



# Town of Christiansburg Planning Commission Monday, April 2, 2018 Agenda

## **Planning Commission**

### **Chairperson**

Jennifer D. Sowers

### **Vice-Chairperson**

Hil Johnson

### **Non-Voting Secretary/**

### **Planning Director**

Andrew Warren

### **Other Members**

Ashley Briggs  
Catherine Clifton  
Harry Collins  
Mark Curtis  
Jessica Davis  
Jeananne Knies  
Craig Moore  
Ann Sandbrook

### **Town Manager**

Randy Wingfield

### **Town Attorney**

Guynn &  
Waddell, P.C.

### ***Planning Commission's Next Meeting:***

*Monday, April 16,  
2018 at 7:00 p.m.*

## **WORK SESSION**

Planning Commission will meet in the Christiansburg Town Hall located at 100 E. Main Street on **Monday, April 2, 2018 at 6:00 PM** to hold a work session on the proposed ordinance amendments to Chapter 24 "Nuisances" Article II. – Regulation of Noise, and to Chapter 42 "Zoning" of the Christiansburg Town Code. See regular meeting agenda items #4 and #5 below for a full description of the ordinance amendments.

**For more details on the proposed revisions to the Noise Ordinance, visit the Planning Department's webpage** (<http://www.christiansburg.org/index.aspx?NID=1061>)

## **REGULAR MEETING**

Planning Commission will meet in the Christiansburg Town Hall located at 100 E. Main Street on **Monday, April 2, 2018 at 7:00 PM** for the purpose of allowing the full Commission to review the following:

### **PLEDGE OF ALLEGIANCE**

- 1) Public comments – 5 minute limit per citizen.
- 2) Approval of Planning Commission Minutes for March 19, 2018 meeting.
- 3) Public Hearing on a Conditional Use Permit request by Roger Woody for an approximately 2.412 acre portion of tax map no. 528-A-83 located at 1145 Roanoke Street to construct seven (7) single-family dwellings in the B-3, General Business zoning district. The property is designated as Residential on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.
- 4) Discussion/Action on an ordinance to amend Chapter 24, "Nuisances," Article II. – Regulation of Noise, of the Christiansburg Town Code for the purpose of regulating loud or intrusive sounds or vibrations, modifying the exemptions to the ordinance, and providing for civil penalties in place of criminal penalties in the Town of Christiansburg.
- 5) Discussion/Action on an ordinance to amend Chapter 42, "Zoning," of the Christiansburg Town Code to permit a loudspeaker/sound amplification/outdoor sound system to be used in excess of Chapter 24 "Nuisances" Article II. – Regulation of Noise, by Conditional Use Permit in the Agricultural (A), Mixed Use: Residential - Limited Business (MU-1), Mixed Use: Residential - Limited Business - Limited Industrial (MU-2), Limited Business (B-1), Central Business (B-2), General Business (B-3), Limited Industrial (I-1), and General Industrial (I-2) zoning districts.
- 6) Other Business.

For a description of the preceding items or to view the Town's Zoning Map, Zoning Ordinance, and Future Land Use Map, please contact the Planning Department in the Christiansburg Town Hall, 100 East Main Street during office hours of 8:00 a.m. - 5:00 p.m. Monday through Friday. Written comments may be sent to the address below; please allow adequate mailing time. For any further assistance, please contact Andrew Warren, Planning Director at (540) 382-6120 ext.1130 or [awarren@christiansburg.org](mailto:awarren@christiansburg.org).

*DRAFT*

**Christiansburg Planning Commission  
Minutes of March 19, 2018**

Present: Ashley Briggs  
Catherine Clifton  
Harry Collins  
Mark Curtis  
Jessica Davis  
Hil Johnson, Vice-Chairperson  
Jeananne Knies  
Craig Moore  
Ann Sandbrook  
Jennifer D. Sowers, Chairperson \*  
Andrew Warren, Secretary Non-Voting

Absent:

Staff/Visitors: Will Drake, staff  
Jared Crews, staff  
Theresa Fontana, Town Attorney  
Stacy Martin, Adventure Hobbies & Toys, 782 New River Road  
Jonathon Taylor, 685 School Lane  
Chris Larson, 1167 Brick Road, Elliston, VA  
Chris Waltz, 1370 Rigby Street  
John Casali, 385 Emerald Boulevard  
Eric Roth, 195 Willow Oak Drive

Vice-Chairperson Johnson called the meeting to order at 7:00 p.m. in the Christiansburg Town Hall at 100 E. Main Street, Christiansburg, Virginia. Mr. Warren introduced Ashley Briggs and Jessica Davis as new Planning Commissioners, appointed by Town Council on February 20, 2018.

Public Comment

Vice-Chairperson Johnson opened the floor for public comment. With no comments, Vice-Chairperson Johnson closed the floor for public comment.

Approval of Planning Commission Minutes for February 20, 2018 Meeting

Vice-Chairperson Johnson introduced the discussion. Commissioner Moore made a motion to approve the February 20, 2018 Planning Commission meeting minutes. Commissioner Clifton seconded the motion, which passed 7-0. Commissioners Briggs and Davis abstained as they were not present for the February 20, 2018 meeting.

\* Chairperson Sowers arrived at approximately 7:30 p.m.

Public Hearing on an ordinance to amend Chapter 24, "Nuisances," Article II. – Regulation of Noise, of the Christiansburg Town Code for the purpose of regulating loud or intrusive sounds or vibrations, modifying the exemptions to the ordinance, and providing for civil penalties in place of criminal penalties in the Town of Christiansburg.

**And-**

Public Hearing on an ordinance to amend Chapter 42, "Zoning," of the Christiansburg Town Code to permit a loudspeaker/sound amplification/outdoor sound system to be used in excess of Chapter 24 "Nuisances" Article II. – Regulation of Noise, by Conditional Use Permit in the Agricultural (A), Mixed Use: Residential – Limited Business (MU-1), Mixed Use: Residential – Limited Industrial (MU-2), Limited Business (B-1), Central Business (B-2), General Business (B-3), Limited Industrial (I-1), and General Industrial (I-2) zoning district).

The Commission agreed to hold both public hearings concurrently. Vice-Chairperson Johnson opened the public hearings.

Mr. Warren stated the Planning Commission was scheduled to make a recommendation to Town Council regarding the ordinance amendments on April 2, 2018 and Town Council would hold a public hearing on April 10, 2018 and was scheduled to take action on April 24, 2018.

Mr. Warren provided an overview of the proposed ordinance revision and explained public comments had been received and used to amend the draft ordinance since the public meetings held March 1 and March 8, 2018. Mr. Warren explained two overall ordinance changes are proposed:

1. Amendment of the noise ordinance in order to remove and combine unclear exemptions, change the penalty for violations from criminal to civil, allow the Town to seek an injunction in cases of repeated violation, and clarify definitions pertaining to noise.
2. Introduce a process for the use of Conditional Use Permits for businesses requesting to exceed allowable noise levels.

Mr. Warren highlighted some of the proposed changes to the noise ordinance:

- Clarifying the definition of "plainly audible" and introducing definitions pertaining to a decibel-based system for the measurement of noise.
- Amending the hours of noise restriction on Fridays and Saturdays from 10:00 p.m. - 7:00 a.m. to 11:00 p.m. to 8:00 p.m.
- Defining "Conditional Use Permit," removing the undue hardship waiver, and introducing the process for seeking a Conditional Use Permit.
- Removing unnecessary definitions such as "public property" and "residential areas" and adding definitions for "special events" and "sound level meter".
- Adding a five-minute time period for animal noise and removing the distance requirements for car stereo noise and alarm systems.

Mr. Warren read through the draft ordinance and noted where changes to the current ordinance and earlier drafts of the amendment were proposed, including changes to noises prohibited, exemptions to the ordinance, and penalties for violation.

Mr. Warren reviewed the criteria for the evaluation of Conditional Use Permits currently provided in the Town code. Mr. Warren explained an applicant would need to describe the activities, hours of operation, and location of the use being proposed to the Planning Commission. Mr. Warren stated the Commission would look at factors such as whether the proposed use was in conflict with the Comprehensive Plan, whether there were concerns to public safety and welfare, whether proper utilities were in place, and the nature of surrounding areas and development when considering a recommendation to Town Council.

Stacy Martin, 782 New River Road, asked for clarification on whether the noise limits would apply during both the day and night. Mr. Martin stated an entity called the Noise Police was created in the 1960's and 1970's that developed noise ordinances around the United States. Mr. Martin stated the Noise Police no longer existed and the changes to the noise ordinance would put neighbors at odds. Mr. Martin stated a chart displaying decibel levels of specific noises would be helpful as 65 decibels is not a high level of sound.

Mr. Martin noted the efforts of Town staff in drafting the ordinance amendments but stated the basic rights for businesses and individuals are being threatened by the changes. Mr. Martin stated noise is common in towns and the new ordinance could allow irritable neighbors to call in complaints for as little as children honking a car horn.

Mr. Martin stated Starlite Drive-In has requested there be no decibel level monitoring for the showing of its first movie on Friday and Saturday nights.

Mr. Martin stated he provided Town Council with the noise ordinance of Winchester, Virginia, which uses 65 decibels as its measurement for noise violations. Mr. Martin explained key pieces of this ordinance were not present in the draft ordinance including the requirement that doors and windows of a dwelling be shut before sound levels are measured and the requirement that sound be measured at least six feet from the wall of a building.

Mr. Martin noted he has video footage of a decibel meter measurement taken from the back row of a showing at Starlite Drive-In. Mr. Martin questioned how background noise within a home would be separated from the source of noise being measured for a violation and stated measurements before and after the alleged violation would be necessary.

Mr. Martin stated 70 percent of town revenue comes from taxes on businesses while the average homeowner pays \$250 a year in taxes. Mr. Martin stated it is unfair for businesses to have to pay for a Conditional Use Permit in addition to taxes. Mr. Martin suggested citizens calling in complaints should be given a chance to rescind their complaint.

Jonathon Taylor, 685 School Lane, asked whether he would be fined if his cell phone rang or if he had a conversation on East Main Street. Mr. Taylor stated 60 decibels is the noise level of a normal conversation and he feels it is an absurd level to put in the noise ordinance. Mr. Taylor stated Starlite Drive-In is mentioned by name on two separate documents produced by the Town and he believes they are being targeted by the ordinance change. Mr. Taylor noted retaliation is federally illegal.

Chris Larson, 1167 Brick Road, Elliston, stated he is employed in Christiansburg and contributes to the Town's economy. Mr. Larson stated the 65 decibel limit is ridiculous and Town officials should speak with professors at Virginia Tech or the Berklee College of Music in Massachusetts. Mr. Larson stated he is a musician and knows musicians that perform at Fatback Soul Shack. Mr. Larson noted if the ordinance passes as drafted, he will spread the word to the musicians he knows and they will not perform in Christiansburg.

Chris Waltz, 1370 Rigby Street, stated the Town is damaging itself by becoming involved in a public affair. Mr. Waltz stated Starlite Drive-In has been in Christiansburg since the 1950s and the Town seeks to revitalize the downtown area but pushes away business through restrictive ordinances. Mr. Waltz stated his coworkers in Roanoke have asked what the Town is doing and expressed relief in not being Town residents. Mr. Waltz stated it is illegal to consume any alcoholic beverage other than liquor while playing pool within the Town. Mr. Waltz stated businesses will not want to pay \$750 for the ability to play music within the Town. Mr. Waltz suggested allowing Starlite Drive-In to play their movies unrestricted until midnight and address noise after that point.

Mr. Martin announced Marie March from Fatback Soul Shack texted him stating the decibel level at the restaurant was between 60 and 70 at all times because of its proximity to Interstate 81.

John Casali, 385 Emerald Boulevard, stated he is a professor at Virginia Tech and runs the acoustics and hearing lab. Mr. Casali stated he runs a company called H.E.A.R that has been involved in issues regarding noise, alarms, and litigation support. Mr. Casali stated he has been involved in public hearings and zoning issues related to noise ordinances in the past as well as testifying in civil and criminal court. Mr. Casali stated the Town is attempting to write a comprehensive ordinance that covers what police might deal with outside the scope of issues with Fatback Soul Shack and Starlite Drive-In.

Mr. Casali stated the current draft ordinance needs revision and noted noise restrictions should be based on the land use that is receiving a particular noise. Mr. Casali noted an acceptable level of noise would be lower for a residential use than some other uses. Mr. Casali stated he has offered to help draft the noise ordinance as well as to help select sound measuring devices and train officers to use them. Mr. Casali stated he provided Town officials with the New Jersey Model noise ordinance which displays current thinking on noise regulations.

