound occurring on either a continuous or intermittent basis.

Plainly audible means capable of being perceived by the human ear of a person with normal hearing ability, including persons dependent upon normally functioning hearing aid devices. When music is involved, the detection of rhythmic bass tones or vibrations shall be sufficient to be considered plainly audible sound.

Property boundary. An imaginary line along the ground surface, and its vertical extension, which separates the real property owned, leased, or otherwise legally controlled by one person from that owned, leased, or otherwise legally controlled by another, including intra-building real property divisions.

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

Residential area 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.

Sound amplifying equipment means any machine or device used for the amplification of the human voice, music or any other sound. This term shall not include warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

Sound level meter means an instrument to measure sound pressure levels that meets or exceeds performance standards for a Type 2 meter as specified by the ANSI.

Sound pressure level means the intensity in decibels (dB) of a sound.

This Article means Article 2, Noise, of Chapter 92 of the Code of Ordinances, Town of Occoquan.

Town manager means the town manager or their designee.

Zoning district classification is the scheme of land use classification contained in the town zoning ordinance.

92.04 Administration and Enforcement.

- (A) The police department may issue a summons for violations of this Article and may be assisted by other Town 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.

92.05 Violations.

- (A) Criminal violation. Any person who owns or is in possession of property where a noise emanates from or is in charge of the source of a noise, is guilty of a Class 2 misdemeanor if that noise violates this Article.
- (B) In addition to and not in lieu of the penalties prescribed in this section, the Town 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.

92.06 Maximum Permissible Sound Levels Generally.

(A) Except as otherwise provided in this Article, any noise which emanates from any operation, activity or source and which exceeds the maximum permissible sound levels established in this section below is hereby prohibited. Such levels shall be measured at the property boundary of the sound 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.

MAXIMUM PERMISSIBLE SOUND PRESSURE LEVELS

Zoning District Classification	Maximum dBA Daytime	Maximum dBA Nighttime
Residential (R-1 through R-4)	60	55
Business (B-1)	65	60
Parks and Public Utility District (PPU)	60	55
Old and Historic Occoquan District	65	60

(B) Heating and cooling systems, including but not limited to air conditioners and heat pumps, shall not be subject to the night levels enumerated above.

(C) Any person, with lawfully obtained permits, who during Daytime operates or causes to be operated any equipment used in construction, repair, alteration or demolition work on buildings, structures, alleys or appurtenances thereto in the outdoors shall not be subject to the levels enumerated above.

(D) Persons performing construction of public projects, repair or maintenance work for such projects or persons performing work for private or public utilities for the repair of facilities or restoration of services shall not be subject to the levels enumerated above.

92.07 Specific Prohibitions.

Except as expressly provided otherwise in this Article, the following acts are violations of this Article:

- (A) Sounding any Horn on any right-of-way or in any public space except when the sounding of the Horn is intended as an emergency or danger warning signal. However, sounding a Horn continuously or intermittently in a manner that is plainly audible for more than five (5) consecutive seconds shall be a violation of this Article.
- (B) Operating or causing to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or

motorcycle, when measured at a distance of 50 feet or more, exceeds the level set forth in the following table:

Vehicle Class	Sound Level in dBA	
	Speed Limit 25 MPH or less	Speed Limit over 25 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

This section shall not apply to motor carrier vehicles engaged in interstate commerce.