Mr. Casali suggested limiting the definition of "dwelling" to refer to rigid structures so tents and other non-rigid structures could not be considered dwellings. Mr. Casali stated the Town should not regulate whether windows of dwellings are to be open or closed in the case of a noise complaint. Mr. Casali stated the definition of "hearing aids" would need to be broader as hearing aids are no longer regulated by the United States Food and Drug Administration. Mr. Casali stated there should be separate noise restrictions for day and night time for any source of noise, noting the ordinance should not specify sources such as loudspeakers and music amplification devices.

Mr. Casali stated the ordinance should distinguish between zoning districts. Mr. Casali noted decibels should be measured with both A (dBA) and C (dBC) weighting because in order to capture a wider range of noise. Mr. Casali explained 65 decibels is roughly 5 decibels over the level of a normal face-to-face conversation. Mr. Casali explained speech interference occurs at 65 decibels and sleep can be aroused at 50 decibels. Mr. Casali suggested using a decibel chart in the noise ordinance with varying decibel restrictions for the Town's zoning districts.

Mr. Casali provided the Commission with a copy of his amendments to the draft ordinance. Mr. Casali stated a violation should occur at a level less than 65 decibels in residential areas. Mr. Casali noted objective decibel measurements help with enforcement as 65 decibels of music is different than 65 decibels of industrial noise.

Eric Roth, 195 Willow Oak Drive, suggested the focus of the ordinance should be restitution for injured parties rather than increased revenue for the Town through penalties. Mr. Roth stated the point of the new ordinance is to help injured parties and the current draft ordinance is designed to collect fees and fines. Mr. Roth stated the draft ordinance does not address noise problems and good faith mitigation between the parties involved should be encouraged instead.

With no further comment, Chairperson Sowers closed the public hearings.

Discussion on Public Hearing on an ordinance to amend Chapter 24, "Nuisances," Article II. – Regulation of Noise, of the Christiansburg Town Code for the purpose of regulating loud or intrusive sounds or vibrations, modifying the exemptions to the ordinance, and providing for civil penalties in place of criminal penalties in the Town of Christiansburg.

**And-**

Discussion on Public Hearing on an ordinance to amend Chapter 42, "Zoning," of the Christiansburg Town Code to permit a loudspeaker/sound amplification/outdoor sound system to be used in excess of Chapter 24 "Nuisances" Article II. – Regulation of Noise, by Conditional Use Permit in the Agricultural (A), Mixed Use: Residential – Limited Business (MU-1), Mixed Use: Residential – Limited Industrial (MU-2), Limited Business (B-1), Central Business (B-2), General Business (B-3), Limited Industrial (I-1), and General Industrial (I-2) zoning districts.

Commissioner Sandbrook asked whether current businesses would need to seek a Conditional Use Permit under the new ordinance. Ms. Fontana stated current businesses can continue to operate and a Conditional Use Permit would only be needed if a business were seeking to produce noise above the permitted levels. Ms. Fontana noted no process is in place for grandfathering businesses but the Conditional Use Permit would function similarly to a hardship waiver.

Commissioner Knies stated it would be helpful to understand how the decibel levels used in the draft ordinance were determined. Ms. Fontana stated many municipalities in Virginia use similar decibel levels and Christiansburg is using relatively lenient parameters. Ms. Fontana noted noise levels will be measured on the receiving property in the case of a complaint. Ms. Fontana stated the 'plainly audible' standard will be used while equipment is purchased and training is completed for decibel measurement.

Ms. Fontana stated there will be different requirements for noise levels during the day and night. Ms. Fontana explained the draft ordinance does not differentiate between zoning districts because the allowed decibel level is higher than average for business and residential districts while industrial districts are exempt by state code. Ms. Fontana stated officers would also have to determine the zoning district receiving the noise as well as the zoning district of the source in the case of a violation if districts were differentiated.

Commissioner Briggs asked where the time frame of 10:00 p.m. to 7:00 a.m. for the restrictions on construction noise originated. Ms. Fontana stated the same hours have always been in effect for as long as she was aware.

Commissioner Knies asked whether applicants could request additional decibel level allowances through the Conditional Use Permit process. Ms. Fontana stated a request could be made but conditions would likely still be attached.

Mr. Casali stated hearing can be effected at 75 decibels but noise annoyance begins to occur in residential areas around 55 to 60 decibels and sleeping can be interrupted by 45 to 50 decibels. Mr. Casali noted permitted industrial noise levels nationally are typically 20 decibels above permitted noise levels in residential areas.

Commissioner Sandbrook asked why a specific amount of time before violation would occur for animal noise was named but not a specific amount for general noise. Ms. Fontana noted most ordinances were not drafted to place a time limit on general noise but animal noise was difficult to regulate. Ms. Fontana explained the draft ordinance would not require animal noise to be continuous as it would regulate intermittent and repetitive animal noise as well. Ms. Fontana noted a complaint regarding general noise would require a continuous source of noise for determination and measurement.

Commissioner Moore noted there was no exemption for public roadwork at night. Ms. Fontana stated the roadwork could possibly be considered 'emergency work'. Ms. Fontana noted the Town has no authority to regulate government entities such as the State or itself. Ms. Fontana stated if contractors were doing public roadwork, the contract would specify hours of operation. Commissioner Moore stated some ordinances make allowances for contractors to work on public roads at night to avoid traffic issues during the day. Ms. Fontana stated staff will try to work contractor roadwork into the definitions in the draft ordinance.

Mr. Warren explained special event permits and road closure permits are already in place for one-time events and will continue to exist. Mr. Warren stated Conditional Use Permits would be used for recurring events.

Commissioner Knies asked whether an event such as the Food Truck Rodeo making noise at 2:00 p.m. would be regulated the same way during the day as at night. Mr. Warren stated the event would likely be covered by a Special Event Permit but if no permit was approved or circumstances were altered from the conditions of the permit, a violation could occur.

Commissioner Briggs asked whether a Special Event Permit could be used to host events such as block parties in residential areas. Ms. Fontana stated a Special Event Permit could be sought if the event was on public property such as the public street but could be coordinated between neighbors on private property.

Commissioner Knies asked how officers would determine the base level noise of a receiving residence in comparison to noise from an outside source. Mr. Casali stated a buffer zone needed to be established by the draft ordinance to establish feasible ambience. Mr. Casali stated the level of average sound in an area should be determined and possible violations should be measured in relation to that number. Mr. Casali noted noise is on a logarithmic, not linear, scale and in an instance where the decibel level of an outside noise was 8 decibels above the feasible ambience level, the average noise would not factor into a measurement.



Mr. Warren stated the Commission would be provided the draft ordinance with updated changes before their meeting on April 2, 2018. The Commission decided to have a work session before their April 2, 2018 meeting.

Commissioner Moore suggested a chart comparing decibel levels be provided. Vice-Chairperson Johnson requested the Commission be provided with the New Jersey Model Ordinance.

Commissioner Knies requested information regarding the noise ordinances of other localities in the area and whether those localities had processes available for remediation between parties involved in complaints.

Mr. Warren announced the April 2, 2018 meeting of the Planning Commission would also have a public comment period.

With no further comment, Chairperson Sowers closed the public hearing.

Other business.

Chairperson Sowers opened the discussion.

With no other business, Chairperson Sowers adjourned the meeting at 8:31 p.m.

---

Jennifer D. Sowers, Chairperson

---

Andrew Warren, Secretary <sup>Non-Voting</sup>



ESTABLISHED  
NOVEMBER 10, 1792

INCORPORATED  
JANUARY 7, 1833

MAYOR  
D. MICHAEL BARBER

COUNCIL MEMBERS  
SAMUEL M. BISHOP  
HARRY COLLINS  
STEVE HUPPERT  
MERISSA SACHS  
HENRY SHOWALTER  
BRADFORD J. "BRAD" STIPES

TOWN MANAGER  
RANDY WINGFIELD

ASSISTANT TO THE TOWN  
MANAGER  
ADAM CARPENETTI

DIRECTOR OF  
FINANCE/TOWN TREASURER  
VALERIE L. TWEEDIE,  
CPA, CFE, CGFM

CHIEF OF POLICE  
MARK SISSON

CLERK OF COUNCIL  
MICHELE M. STIPES

TOWN ATTORNEY  
GUYNN & WADDELL, P.C.

# Town of Christiansburg, Virginia 24073

100 East Main Street ~ Telephone 540-382-6128 ~ Fax 540-382-7338

## Planning Department Staff Report

**Application Type:** Conditional Use Permit  
**Applicant:** Roger Woody  
**Location:** 1145 Roanoke Street  
**Proposal:** Allow the development of seven (7) single-family dwellings in the B-3 district.

### Request

The Town of Christiansburg has received a Conditional Use Permit request by Roger Woody for the development of seven (7) single-family dwellings on a 2.412 acre portion of tax map no. 528 – A – 83 located at 1145 Roanoke Street in the B-3, General Business District.

In the B-3, General Business District, a Conditional Use Permit is required for principal residential uses, per Sec. 42-336 (1) of the *Christiansburg Town Code*. Residential uses permitted by Conditional Use Permit in the B-3 District shall follow the development standards of the R-3, Multi-Family Residential District. The table below summarizes the minimum development standards for single-family dwellings in the R-3 district.

### Development Standards for Single-Family Dwellings in the B-3 District

Front Yard Setback	30 feet from any street right-of-way
Rear Yard Setback	20 feet
Side Yard Setback	10 feet
Lot Area	10,000 sq. ft.
Frontage	80 feet (except on a cul-de-sac)
Greenspace	20% front yard greenspace

The applicant has submitted a layout plan depicting the seven proposed lots and the approximate location of the single-family dwellings. The property does not currently adjoin a street and the applicant proposes to construct a new public street connecting with Barkwood Street, S.E. to serve the development. Sidewalk will be required on both sides of the new street.

The property is not located within the 100-Year Flood Hazard Area, a Historic District, or an Urban Development Area. The adjoining properties are zoned R-1, Single Family Residential and B-3, General Business. Neighboring properties include undeveloped land, residential, business, and institutional uses. The property is designated as Residential on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.

### Public Hearing Dates

*The Planning Commission Public Hearing is scheduled for Monday, April 2, 2018 and the Town Council Public Hearing is scheduled for Tuesday, April 24, 2018.*

### List of attachments included with staff report

1. Conditional Use Permit application
2. Preliminary Layout Plan
3. Aerial map
4. Zoning map
5. Adjoining properties

Application #: CUP-2018-02



# TOWN OF CHRISTIANSBURG

100 East Main Street

Christiansburg, VA 24073

Phone (540) 382-6120 Fax (540) 381-7238

## Conditional Use Permit Application

Landowner: Roger Woody Agent: LMW PC

Address: 1285 Tranquility Via Address: 102 ALBEMARLE  
Christiansburg, VA 24073 Roanoke, VA. 24013

Phone: (540) 605-6126 Phone: 540-345-0675

I am requesting a Conditional Use Permit to allow single family dwellings (7)

on my property that is zoning classification B-3 under Chapter 42: Zoning of the Christiansburg Town Code.

My property is located at Current Address: 1145 Roanoke Street, Christiansburg, VA 24073  
Future Addresses to be: \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_; & \_\_\_\_\_ Heartwood Street  
Christiansburg, VA 24073

Tax Parcel(s): Currently Parcel ID: 013700 Currently Tax Map ID: 528- A 83

Fee: \$750.00

I certify that the information supplied on this application and any attachments is accurate and true to the best of my knowledge. I understand that Conditions may be placed on my property in regards to the above mentioned use/activity. I also understand that the Conditional Use Permit may be revoked and/or additional Conditional Use Permits required should questions regarding conformity arise.

Signature of Landowner(s): *Roger Woody* Date: 3-5-18  
 \_\_\_\_\_ Date: \_\_\_\_\_  
 \_\_\_\_\_ Date: \_\_\_\_\_

This request was approved / disapproved by a vote of the Christiansburg Town Council on \_\_\_\_\_.  
 Any Conditions attached shall be considered requirements of the above request.