- (C) Operating, loading or unloading any vehicle, including but not limited to trucks, or the opening and destruction of bales, boxes, crates and containers in the outdoors during Nighttime.
- (D) Operating or causing to be operated during Nighttime any equipment used in construction, repair, alteration or demolition work on buildings, structures, alleys, real property, or appurtenances thereto in the outdoors in any zoning district. This includes, but is not limited to, lawn care, tree maintenance or removal, and other landscaping activities. This section shall not apply to construction of public projects, the repair or maintenance work performed on such projects, or work performed by private or public utility companies for the repair of utility facilities or restoration of services.
- (E) The playing of radio, phonographs, television, tape or disc players, musical instruments or drums, sound amplifiers or other devices which produce, reproduce or amplify sound in such a manner as to emit sound that is plainly audible at a distance of 50 feet from the source or that is plainly audible inside another dwelling unit; provided, however that the provisions of this subsection shall not apply to any outdoor performance, parade, gathering, dance, concert, show, sporting event, or other event sponsored by the Town.
- (F) Talking, yelling, shouting, screaming, singing, or any other form of human sounds produced by any person or group of people, or any human-produced excessive noise at nighttime in such a manner as to be plainly audible across property boundaries or plainly audible inside a dwelling unit other than the dwelling unit from which the sound originates.
- (G) Sounding or permitting the sounding of any amplified signal continuously or intermittently from any bell, chime, siren, whistle or similar device from any one location that is plainly audible for more than ten (10) consecutive seconds in any hourly period. This provision shall not apply to public bodies or agencies for testing, traffic control or other public purposes.

92.08 Exemptions.

The following activities or sources of noise shall be exempt from the prohibitions set forth in this Article:

- (A) Town sanctioned activities in Town parks or facilities.
- (B) Public transportation.
- (C) Public safety activities by government entities.

92.09 Waste, Recycling and Refuse Removal.

Waste, recycling and refuse shall be removed only during Daytime and must be removed in a manner which does not create a nuisance or excessive noise, or adversely affect the public health.

92.10 Noise from Animals.

It shall be unlawful to own, keep, possess, harbor, or allow any animal which howls, barks, meows, squawks or makes other noise such that it is plainly audible at least once a minute for ten consecutive minutes (i) at 50 feet from the property boundary of the dwelling unit, house or apartment of another; or (ii) plainly audible within a dwelling unit other than the one from which the sound emanates.

92.11 Measurement Procedures.

When this Article requires measurement of the sound level, the measurement shall be as follows:

- (A) The measurement of sound or noise shall be made with sound level meters Type 1 or Type 2 which meet the standards prescribed by the ANSI. The instruments shall be maintained in calibration and good working order. A calibration shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used. A minimum of three sound level readings will be taken. The geometric mean of these readings will be used as the average sound level. If the background noise is equal to the levels set forth in section 92.06 above, three dB shall be subtracted out of the average sound level.
- (B) The slow meter response of the sound level meter shall be used to determine that the average amplitude has not exceeded the dBA readings or the limiting noise spectra set forth in section 92.06 above.
- (C) Unless otherwise specified in this Article, the measurement shall be made at (i) the property boundary on which such noise is generated, (ii) at any point within the receiving property affected by the noise, or (iii) any public area including, but not limited to, any public streets, docks or sidewalks.

92.12 Sound Levels; Restaurants.

The sound levels provided elsewhere in this Article shall not apply to sound emanating from a restaurant. It shall be a violation of this Article for a source of sound emanating from the a restaurant to create a sound level during Daytime in excess of eighty (80) dB(A), or during Nighttime in excess of sixty (60) dB(A) when measured from the boundary line of the restaurant property or any public area including, but not limited to, any public streets, docks or sidewalks.

2. That this ordinance shall be effective upon adoption.

PASSED AND ADOPTED by the Town Council of the Town of Occoquan on this 5th day of September, 2023.

BY ORDER OF THE TOWN COUNCIL

MEETING DATE: September 5, 2023

Town Council Meeting

Ord. No. O-2023-14

RE: An Ordinance to Repeal and Replace Town Code 92.02 Through 92.10 And To Replace Them With A New Article 2 In Chapter 92, Generally Relating to Noise

MOTION: Vice Mayor Loges

SECOND: Councilmember Freeborne Brinton

ACTION: Approve

VOTES:

Ayes: Vice Mayor Loges, Councilmember Freeborne Brinton, Councilmember Fithian, Councilmember Daubresse, and Councilmember Perkins

Nays: None

Absent from Vote: None

Absent from Meeting: None

CERTIFIED COPY _____



Town Clerk