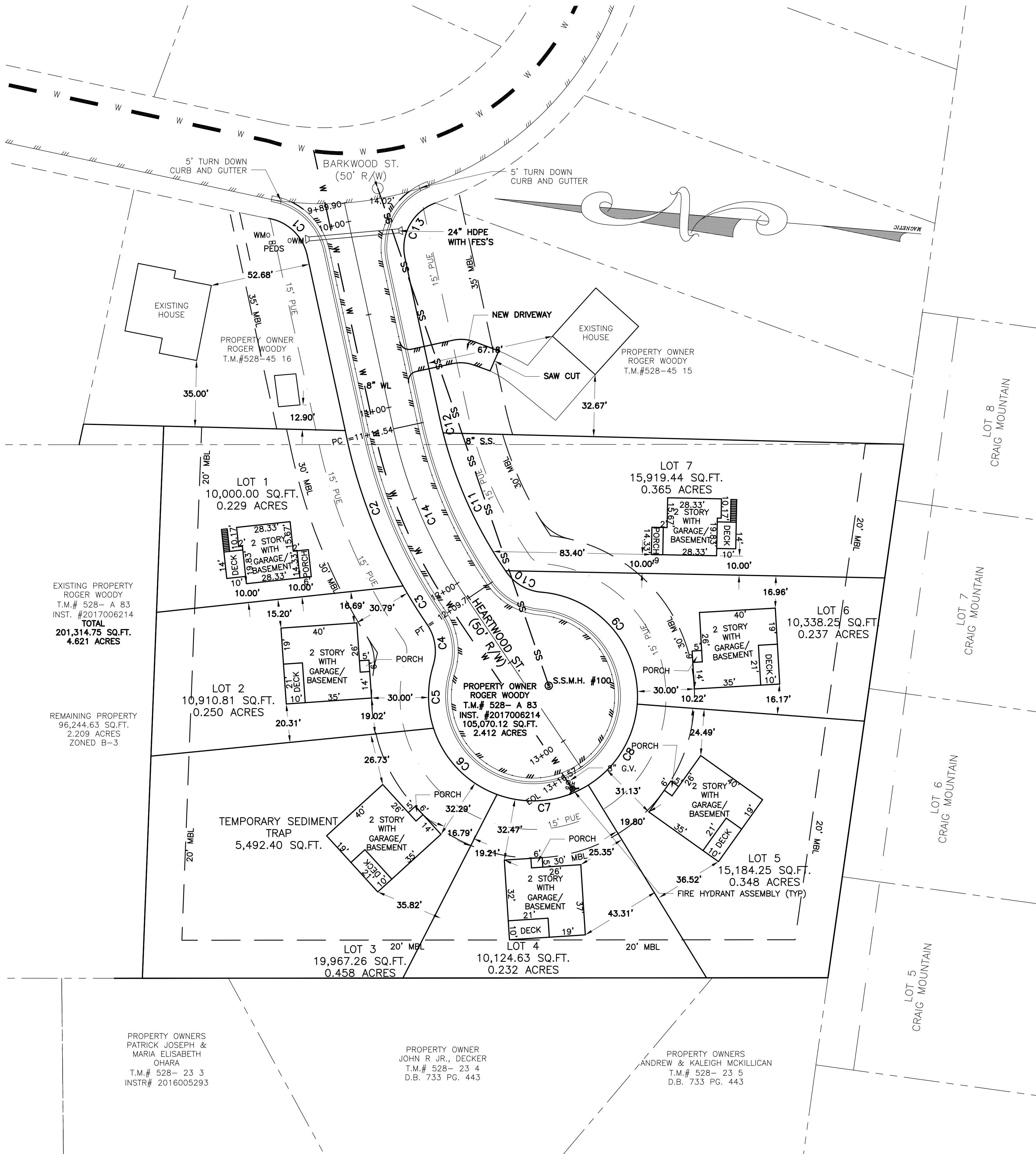
Town Manager \_\_\_\_\_

Date \_\_\_\_\_

P:\V\0625\4572B-02-08 - Showcase Site - 1145 Roanoke Street - Residential - 05/10/2018 03:52 AM

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	DIRECTION	CHORD
C1	29.85	25.00	68°25'16"	17.00	N38°47'34"E	28.11
C2	87.64	275.00	18°15'34"	44.19	S64°49'04"W	87.27
C3	23.79	275.00	4°57'27"	11.90	S53°12'34"W	23.79
C4	22.59	25.00	51°46'10"	12.13	N76°36'55"E	21.83
C5	33.62	55.00	35°01'14"	17.35	S84°59'23"W	33.10
C6	50.00	54.91	52°10'36"	26.88	S41°24'27"W	48.29
C7	50.00	54.87	52°12'24"	26.89	S10°37'56"E	48.29
C8	51.63	54.99	53°47'38"	27.89	S63°35'44"E	49.75
C9	86.05	55.00	89°39'01"	54.66	N44°41'33"E	77.54
C10	22.83	25.05	52°13'31"	12.28	S26°00'17"W	22.05
C11	80.00	225.00	20°22'19"	40.43	S60°52'36"W	79.58
C12	7.62	225.00	1°56'27"	3.81	S72°01'59"W	7.62
C13	36.01	25.00	82°31'54"	21.94	N65°50'54"W	32.98
C14	98.17	250.00	22°29'58"	49.73	S61°45'13"W	97.54

LOT TABLE			
LOT	ROAD FRONTAGE	BUILDING LINE	PARCEL SIZE
1	87.64'	91.09'	10,000.00 SQ.FT.
2	80.00'	80.00'	10,910.81 SQ.FT.
3	50.00'	80.00'	19,967.26 SQ.FT.
4	50.00'	80.74'	10,124.63 SQ.FT.
5	51.63'	80.00'	15,184.25 SQ.FT.
6	108.88'	80.00'	10,338.14 SQ.FT.
7	80.00'	109.82'	15,919.44 SQ.FT.



EXISTING PROPERTY  
ROGER WOODY  
T.M.# 528 - A 83  
INST. #2017006214  
TOTAL  
201,314.75 SQ.FT.  
4.621 ACRES

REMAINING PROPERTY  
96,244.63 SQ.FT.  
2.209 ACRES  
ZONED B-3

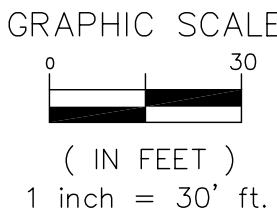
PROPERTY OWNERS  
PATRICK JOSEPH &  
MARIA ELISABETH  
OHARA  
T.M.# 528 - 23 3  
INSTR# 2016005293

PROPERTY OWNER  
JOHN R JR., DECKER  
T.M.# 528 - 23 4  
D.B. 733 PG. 443

PROPERTY OWNERS  
ANDREW & KALEIGH MCKILLICAN  
T.M.# 528 - 23 5  
D.B. 733 PG. 443

C-14 C  
Δ=22°29'58"  
R=250.00  
CHORD=97.54  
L=98.17  
T=49.73  
PC=11+11.54  
PT=12+09.71

NOTE: 2.412 ACRES WITH B-3  
ZONING & CONDITIONAL USE  
PERMIT FOR 7 RESIDENTIAL  
LOTS.



102 Albemarle Ave.  
Roanoke, Virginia  
24013

L M W P.C.

www.lmwpc.net  
ph: 540.345.0675  
lmweng@lmwpc.net

Engineering  
Architecture  
Surveying  
Landscape Design

SHOWCASE HOME BUILDERS  
RESIDENTIAL SITE DEVELOPMENT  
1145 ROANOKE ST.  
CHRISTIANSBURG, VIRGINIA

CONDITIONAL USE PERMIT

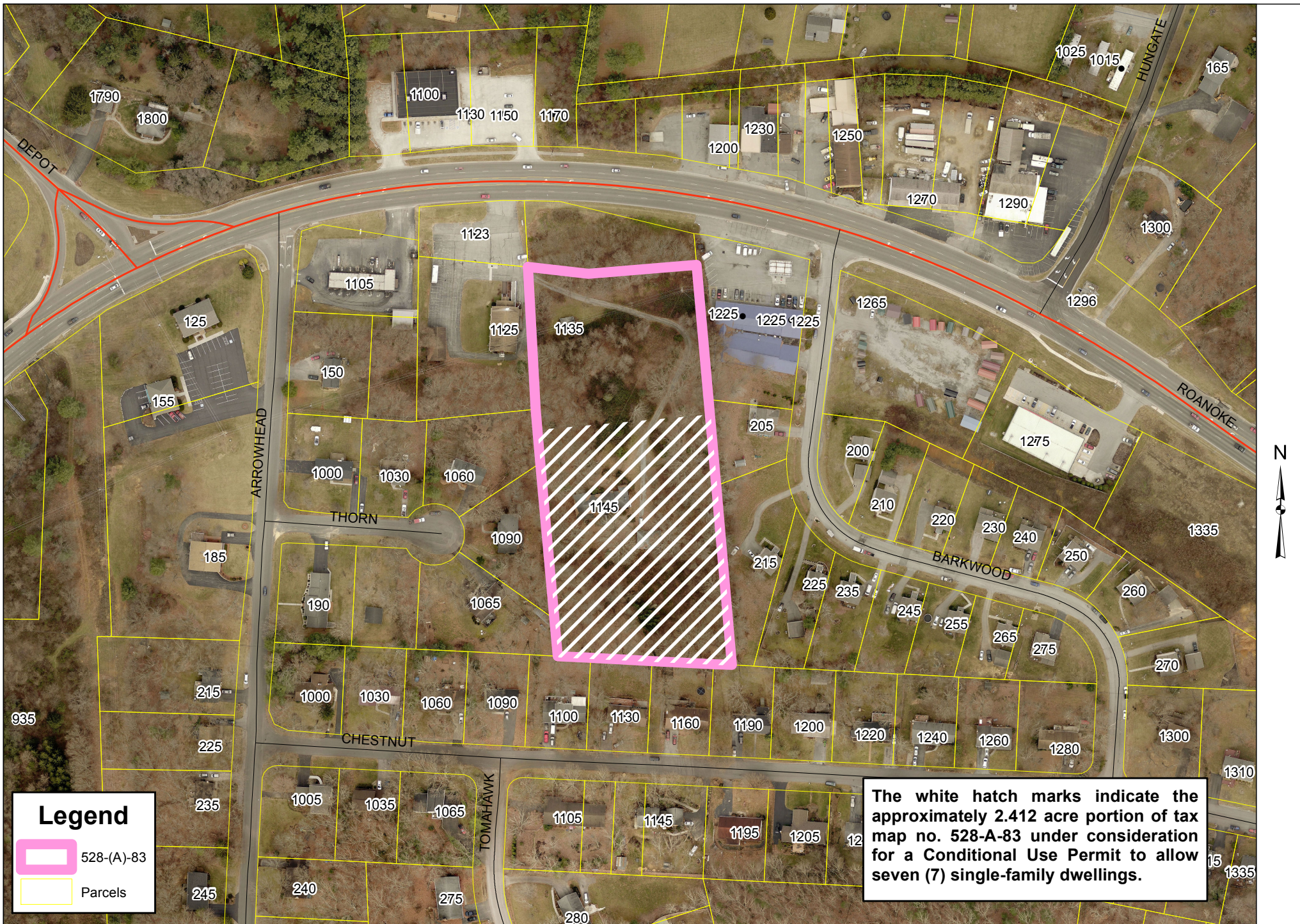


Drawn By SAC  
Checked By DRM  
Drawing 4572B  
Commission No. 4572B

1

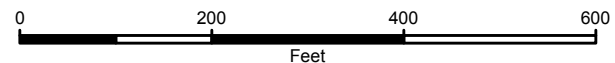
Sheet 1 of 1



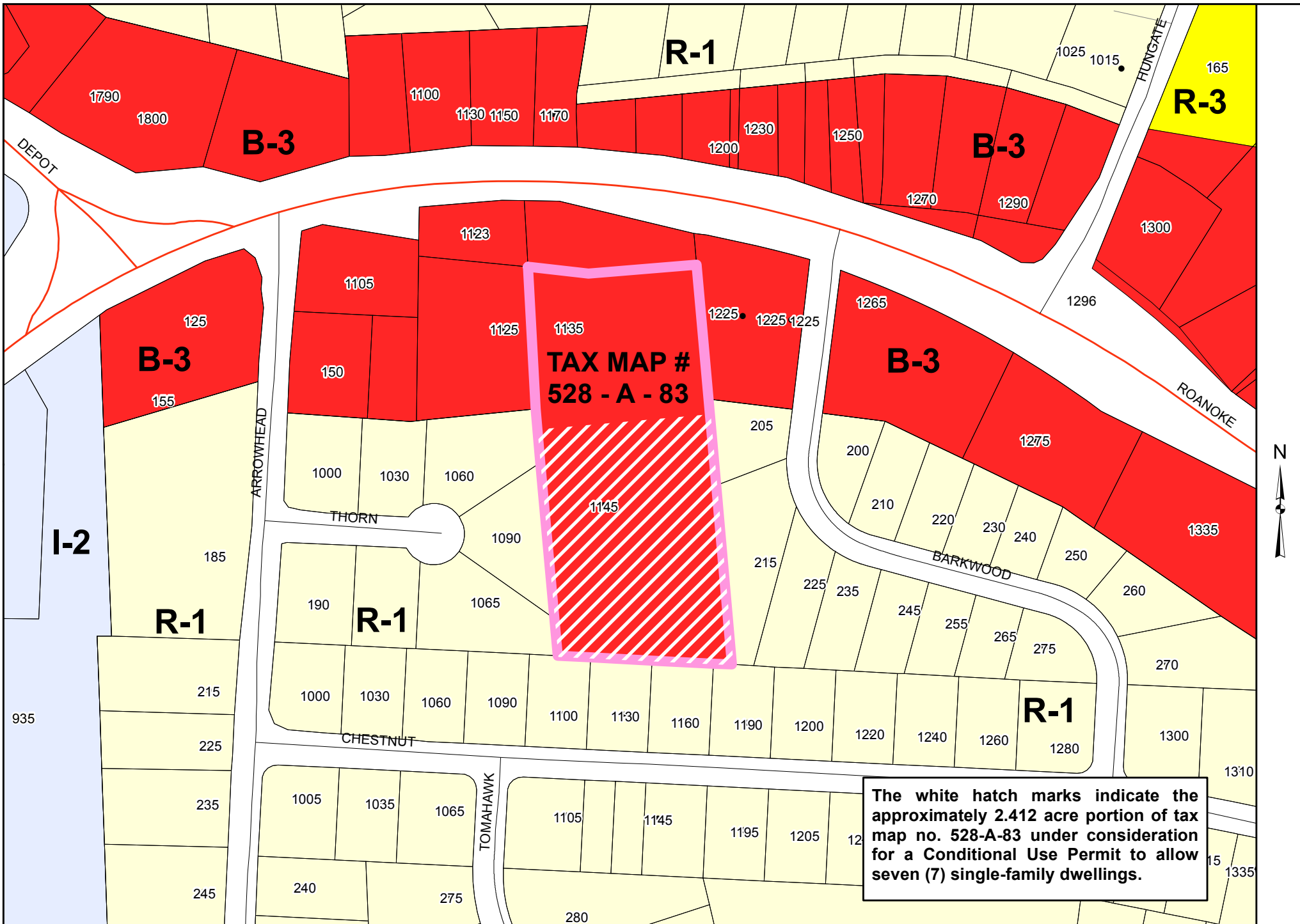


CUP REQUEST: 1145 ROANOKE STREET

PC PUBLIC HEARING: APRIL 2, 2018  
TC PUBLIC HEARING: APRIL 24, 2018





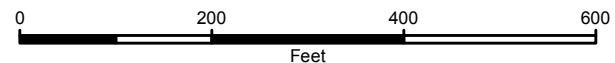


**TAX MAP #  
528 - A - 83**

The white hatch marks indicate the approximately 2.412 acre portion of tax map no. 528-A-83 under consideration for a Conditional Use Permit to allow seven (7) single-family dwellings.

CUP REQUEST: 1145 ROANOKE STREET

PC PUBLIC HEARING: APRIL 2, 2018  
TC PUBLIC HEARING: APRIL 24, 2018



**CUP: 1145 ROANOKE STREET****Adjoining Property Owners**

<b><u>Tax Map #</u></b>	<b><u>Owner(s)</u></b>	
528- A 92	AGGARWAL RAKESH	
528- 23 4	DECKER JOHN R JR	
528- 18 6	IRVIN LARRY D	IRVIN DONNA O
528- 23 5	MCKILLICAN ANDREW	MCKILLICAN KALEIGH
528- 23 3	OHARA PATRICK JOSEPH	OHARA MARIA ELISABETH
528- 45 15	RWW19 LLC	
528- 45 16	RWW19 LLC	
528- A 82	SALVATION ARMY (THE)	
528- A 93	SALVATION ARMY (THE)	
528- 18 7	TODD ERIC STEPHEN	TODD JUDY A
528- 18 5	TUCK MICHAEL D	TUCK LISA S
528- 18 8	WHITT JAMES T SR	WHITT KAREN S
528- A 83	WOODY ROGER	
528- A 91	WOODY ROGER	

<b><u>Mailing Address</u></b>	<b><u>City, State, Zip</u></b>
127 S WASHINGTON ST	PULASKI VA 24301
1090 THORN CIR	CHRISTIANSBURG VA 24073
1130 CHESTNUT DR	CHRISTIANSBURG VA 24073
1065 THORN CIR	CHRISTIANSBURG VA 24073
1060 THORN CIR	CHRISTIANSBURG VA 24073
144 OAK TREE BLVD	CHRISTIANSBURG VA 24073
144 OAK TREE BLVD	CHRISTIANSBURG VA 24073
2626 PENNSYLVANIA AVE NW	WASHINGTON DC 20037
2626 PENNSYLVANIA AVE NW	WASHINGTON DC 20037
1160 CHESTNUT DR SE	CHRISTIANSBURG VA 24073
1825 WHITE OAK LN	CHRISTIANSBURG VA 24073
1190 CHESTNUT DR	CHRISTIANSBURG VA 24073
1285 TRANQUILITY VIA	CHRISTIANSBURG VA 24073
1285 TRANQUILITY VIA	CHRISTIANSBURG VA 24073



ESTABLISHED  
NOVEMBER 10, 1792

INCORPORATED  
JANUARY 7, 1833

MAYOR  
D. MICHAEL BARBER

COUNCIL MEMBERS  
SAMUEL M. BISHOP  
HARRY COLLINS  
STEVE HUPPERT  
MERISSA SACHS  
HENRY SHOWALTER  
BRADFORD J. "BRAD" STIPES

TOWN MANAGER  
RANDY WINGFIELD

DIRECTOR OF  
FINANCE/TOWN TREASURER  
VALERIE L. TWEEDIE,  
CPA, CFE, CGFM

CHIEF OF POLICE  
MARK SISSON

CLERK OF COUNCIL  
MICHELE M. STIPES

TOWN ATTORNEY  
GUYNN & WADDELL, P.C.

# *Town of Christiansburg, Virginia 24073*

100 East Main Street ~ Telephone 540-382-6128 ~ Fax 540-382-7338

## *Memorandum*

**Date:** March 30, 2018  
**To:** **Planning Commission**  
**From:** Will Drake, Planner II  
**Thru:** Andrew Warren, Planning Director  
**Re:** **Update: Public Hearing for Noise Ordinance Amendments**

Following up on the Planning Commission public hearing and discussion at the March 19, 2018 meeting, the following information is provided:

- 1) Revised Ordinance dated March 30, 2018
- 2) New Jersey Model Noise Control Ordinance
- 3) Decibel Level Thermometer Chart by John G. Casali
- 4) Noise Ordinance Comparison Table
- 5) Noise Ordinances for Montgomery County and Blacksburg

Below is a summary of the attachments:

### **1) Revised Ordinance dated March 30, 2018**

Based on the public comment—including suggestions by Dr. John Casali and the Commission discussion, the Town Attorney has amended the ordinance.

- *Definitions:* Added definition of C-weighted decibel (dBC).

Measuring C-weighted decibels allows a sound level meter to operate with more sensitivity to low frequencies.

- *Definitions:* Revised the definition of Emergency Work to include the maintenance of roads. This would allow roadwork associated with maintenance projects to be covered under this definition and exempted from noise restrictions for work needing longer hours in limited situations due to extenuating circumstances.

- *Definitions:* Revised the definition of Enclosed Dwelling not to include windows needing to be closed in cases where one keeps their windows open during warmer months.

- *Section 24-33. Noises Prohibited* – Amended section and added table to address allowable noise levels when measured outdoors during daytime and nighttime hours. The table also provides different allowable levels from residentially and commercially zoned properties receiving the noise.



- *Section 24-33. Noises Prohibited* – Revised language to the animal noise section to clarify that it is not allowed to “permit or cause” an animal to violate ordinance. This replaces language stating that stated one must “own, keep, possess, or harbor an animal that violates the noise ordinance. Also, the language was added back stating that it would not be a violation if the animal noise was caused by harassment through trespass – or other harassing – of the animal or injury to the animal.
- *Section 24-33 Noises Prohibited (1) (ii)* addresses how C-weighted decibels are to be evaluated by a law enforcement officer.

## **2) New Jersey Model Noise Control Ordinance**

The attachment is a copy of a model noise control ordinance provided by the New Jersey Department of Environmental Protection. This ordinance was mentioned by Dr. Casali at the public hearing. This ordinance was used in consideration of the revisions.

## **3) Decibel Level Thermometer**

This chart provides a general comparison between decibel levels and accepted noises.

## **4) Noise Ordinance Comparison Table**

This table provides a comparison of the general noise standards for eight localities from our region and comparably sized localities across the state.

## **5) Montgomery County and Town of Blacksburg Noise Standards**

As requested by the Planning Commission, the full noise ordinances for both Montgomery County and the Town of Blacksburg are provided.

## **Next Steps**

Town Council’s Public Hearing is scheduled for April 10, 2018 at 7p.m. and action is scheduled for April 24, 2018.

**WORKING DRAFT**  
**ORDINANCE NO. \_\_\_\_**

AT A REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF CHRISTIANSBURG, VIRGINIA, HELD AT THE CHRISTIANSBURG TOWN HALL ON TUESDAY APRIL 24, 2018 AT 7:30 PM

**AN ORDINANCE OF THE TOWN OF CHRISTIANSBURG, VIRGINIA, AMENDING SECTIONS 24-30. – DECLARATION OF POLICY, 24-32. – DEFINITIONS, 24-33. – LOUD NOISES PROHIBITED, 24-34. – EXEMPTIONS FROM ARTICLE, 24-35. – PENALTIES, 24-36. – UNDUE HARDHIP WAIVER, 24-37. – OTHER REMEDIES, OF ARTICLE II, REGULATION OF NOISE, CHAPTER 24, NUISANCES, OF THE CHRISTIANSBURG TOWN CODE; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town’s current noise ordinance was adopted in 2010; and

**WHEREAS**, the Town desires to update its noise ordinance and provide for civil penalties in place of criminal penalties; and

**WHEREAS**, as part of the update, the Town sought public input from its residents and businesses concerning the appropriate levels of noise and how noise should be regulated in the Town to promote the peace and public health, safety, and welfare; and

**WHEREAS**, the Town Council has considered the public’s comments and suggestions;

**NOW THEREFORE, BE IT HEREBY ORDAINED** by the Council of the Town of Christiansburg that the aforementioned sections of Article II, “Regulation of Noise,” Chapter 24, “Nuisances,” are hereby amended and reenacted as follows:

**Chapter 24 – NUISANCES**

\* \* \*

**ARTICLE II. - REGULATION OF NOISE**

**Sec. 24-29. - Short title and application of article generally.**

This article shall be known and referred to as the "Noise Ordinance of the Town of Christiansburg, Virginia." It shall be applicable to the control of noises originating within the jurisdictional limits of the town.

**Sec. 24-30. - Declaration of policy.**

At certain intensity levels, ~~noises~~sound and vibration constitutes noise which can be detrimental to the health, welfare, safety, peace, and quality of life of the citizens of Town of Christiansburg, and in the public interest, noise as defined herein should be controlled. Therefore, it is hereby declared to be the public policy of the Town of Christiansburg to promote an environment for its citizens that is free from ~~excessive, unnecessary, harmful, or~~

~~annoying~~ noises, which jeopardizes ~~their~~ the public health, safety, or welfare or degrades the quality of life within the Town of Christiansburg.

**Sec. 24-31. - Administration and enforcement.**

This article shall be enforced and administered by the town chief of police, with the assistance of other town departments, as required.

**Sec. 24-32. - Definitions.**

For purposes of this article, the following words and phrases shall have the meaning assigned to them in this section.

*Chief* means the chief of police of the town, or his duly appointed designees.

*Conditional use permit* means, in the context of this article, a permit granted under the town's zoning ordinance allowing an outdoor loud speaker or sound amplification system as a conditional use in a particular zoning district subject to conditions imposed by the town council.

*A-weighted decibel (dBA)* means the sound pressure level in decibels as measured on a sound level meter (SLM) using the A-weighting filter. A sound level meter that is set to measure A-weighted decibels operates with similar sensitivity to different frequencies as does the average normal human ear for sounds of moderate intensity levels.

*C-weighted decibel (dBC)* means the sound pressure level in decibels as measured on a sound level meter (SLM) using the C-weighting filter. A sound level meter that is set to measure C-weighted decibels is more sensitive to low frequencies than if the meter is set to measure A-weighted decibels (dBA).

*Decibel (dB)* means a physical, quantitative, logarithmic scale of measurement for sound pressure levels that is obtained with a sound level meter.

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

*Emergency and public safety work* means any work performed for the purpose of preventing or alleviating physical injury, illness, or property damage, or work performed by public and private service companies constructing, inspecting, and repairing utilities, repairing and maintaining roads, bridges, and highways, providing snow removal, and the operation of public safety and emergency vehicles.

*Enclosed dwelling unit* means the dwelling unit has its doors closed.

*Enclosed vehicle* means that all operable doors, windows, sunroof, and other openings of the vehicle are closed.

*Motor vehicle* means every vehicle defined as a motor vehicle by Code of Virginia, § 46.2-100 (1950), as amended.

*Noise* means any sound or vibration which violates this article.:

- ~~(1) Endangers or injures the safety or health of any person;~~
- ~~(2) Annoys or disturbs a reasonable person of normal sensitivities; or~~
- ~~(3) Endangers or injures personal or real property.~~

*Owner* means the person owning, controlling, or possessing land (such as a tenant), premises or property.

*Person* means any individual, partnership, corporation, firm, association, trust, estate, society, club, private institution, group of persons acting in concert, organization or agency, or any legal successor, representative, agent or agency of the foregoing. The term "person" shall not include the federal, state, county, town, city or local government, or any agency or institution thereof.

*Plainly audible* means any obvious sound that can be ~~detected~~heard or felt by a ~~person~~law enforcement officer using his unaided hearing faculties with or without a hearing aid or other hearing-assistive device. The sound must not be so faint that its source cannot be identified.

~~*Property boundary* means 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 person, including intra-building real property divisions.~~

~~*Public property* means any real property owned or controlled by the town or any other governmental entity.~~

~~*Residential area* refers to any area of the town, regardless of zoning district, where a person maintains a permanent or temporary place of abode.~~

*Sound* means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at finite speed. The characterization or description of a sound may include any characteristic parameter of such sound, including duration, intensity, and frequency, and timbre, as well as any vibration that results from the sound.

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

*Special event permit* means a written document issued by the town manager or his/her designee in response to a written application to use the public right-of-way and/or public property for a special event, which may include a temporary exemption from the noise

ordinance as described therein, subject to conditions designed to mitigate the effects of the planned noise upon the public.

Sound level meter means a battery-powered device containing a measurement microphone and additional electronic circuitry for transduction and quantification of sound pressure levels as propagated in an air medium. Any sound level meter applied for the purposes of this article shall meet the requirements of the latest version of ANSI S1.4, comprising either a Type 1 or Type 2 meter, and perform in accordance with all specifications of Attachment A of the Virginia Department of General Services, Division of Purchases and Supply Directive 2014-12-06 for "Datalogging Sound Meter Device," as may be amended from time to time.

#### **Sec. 24-33. - ~~Loud~~ Noises prohibited.**

It shall be unlawful for any person or owner to:

- (1) ~~Use, operate or play a radio, phonograph, television, record, compact disc or tape player, musical instrument, loudspeaker, sound amplifying equipment or other machine or device capable of producing or reproducing sound in such a manner or with such volume or duration that it is plainly audible:~~
- ~~a. Inside the confines of the dwelling unit, house or apartment of another person; or~~
  - ~~b. At a distance of 50 feet or more from the device, except for devices permitted to be used at public parks or recreation fields, sporting events, school-sponsored activities on school grounds, or duly authorized parades, public functions or commemorative events.~~

Authorize, permit, operate, or cause any source of sound to produce sound that is plainly audible in another person's enclosed dwelling unit; or, that exceeds the sound pressure levels during the time periods specified in Table 1 when measured on the Slow response of a sound level meter at any point located on the property of another person.

Table 1. Maximum Permissible Sound Pressure Levels

<u><b>Sound Receiving Zoning District</b></u>	<u><b>Outdoor Sound Level Limit in dB(A)</b></u>	
	<u>Day Period: 7:00 am-10:00 pm</u>	<u>Night Period: 10:00 pm-7:00 am</u>
<u>Agricultural-A, Residential-R-1A, R-1, R-2, R-3, R-MS, and Mixed-Use-MU-1, MU-2</u>	<u>65 dB(A)</u>	<u>55 dB(A)</u>
<u>Business-B-1, B-2, B-3</u>	<u>65 dB(A)</u>	<u>65 dB(A)</u>

- (i) On Friday and Saturday nights only, the Night Period shall begin at 11:00 pm instead of 10:00 pm.

(ii) Outdoor sounds that are audibly apparent to have a low-frequency emphasis (e.g., bass frequencies) may also be measured with sound level meter set on dB(C) scale, Fast response. The resultant dB(C) measurements shall not exceed the dB(A) values of Table 1 by more than 5 decibels in any sound receiving zoning district for the specified time period.

~~(2) Allow noise between the hours of 10:00 p.m. and 7:00 a.m. that is plainly audible either inside the confines of the dwelling unit, house or apartment of another person or at a distance of 50 feet or more.~~

~~(32) Allow any animal (except farm animals in agricultural districts) to create noise that it is plainly audible at least once a minute for ten consecutive minutes:~~

~~a. Inside the confines of the dwelling unit, house, or apartment of another; or~~

~~b. At a distance of 50 feet or more from the animal.~~

Permit or cause one or more animals to make continuous, intermittent, or repetitive sound for more than five consecutive minutes that is plainly audible inside the enclosed dwelling unit of another person; or, that exceeds the sound pressure levels specified in Table 1 when measured either on Slow or Fast response of a sound level meter at any point located on the property of another person.

~~This provision shall not apply if the noise is due to harassment of or injury to the animal, or due to a trespass upon the premises where the animal is located.~~

This provision shall not apply if a law enforcement officer witnesses harassment of or injury to the animal, or if the noise is due to a trespass upon the premises where the animal is located.

~~(4) Operate, install, have or permit on the inside or outside of any store, shop, business establishment, warehouse or commercial building, any loudspeaker, sound amplifying equipment or other sound producing or reproducing device capable of emitting music, noise, sounds, tapes or voice in such manner that it is plainly audible on any public sidewalk or street, unless it is used only intermittently for announcing or paging an individual or unless it signals the ringing of a telephone, danger from smoke, a fire or a burglary or the beginning or stopping of work or school, or unless it is operated in accordance with conditions of zoning.~~

~~(53) Play, or permit the playing of, any sound producing equipment (i.e. radio, stereo, tape player, compact disc player, loud speaker, sound-amplifying equipment or other electronic device or mechanical equipment used for the amplification of sound), within a motor vehicle and which that is plainly audible from outside the motor vehicle at a distance of 50 feet or more from the vehicle. This provision shall not apply to sirens, loud speakers and emergency communications radios in public safety vehicles; nor shall this provision apply to motor vehicle alarms or other security devices within another person's enclosed vehicle; or, plainly audible within the enclosed dwelling unit of another person.~~

- ~~(6) Create plainly audible noise in residential areas between 10:00 p.m. and 7:00 a.m. in connection with the loading and unloading of refuse, waste or recycling.~~
- ~~(7) Create plainly audible noise in residential areas between 10:00 p.m. and 7:00 a.m. in connection with lawn care, leaf removal, gardening, tree maintenance or tree removal, and other landscaping, lawn or timbering activities.~~
- ~~(8) Operate, or cause to be operated, any equipment used on an active site in the construction, repair, alteration or demolition of buildings, streets, roads, alleys or appurtenances thereto between the hours of 10:00 p.m. and 7:00 a.m. The use of construction vehicles as transportation to and from an active construction site may be done at any time.~~
- ~~(9) Repair, rebuild or modify any motor vehicle or other mechanical equipment or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at a distance of 50 feet or more from the source.~~
- ~~(10) Fail to deactivate an alarm system plainly audible at a distance of 50 feet or more from such alarm in the dwelling unit of another person within 30 minutes of hearing the alarm or receiving notice of the alarm's activation.~~

#### **Sec. 24-34. - Exemptions from this article.**

The following specific activities or sources of noise shall be exempt from the regulations set forth in this article:

- ~~(1) Sounds generated in business, industrial and mixed use zoning districts that are necessary and incidental to the uses permitted therein.~~
- ~~(2) Sounds generated from any agricultural activity or agribusiness.~~
- ~~(3)(1) Activities or land use for which a special event permit or conditional use permit has been issued or an exception has been granted by the town council so long as the noise produced is in compliance with the conditions listed in the special event or conditional use permit;~~
- ~~(4)(2) Activities for which the regulation of noise has been preempted by federal law, exempted by state law, or which the town has no authority to regulate;~~
- ~~(5)(3) Sounds emitted in the performance of emergency work or for the purpose of alerting persons to the existence of an emergency;~~
- ~~(6) Sounds generated by the performance of any governmental function.~~
- ~~(7)(4) Lawful activities on, or in, public and school athletic governmental and school facilities; and~~
- ~~(8) Activities which are part of any town or state sponsored festival or activity.~~
- ~~(9) Military activities of the Commonwealth of Virginia or of the United States of America.~~
- ~~(10) Religious services, religious events or religious activities or expressions, including, but not limited to, music, singing, bells, chimes and organs, that are a part of such service, event, activity or expression.~~
- ~~(11) Religious or political gatherings and other activities~~

- (5) Activities within a public forum protected by the First Amendment to the United States Constitution.
- (6) Mechanical equipment such as heat pumps, air conditioners, furnaces, pool pumps, and emergency generators, operated in accordance with the manufacturer's specifications;
- (7) Activities related to construction, repair, remodeling, grading, demolition, or other improvement to real property between the hours of 7:00 AM and 10:00 PM PM.
- (8) Operation of lawn and landscaping equipment between the hours of 7:00 AM and 10:00 PM.
- ~~(12) Sounds generated from or incidental to emergency repairs to public and private utilities.~~
- ~~(13) Sounds generated from or incidental to any emergency public works function.~~
- ~~(14) Sounds generated from construction and maintenance to public roads, highways and bridges.~~
- ~~(15) Sounds generated from erosion and sediment mitigation.~~
- ~~(16) Sounds generated from airplanes and trains.~~

#### **Sec. 24-35. - Penalties.**

(a) Any person violating any of the provisions of this article shall be subject to the following civil penalties:

- (1) For the first offense, ~~either imprisonment of not more than ten days or a fine of not less than \$75~~250.00.
- (2) For the second offense ~~within 12 months of a previous conviction, either imprisonment of not more than ten days or a fine between \$250.00 and \$750.00.~~
- (3) ~~For the third offense within 24 months of a previous conviction, either imprisonment of not more than ten days or a fine between \$500.00 and \$1,000.00.~~
- (4) ~~For the fourth or and each subsequent offense within 24 months of a previous conviction, the person shall be guilty of a Class 1 misdemeanor~~a fine of \$500.00.

(b) Each separate act on the part of the person violating this article shall be deemed a separate offense subject to a separate fine, and each day a violation is permitted to continue unabated shall constitute a separate offense.

(c) The person ~~operating or controlling a~~ creating, controlling, or allowing the noise source shall be ~~guilty of any violation caused by that source~~subject to the civil penalty. If that person cannot be determined, any owner, tenant, or resident ~~physically present in, or on, of the~~ property where the violation is occurring is rebuttably presumed to be ~~guilty of the violation~~the violator and shall be subject to the civil penalty.



(d) Any person summoned or issued a ticket for a noise violation may make an appearance in person or in writing by mail to the department of finance of the town prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil fine established herein.

~~(de)~~ In addition to, and not in lieu of, the ~~criminal~~civil 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 the town may seek any other remedy or relief authorized by law.

**Sec. 24-36. -~~Undue hardship waiver~~Reserved.**

~~(a) Any person responsible for a noise source may apply to the town manager or town designee for a waiver, or partial waiver, from the provisions of this article. The town manager or town designee may grant such waiver, or partial waiver, upon a finding that any of the following circumstances exists:~~

- ~~(1) The noise does not endanger the public health, safety or welfare; or~~
- ~~(2) Compliance with the provisions of this article from which a waiver is sought would produce serious economic hardship without producing substantial benefit to the public.~~

~~(b) In determining whether to grant such waiver, the town manager or town designee shall consider the time of day the noise will occur, the duration of the noise, whether the noise is intermittent or continuous, the technical and economic feasibility of bringing the noise into conformance with this article, 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 article.~~

~~(c) No waiver, or partial waiver, issued pursuant to this article shall be granted for a period to exceed one year, but any such waiver, or partial waiver, may be renewed for successive like periods if the town manager or town designee shall find such renewal is justified pursuant to the standards set forth in this article. No renewal shall be granted except upon written application therefor.~~

**Sec. 24-37. – Other remedies; severability; enforcement.**

(a) No provision of this article shall be construed to impair any common law or statutory cause of action or legal remedy of any person for injury or damage to person or property arising from violation of this article or arising from noise that either is exempted or does not violate this article. In addition to the civil penalties in this article, the town may seek an injunction to enjoin any person from continuing to violate this ordinance.

(b) In the event that any portion of this article is declared unconstitutional, invalid, or unenforceable for any reason, such declaration shall not affect the validity or enforceability of any other provision in this article.

(c) The provisions of this article are cumulative and not exclusive and shall supplement and be in addition to any noise standards that may be adopted as part of the zoning ordinance of the Town of Christiansburg.

(d) Sound level measurements shall be made with a sound level meter that meets or exceeds the standards for such equipment as established by the Code of Virginia and any regulations promulgated thereunder. The results obtained by use of such equipment shall be accepted as prima facie evidence of the decibel level of the sound in any court or legal proceeding where the decibel level of the sound is at issue. If any question arises concerning the calibration or accuracy of such equipment used to determine the decibel level of sound, a certificate, or a true copy thereof, showing the calibration or testing for accuracy of the equipment, and when and by whom the test was made, shall be admissible as evidence of the facts stated therein. The calibration or testing of such equipment shall be valid for twelve (12) months.

This ordinance shall take effect upon adoption.

Upon a call for an aye and nay vote on the foregoing ordinance at a regular meeting of the Council of the Town of Christiansburg, Virginia held April 24, 2018, the members of the Council of the Town of Christiansburg, Virginia, present throughout all deliberations on the foregoing and voting or abstaining, stood as indicated opposite their names as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Mayor D. Michael Barber*				
Samuel M. Bishop				
Harry Collins				
Steve Huppert				
Merissa Sachs				
Henry D. Showalter				
Bradford J. Stipes				

\*Votes only in the event of a tie vote by Council.

SEAL:

---

Michele M. Stipes, Town Clerk

---

D. Michael Barber, Mayor

## **MODEL NOISE CONTROL ORDINANCE**

This model is provided by the NJ Department of Environmental Protection (Department) as guidance for municipalities to follow when adopting a noise control ordinance pursuant to the State's Noise Control Act and seeking to establish specific decibel standards to control noise. All such ordinances must be submitted for written approval to the Department, including an ordinance that is based entirely on the model ordinance provided below.

For assistance, please contact the Department's Office of Local Environmental Management at (609) 292-1305.

### **Procedures for Written Approval by the Department:**

- (A) A governing body of a municipality may adopt this model ordinance without change. Changes in formatting, numbering, or any other changes of this type shall not be considered significant changes. Within 30 days after a municipality adopts this ordinance, the municipality shall submit it to the Department, with a certification signed by the Township Clerk, Borough Manager or Administrator. The certification shall state:

I certify that {insert name of municipality} has adopted the Model Noise Control Ordinance without change(s). I further certify that if this statement is willfully false, I am subject to a penalty.

This ordinance shall be approved in writing upon submission by a municipality to the Department, of the fully executed certification and duly adopted noise ordinance. In addition, in the event that a regional or county health agency is identified as the authorized enforcement agency for the purpose of enforcing this ordinance when adopted by a municipality, written consent of the regional or a county health agency must be obtained, affixed to the ordinance and made a part thereof noise ordinances shall be submitted to:

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
COMPLIANCE & ENFORCEMENT  
BUREAU OF LOCAL ENVIRONMENTAL MANAGEMENT  
401 EAST STATE STREET  
4<sup>TH</sup> FLOOR EAST WING  
MAIL CODE 401-04N  
P.O. BOX 420  
TRENTON, NEW JERSEY 08625-0420

- (B) If a governing body of a municipality wants to change any provision(s) of this model ordinance such as hours of operation as it applies to subsequent sections, or wants to develop a noise ordinance that is not based on the model, the entire noise control ordinance including the proposed change(s) shall be submitted to the Department for review and approval, prior to adoption. The Department will review such noise ordinances to determine consistency with the statewide scheme for noise control and whether the ordinance is more stringent than the State's noise code, in accordance with the Noise Control Act.

If the Department approves the change(s), the municipality shall submit a copy of the duly adopted ordinance to the CEHA agency governing its region, if one exists.

If the Department disapproves the change(s), the ordinance shall be returned to the municipality and shall be considered disapproved, meaning that the municipality cannot enforce it.

- (C) The Department reserves the right to review, at any time, a noise control ordinance adopted by a municipality.

**The model noise ordinance follows:**

## **MODEL NOISE ORDINANCE**

### **I. Declaration of Findings and Policy**

WHEREAS excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and, WHEREAS a substantial body of science and technology exists by which excessive sound may be substantially abated; and, WHEREAS the people have a right to, and should be ensured of, an environment free from excessive sound,

Now THEREFORE, it is the policy of {insert name of municipality} to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

This ordinance shall apply to the control of sound originating from sources within {insert name of municipality}.

### **II. Definitions**

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this ordinance have the same meaning as those defined in N.J.A.C. 7:29.

"Construction" means any site preparation, assembly, erection, repair, alteration or similar action of buildings or structures.

"dBC" means the sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

"Demolition" means any dismantling, destruction or removal of buildings, structures, or roadways.

"Department" means the New Jersey Department of Environmental Protection.

"Emergency work" means any work or action necessary at the site of an emergency to restore or deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions or a state of emergency declared by a governing agency.

"Impulsive sound" means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

“Minor Violation” means a violation that is not the result of the purposeful, reckless or criminally negligent conduct of the alleged violator; and/or the activity or condition constituting the violation has not been the subject of an enforcement action by any authorized local, county or state enforcement agency against the violator within the immediately preceding 12 months for the same or substantially similar violation.

"Motor vehicle" means any vehicle that is propelled other than by human or animal power on land.

"Muffler" means a properly functioning sound dissipative device or system for abating the sound on engines or equipment where such device is part of the normal configuration of the equipment.

"Multi-dwelling unit building" means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

"Multi-use property" means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
2. A building, which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

"Noise Control Officer" (NCO) means an employee of a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities or an employee of a municipality with a Department-approved model noise control ordinance. All NCOs must receive noise enforcement training as specified by the Department in N.J.A.C. 7:29 and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

“Noise Control Investigator” (NCI) means an employee of a municipality, county or regional health commission that has a Department-approved model noise control ordinance and the employee has not received noise enforcement training as specified by the Department in N.J.A.C. 7:29. However, they are knowledgeable about their model noise ordinance and enforcement procedures. A Noise Control Investigator may only enforce sections of the ordinance that do not require the use of a sound level meter. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

"Plainly audible" means any sound that can be detected by a NCO or an NCI using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The NCO or NCI need not determine the title, specific words, or the artist performing the song.

"Private right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or

easement that is owned, leased, or controlled by a non-governmental entity.

"Public right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

"Public space" means any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

"Real property line" means either (a) the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit). Note- this definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

"Sound production device" means any device whose primary function is the production of sound, including, but not limited to any, musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

"Sound reduction device" means any device, such as a muffler, baffle, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

"Weekday" means any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

"Weekends" means beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

### **III. Applicability**

(A) This model noise ordinance applies to sound from the following property categories:

1. Industrial facilities;
2. Commercial facilities;
3. Public service facilities;
4. Community service facilities;
5. Residential properties;
6. Multi-use properties;
7. Public and private right-of-ways;
8. Public spaces; and
9. Multi-dwelling unit buildings.

(B) This model noise ordinance applies to sound received at the following property categories:

1. Commercial facilities;
2. Public service facilities;
3. Community service facilities (i.e. non-profits and/or religious facilities)
4. Residential properties;
5. Multi-use properties;
6. Multi-dwelling unit buildings.

- (C) Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.4, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

#### **IV. Exemptions**

- (A) Except as provided in IX. and X. below, the provisions of this ordinance shall not apply to the exceptions listed at N.J.A.C. 7:29-1.5.
- (B) Sound production devices required or sanctioned under the Americans with Disabilities Act (ADA), FEMA or other government agencies to the extent that they comply with the noise requirement of the enabling legislation or regulation. Devices which are exempted under N.J.A.C. 7:29-1.5 shall continue to be exempted.
- (C) Construction and demolition activities are exempt from the sound level limits set forth in tables I and II and III except as provided for in IX. below.

#### **V. Enforcement Officers**

- (A) Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance and pursue enforcement activities.
- (B) Noise Control Investigators shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance that do not require the use of a sound level meter (i.e., plainly audible, times of day and/or distance determinations) and pursue enforcement activities.
- (C) Noise Control Officers and Investigators may cooperate with NCOs and NCIs of an adjacent municipality in enforcing one another's municipal noise ordinances.

#### **VI. Measurement Protocols**

- (A) Sound measurements made by a Noise Control Officer shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound level measurements shall also conform with the procedures set forth in VIB of this ordinance and with the definition of "real property line" as contained herein.
- (B) When conducting indoor sound level measurements across a real property line the measurements shall be taken at least three feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. The neighborhood

residual sound level shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound level, the configuration of the windows and doors shall be the same and all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

## VII. Maximum Permissible Sound Levels

(A) No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in III.(A) above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I, II or III when measured at or within the real property line of any of the receiving properties listed in Tables I, II or III except as specified in VI(B).

(B) Impulsive Sound

Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as continuous sound and shall meet the requirements as shown in Tables I and II.

**TABLE I  
MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS  
WHEN MEASURED OUTDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours
Maximum A- Weighted sound level standard, dB	65	50	65



**TABLE II**  
**MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS**  
**WHEN MEASURED INDOORS**

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility or non- residential portion of a multi-use property
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 Hours
Maximum A- Weighted sound level standard, dB	55	40	55

Note: Table II shall only apply when the source and the receptor are separated by a real property line and they also share a common or abutting wall, floor or ceiling, or are on the same parcel of property.

**TABLE III**  
**MAXIMUM PERMISSIBLE OCTAVE BAND**  
**SOUND PRESSURE LEVELS IN DECIBELS**

Receiving Property Category	Residential property, or residential portion of a multi-use property		Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non- residential portion of a multi-use property, or community service facility	Commercial facility or non-residential portion of a multi- use property
	OUTDOORS		INDOORS		OUTDOORS	INDOORS
Octave Band Center Frequency, Hz.	Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB
Time	7 a.m.-10 p.m.	10 p.m.-7 a.m.	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours	24 hours
31.5	96	86	86	76	96	86
63	82	71	72	61	82	72
125	74	61	64	51	74	64
250	67	53	57	43	67	57

500	63	48	53	38	63	53
1,000	60	45	50	35	60	50
2,000	57	42	47	32	57	47
4,000	55	40	45	30	55	45
8,000	53	38	43	28	53	43

Note: When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus 2 dB in the bands containing the principal source frequencies, discontinue the measurement.

### **VIII. Sound Production Devices**

No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Table IV when measured within the residence of a complainant according to the measurement protocol in VI(B) of this ordinance. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response.

**TABLE IV  
MAXIMUM PERMISSIBLE INCREASE IN TOTAL SOUND LEVELS  
WITHIN A RESIDENTIAL PROPERTY**

Week nights 10:00 p.m. - 7:00 a.m. Weekend nights 11:00 p.m and 9:00 a.m.	All other times
3 dB(C)	6 dB(C)

### **IX. Restricted Uses and Activities**

**Note: This section is optional; any numbered paragraph may be adopted in its entirety.**

The following standards shall apply to the activities or sources of sound set forth below:

- A. Excluding emergency work, power tools, home maintenance tools, landscaping and/or yard maintenance equipment used by a residential property owner or tenant shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.
- B. Excluding emergency work, power tools, landscaping and/or yard maintenance equipment

used by nonresidential operators (e.g. commercial operators, public employees) shall not be operated on a residential, commercial, industrial or public (e.g. golf course, parks, athletic fields) property between the hours of 6:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.

- C. All construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device.
- D. Motorized snow removal equipment shall be operated with a muffler and/or a sound reduction device when being used for snow removal. At all other times the limits set forth in Tables I, II or III do not apply.
- E. All interior and exterior burglar alarms of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne sound and fifteen (15) minutes for intermittent sound after it has been activated. At all other times the limits set forth in Tables I, II or III do not apply.
- F. Self-contained, portable, non-vehicular music or sound production devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound, operated on a public space or public right-of-way, from such equipment shall not be plainly audible at a distance of 25 feet in any direction from the operator;
- G. It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a Noise Control Officer or Noise Control Investigator. Prima facie evidence of a violation of this section shall include but not be limited to:
  - (1) Vocalizing (howling, yelping, barking, squawking etc.) for five (5) minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or,
  - (2) Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

## **X. Motor Vehicles**

**Note: This section is optional; any numbered paragraph may be adopted in its entirety.**

Violations of each paragraph of this section shall be considered purposeful and therefore non-minor violations.

- (A) No person shall remove or render inoperative, or cause to be removed or rendered inoperative or less effective than originally equipped, other than for the purposes of maintenance, repair, or replacement, of any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so modified. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated stationary or in motion in any public space or public right-of-way.
- (B) No motorcycle shall be operated stationary or in motion unless it has a muffler that complies with and is labeled in accordance with the Federal Noise Regulations under 40 CFR Part 205.
- (C) Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at distance of 25 feet in any direction from the operator between the hours of 10:00 p.m. and 8:00 a.m.
- (D) Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.

## **XI. Enforcement**

- (A) Violation of any provision of this ordinance shall be cause for a Notice of Violation (NOV) or a Notice of Penalty Assessment (NOPA) document to be issued to the violator by the Noise Control Officer or Noise Control Investigator.
- (B) Any person who violates any provision of this ordinance shall be subject to a civil penalty for each offense of not more than the maximum penalty pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.
- (C) Upon identification of a violation of this Ordinance the Noise Control Officer or Noise Control Investigator shall issue an enforcement document to the violator. The enforcement document shall identify the condition or activity that constitutes the violation and the specific provision of this Ordinance that has been violated. It shall also indicate whether the violator has a period of time to correct the violation before a penalty is sought.
- (D) If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a minor violation (as defined in Section II of this ordinance) a NOV shall be issued to the violator.
  - 1. The document shall indicate that the purpose of the NOV is intended to serve as a notice to warn the responsible party/violator of the violation conditions in order to

provide them with an opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation.

2. The NOV shall identify the time period (up to 90 days), pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq. where the responsible party's/violator's voluntary action can prevent a formal enforcement action with penalties issued by the (Health Department) \_\_\_\_\_. It shall be noted that the NOV does not constitute a formal enforcement action, a final agency action or a final legal determination that a violation has occurred. Therefore, the NOV may not be appealed or contested.
- (E) If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a non-minor violation, the violator shall be notified that if the violation is not immediately corrected, a NOPA with a civil penalty of not more than the maximum penalty allowed pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014, will be issued. If a non-minor violation is immediately corrected, a NOV without a civil penalty shall still be issued to document the violation. If the violation occurs again (within 12 months of the initial violation) a NOPA shall be issued regardless of whether the violation is immediately corrected or not.
- (F) The violator may request from the Noise Control Officer or Noise Control Investigator, an extension of the compliance deadline in the enforcement action. The Noise Control Officer or Noise Control Investigator shall have the option to approve any reasonable request for an extension (not to exceed 180 days) if the violator can demonstrate that a good faith effort has been made to achieve compliance. If an extension is not granted and the violation continues to exist after the grace period ends, a NOPA shall be issued.
- (G) The recipient of a NOPA shall be entitled to a hearing in a municipal court having jurisdiction to contest such action.
- (H) The Noise Control Officer or Noise Control Investigator may seek injunctive relief if the responsible party does not remediate the violation within the period of time specified in the NOPA issued.
- (I) Any claim for a civil penalty may be compromised and settled based on the following factors:
1. Mitigating or any other extenuating circumstances;
  2. The timely implementation by the violator of measures which lead to compliance;
  3. The conduct of the violator; and
  4. The compliance history of the violator.

## **XII. Consistency, Severability and Repealer**

- (A) If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

December 2014

- (B) All ordinances or parts of ordinances, which are inconsistent with any provisions of this ordinance, are hereby repealed as to the extent of such inconsistencies.
- (C) No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.

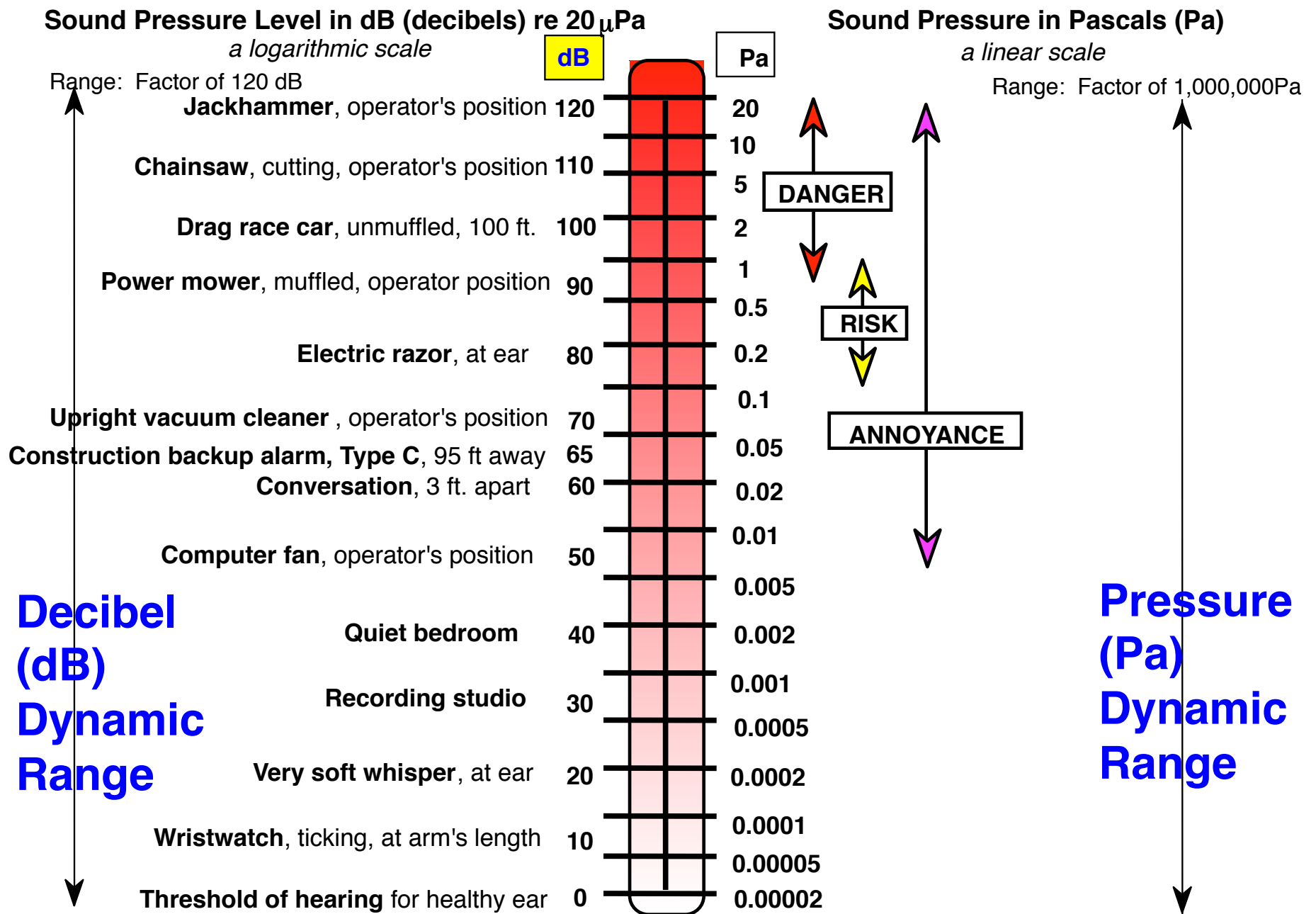


Table: Noise Ordinance Comparison --- 3/29/18		
<i>Virginia Cities/Towns</i>	<i>Population</i>	<i>Relevant Code Sections</i>
<b>Blacksburg</b>	~43,973	<p>Sec. 13-103. –Same-Specific prohibitions. Subject to the exceptions provided in <a href="#">section 13-104</a>, any of the following acts, or the causing or permitting thereof, is declared to be excessive noise, constituting a class 2 misdemeanor and a public nuisance:</p> <p>(1) <i>Radios, television sets, musical instruments, loud speakers and other sound amplification devices.</i> Operating, playing, using or permitting the operation or use of any radio, television, or music player, drum, musical instrument, loud speaker, sound amplifier or other device capable of producing or reproducing sound:</p> <p>a. In such a manner as to be plainly audible across a residential real property boundary or through partitions common to two (2) dwelling units within a building; or</p> <p>b. In such a manner as to be plainly audible at a distance of fifty (50) feet or more from the building in which it is located; or</p> <p>c. When the sound is plainly audible at a distance of fifty (50) feet or more from its source.</p>
<b>Culpeper (town)</b>	~17,500	<p>Sec. 13-3. - Prohibited generally. It shall be a class 3 misdemeanor and a public nuisance for any person to willfully make, permit, continue or cause to be made, permitted or continued any <i>noise</i> disturbance, except as permitted by <a href="#">section 13-5</a>, below. Any of the following circumstances constitutes a <i>noise</i> disturbance:</p> <p>(1) Sound audible inside any dwelling on a parcel other than the parcel where the sound originates, except between the hours of 7:00 a.m. through 8:00 p.m. Monday through Saturday and 9:00 a.m. to 5:00 p.m. on Sundays.</p>



*NOISE ORDINANCE COMPARISON – DRAFT – 3/29/18*

<b>Floyd (town)</b>	~450	<p>Section 9-5. Same-Permit for use for commercial purposes.</p> <p>(a) No person shall operate or cause to be operated any sound amplifying equipment in or over the town for commercial advertising purposes, unless a permit has been obtained from the town clerk. (b) Persons applying for a permit under this section shall file with the town clerk an application, in writing, giving the information required in the application referred to in section 9-4(a).</p> <p>(c) Upon receipt of an application for a permit under this section, the town clerk shall refer the same to the town council for its approval or disapproval. The council shall not approve the application, if it reveals that the applicant would violate the regulations prescribed in section 9-6 or the provisions of some other chapter of this Code or other ordinance of the town, or if the applicant has not obtained any license required by the license ordinance.</p> <p>(d) Upon approval by the town council of the application for a permit under this section, the town clerk shall issue the permit. The permittee shall keep such permit in his possession in the sound truck or in the aircraft during the time the sound-amplifying equipment is in operation. The permit shall be promptly displayed and shown to any policeman of the town upon request.</p> <p>Section 9-6. Same-Use regulations.</p> <p>The use of sound-amplifying equipment registered under section 9-4 or for which a permit has been issued under section 9-5 in or over the town shall be subject to the following regulations:</p> <p>(1) The only sound permitted is music and human speech.</p> <p>(2) Operations are permitted for seven (7) hours each day, except Sundays and legal holidays, when no operations shall be authorized. The permitted seven (7) hours of operation shall be between the hours of 10:30 a.m. and 5:30 p.m.</p>												
<b>Front Royal</b>	~15,000	<p>Sec 106-9 Maximum Permissible Sound Levels from Noise Sources</p> <p>It shall be unlawful for any person to operate, or permit to be operated, any noise source in such a manner that the noise source emits a sound pressure level which exceeds the limits set forth below when measured on property other than that on which the noise source is located.</p> <table data-bbox="554 1166 1772 1393"> <thead> <tr> <th>Land Use Designation Where Noise is Measured.</th><th>Maximum Allowed Noise in Daytime (in dBA)</th><th>Maximum Allowed Noise in Nighttime (in dBA)</th></tr> </thead> <tbody> <tr> <td>Agricultural &amp; Residential Zones, A-1,R-1,R1-A,R-2,R-3</td><td>60</td><td>50</td></tr> <tr> <td>Commercial Zones C-1, C-2, C-3</td><td>70</td><td>65</td></tr> <tr> <td>Industrial Zones 1-1,1-2</td><td>80</td><td>80</td></tr> </tbody> </table> <p>*Definition – Nighttime - The local time between the hours of 10:00 P.M. and 7:00 A.M.</p>	Land Use Designation Where Noise is Measured.	Maximum Allowed Noise in Daytime (in dBA)	Maximum Allowed Noise in Nighttime (in dBA)	Agricultural & Residential Zones, A-1,R-1,R1-A,R-2,R-3	60	50	Commercial Zones C-1, C-2, C-3	70	65	Industrial Zones 1-1,1-2	80	80
Land Use Designation Where Noise is Measured.	Maximum Allowed Noise in Daytime (in dBA)	Maximum Allowed Noise in Nighttime (in dBA)												
Agricultural & Residential Zones, A-1,R-1,R1-A,R-2,R-3	60	50												
Commercial Zones C-1, C-2, C-3	70	65												
Industrial Zones 1-1,1-2	80	80												

<p><b>Montgomery County</b></p>	<p>~98,559</p>	<p>Sec. 7-80. – Maximum permissible sound pressure levels. 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 below 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 (1) zoning district classification, the limits of the most restrictive classification shall apply:</p> <table border="1" data-bbox="541 418 1892 849"> <tr> <th data-bbox="541 418 1535 513"></th><th colspan="2" data-bbox="1535 418 1707 513"><i>Sound Level Limit dB(A)</i></th></tr> <tr> <th data-bbox="541 513 1535 626"><i>Receiving Land Use</i></th><th data-bbox="1535 513 1707 626"><i>7:00 a.m.— 10:00 p.m.</i></th><th data-bbox="1707 513 1892 626"><i>10:00 p.m.— 7:00 a.m.</i></th></tr> <tr> <td data-bbox="541 626 1535 699">C-1, Residential and Agricultural Zones, A-1, A-2, R-1, R-2, R-3, RM-1, PD-R, PMR</td><td data-bbox="1535 626 1707 699">57</td><td data-bbox="1707 626 1892 699">52</td></tr> <tr> <td data-bbox="541 699 1535 773">Business-Zones GB, CB</td><td data-bbox="1535 699 1707 773">67</td><td data-bbox="1707 699 1892 773">62</td></tr> <tr> <td data-bbox="541 773 1535 849">Industrial-Zone M-1</td><td data-bbox="1535 773 1707 849">77</td><td data-bbox="1707 773 1892 849">77</td></tr> </table>		<i>Sound Level Limit dB(A)</i>		<i>Receiving Land Use</i>	<i>7:00 a.m.— 10:00 p.m.</i>	<i>10:00 p.m.— 7:00 a.m.</i>	C-1, Residential and Agricultural Zones, A-1, A-2, R-1, R-2, R-3, RM-1, PD-R, PMR	57	52	Business-Zones GB, CB	67	62	Industrial-Zone M-1	77	77
	<i>Sound Level Limit dB(A)</i>																
<i>Receiving Land Use</i>	<i>7:00 a.m.— 10:00 p.m.</i>	<i>10:00 p.m.— 7:00 a.m.</i>															
C-1, Residential and Agricultural Zones, A-1, A-2, R-1, R-2, R-3, RM-1, PD-R, PMR	57	52															
Business-Zones GB, CB	67	62															
Industrial-Zone M-1	77	77															
<p><b>Radford</b></p>	<p>~17,500</p>	<p>Sound amplifiers. The commercial and noncommercial use of sound amplifying equipment shall be subject to the following regulations:</p> <ul style="list-style-type: none"> <li>a. The sound amplifying equipment shall be operated between the hours of 10:00 a.m. and 6:00 p.m. of each day.</li> <li>b. The maximum sound emanating from sound amplifying equipment shall not exceed a sound pressure level at the approximate boundary of the property line or the boundary of a public way of 40 decibels when measured four feet above the immediate surface area on the A scale, or plainly audible at such a point if no metering equipment is used, in any residential or multifamily zone in the city, or 60 decibels in any commercial or business zone. When an amplifier <i>noise</i> source can be identified and its <i>noise</i> measured in more than one district, the sound pressure level limits of the most restrictive district shall apply.</li> <li>c. In any event, the intensity of sound shall be so controlled that it will not be unreasonably loud, raucous, annoying, disturbing or a nuisance to any person.</li> </ul>															

NOISE ORDINANCE COMPARISON – DRAFT – 3/29/18

<p><b>Salem</b></p>	<p>~25,500</p>	<p>Sec. 30-2. - Loudspeakers, etc.—Permit.</p> <p>(a) It shall be unlawful for any person to use, operate or control, or cause to be used, operated or controlled, any loudspeaker or other mechanical device, apparatus, machine or instrument of any nature or kind whatsoever whereby the human voice or music is intensified or amplified, unless he shall first have obtained a permit for such use, operation or control from the chief of police. Any person desiring such a permit shall file an application therefor with the chief of police.</p> <p>(b) Upon the filing of an application for permit under subsection (a), and the completion of any investigation he may deem requisite, the chief of police shall, if it appears to him that <a href="#">section 30-1</a> will not be violated, issue the permit in question, subject to such terms and conditions as he may impose.</p> <p>Sec. 30-3. - Same—Manner of use, etc.</p> <p>It shall be unlawful for any person to use, operate or control, or to cause to be used, operated or controlled, any loudspeaker or other mechanical device, apparatus, machine or instrument of any nature or kind whatsoever whereby the human voice or music is intensified or amplified in such manner as to produce, make, create or give rise to any sound or <i>noise</i>, in any public or private place, of such a character and kind as to disturb any citizen of the city in the reasonable use and enjoyment of his property or property rights or to cause any person of ordinary sensibilities any actual physical discomfort.</p>
<p><b>Winchester</b></p>	<p>~27,932</p>	<p>Sec. 17-6. – Noises prohibited – Enumeration. The following acts shall be unlawful:</p> <p>(2) To play, operate, 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 such that it exceeds the greater of:</p> <p>a. Eighty dBA measured 50 feet from its source, or 65 dBA when measured inside any business or office receiving the sound during operating hours, said measurement being taken at least four feet from the wall nearest the source, with doors and windows to the receiving area closed; or</p> <p>b. Ten dBA greater than the ambient noise level, when measured as in subsection (a) above.</p> <p>(4) To permit, operate or cause any source of sound to create a sound level in another person's residential dwelling in excess of 65 dBA when measured inside the receiving structure at least four feet from the wall nearest the source, with doors and windows to the receiving area closed.</p> <p>Sec. 17-7. - Maximum nighttime sound levels in residential zones.</p> <p>No person shall operate or cause any source of sound in such a manner as to create a sound level in a residential zone during the hours between 10:00 p.m. and 6:00 a.m. in excess of 60 dBA when measured at the property boundary of the</p>

		<p>receiving land. The foregoing shall not be deemed to include sound generation from any bona fide agricultural activity, including noise caused by livestock.</p> <p>Sec. 17-7.1. - Maximum sound levels for properties zoned B-1 and B-2 during specified hours.</p> <p>(a) Notwithstanding any other provision of this Chapter, except as excluded pursuant to Section 17-10, between the hours of 6:00 p.m. and 11:59 p.m. Monday through Thursday, and 6:00 p.m. through 1:30 a.m. Friday through Saturday night/Sunday morning it shall be unlawful for any person or business to cause or intentionally allow to be created which creates a sound level in another person's residential dwelling or business during hours in which said business is open in excess of 65 dBA when measured inside the receiving structure at least four feet from the wall nearest the source, with doors and windows to the receiving area closed.</p> <p>(b) Except as defined in paragraph (a), the provisions of Section 17-6 shall apply.</p> <p>(c) Nothing in this Section shall be construed as an exemption from the provisions identified in Section 17-6(1) or (3).</p>
--	--	--

## ARTICLE I. - IN GENERAL

## Sec. 7-1. - County officers and employees—Interfering with, etc.

No person shall carelessly or willfully interfere with, hinder or obstruct any officer or employee of the county who is engaged in, en route to or returning from the performance of his official duty, whether such interference, hindrance or obstruction be by threat, assault or otherwise.

(Code 1975, § 11-1)

**State Law reference—** Obstructing justice by threats or force, Code of Virginia, § 18.2-460; refusal to aid officer in execution of his office, Code of Virginia, § 18.2-463.

## Sec. 7-2. - Same—Impersonation of.

No person shall falsely represent himself to be an officer or employee of the county or, without proper authority, wear or display any uniform, insignia or credential which identifies any county officer or employee; nor shall any person without proper authority assume to act as an officer or employee of the county, whether to gain access to premises, obtain information, perpetuate a fraud or for any other purpose, provided that nothing in this section shall be construed to prevent a private citizen from making a lawful citizen's arrest for a felony or breach of the peace committed in his presence.

(Code 1975, § 11-2)

**State Law reference—** Impersonating peace officer, Code of Virginia, § 18.2-174; unlawful wearing of officer's uniform or insignia, unlawful use of vehicle with word "police" shown thereon, Code of Virginia, § 18.2-175; arrest, Code of Virginia, § 19.2-71 et seq.

## Sec. 7-3. - County property—Tampering with, etc., personal property generally.

No person shall, without proper authority, knowingly use, tamper with, render inoperative, destroy, damage, remove, deface, molest or otherwise interfere with any books, records, furniture, equipment, gear, apparatus, tools or other items of personal property belonging to, leased to or used by the county or any agency thereof.

(Code 1975, § 11-3)

**State Law reference—** Damage to and tampering with property, Code of Virginia, §§ 18.2-137—18.2-152.

## Sec. 7-4. - Same—Damage, etc., to and trespass upon real property.

No person shall, without proper authority, knowingly destroy, damage, deface, molest or otherwise interfere with, or trespass upon, any real property belonging to, leased to or used by the county or any agency thereof.

(Code 1975, § 11-4)

**State Law reference—** Trespass to realty, Code of Virginia, § 18.2-119 et seq.

## Sec. 7-5. - Disorderly conduct in public places.

A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he or she:

- (1) In any street, highway, public building, or while in or on a public conveyance, or public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed, provided that such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter; or
- (2) Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drugs of whatever nature, disrupts any meeting of the board of supervisors of the county or a division or agency thereof, or of any school, literary society or place of religious worship, if such disruption prevents or interferes with the orderly conduct of such meeting or has a direct tendency to cause acts of violence by the person or persons at whom, individually, such disruption is directed, provided that such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter; or
- (3) Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption presents or interferes with the orderly conduct of the operation or activity or has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed, provided that such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter.

The person in charge of any such building, place, conveyance or meeting may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

(Code 1975, § 11-5; Ord. No. 1997-33, 10-14-97)

**State Law reference—** Disorderly conduct in public places, Code of Virginia, § 18.2-415.

Sec. 7-6. - Physical contact with members of opposite sex at massage parlors, etc.

- (a) It shall be unlawful for any person to operate any establishment, regardless of whether it is a public or private facility, as a massage salon, bath parlor or any similar type business, where any physical contact with the recipient of the services of such establishment is provided by a person of the opposite sex.
- (b) This section shall not apply to a physician, surgeon, chiropractor, osteopath, physical therapist or massage therapist duly licensed by the state or to a licensed nurse acting under the direct prescription and direction of any such physician, surgeon, chiropractor or osteopath. This section shall not apply to barbershops or cosmetology salon in which massage is given to the scalp, the face, the neck or the shoulders.
- (c) Any person who shall violate the provisions of this section shall be guilty of a class 4 misdemeanor.

(Code 1975, § 11-5.1; ORD-FY-07-24, 3-12-07)

**Cross reference—** Licenses, permits and business regulations, Ch. 5.

Sec. 7-7. - Musk thistle; curled thistle.

Pursuant to the provisions of Title 3.1, Chapter 13, Article 4 of the Code of Virginia, governing the eradication and control of musk thistle and curled thistle it is hereby declared that any such musk thistle and curled thistle growing in the county is a public nuisance and noxious weed harmful to plant and grass growth and to pastures and thus may be destroyed. Musk thistle and curled thistle shall be defined as prescribed in section 3.1-177 of the Code of Virginia, 1950, as amended.

(Code 1975, § 11-6; Ord. No. 2001-18, 10-9-01)

**State Law reference**— Control of musk thistle and curled thistle, Code of Virginia, § 3.1-177 et seq.; adoption of law by counties, Code of Virginia, § 3.1-188.

Sec. 7-8. - Reserved.

**Editor's note**— Ord. No. 1997-33, adopted Oct. 14, 1997, deleted § 7-8 in its entirety. Former § 7-8 pertained to bingo and raffles and derived from Ord. No. 1981-6, § 2, adopted Mar. 2, 1981.

Sec. 7-9. - Control of multiflora rose.

- (a) There has been established for the county a multiflora rose control committee to serve at the pleasure of the board of supervisors, which committee shall appoint all individuals responsible for a multiflora rose control program, approve all expenditures of funds, and administer the multiflora rose program as provided for through agreement with the state department of agriculture and consumer services.
- (b) The multiflora rose control committee or its representatives shall conduct surveys to determine the location and amount of infestations of multiflora rose within the county and shall provide the necessary technical and other assistance to landowners in a cooperative control or eradication program and may effect a program of spraying or other control practices on road rights-of-way, drainage ditch banks, parks, playgrounds, utility rights-of-way and other public or private lands.
- (c) No person shall knowingly allow multiflora rose to set seed on any land in the county and it shall be the duty of each landowner to mow, fallow, treat with herbicides, or use such other practices as may be approved by the board of supervisors as effective in preventing seed set on all multiflora rose on the property, provided that a landowner or lessee may follow the most current recommendation of the Virginia Polytechnic Institute and state university cooperative extension service or the multiflora rose committee or its designee for the control and eradication of multiflora rose.
- (d) No person shall import multiflora rose into this county or transport multiflora rose within this county in any form capable of growth or knowingly contaminate any uninfected land with multiflora rose through the movement of root stocks, plant parts, seed, soil, mulch, nursery stock, farm machinery, or other media.
- (e) The board of supervisors may accept, use or expend such aid, gift, grant or loan as may from time to time be made available from any source, public or private, for the purposes of carrying out the provisions of this section.
- (f) Services rendered for the actual control practices may be billed to the applicant landowner or lessee and collected. All reimbursements shall be promptly deposited in a special multiflora rose control fund and shall not revert to the general fund of the county regardless of date accrued or collected. Collected or renewed funds for county expenditures shall be considered unexpended for cost-share purposes.
- (g) Any person who fails or refuses to comply with this section shall be deemed guilty of a class 3 misdemeanor.

(Ord. No. 1986-11, §§ 1—6, 6-9-86; Ord. No. 1986-21, 10-27-86)

**State Law reference**— Authority for above section, Code of Virginia, § 15.1-28.4.

## Sec. 7-10. - Movie arcade.

- (a) For purposes of this section, the following words and phrases shall be construed as follows:
  - (1) *Movie arcade*. The term "movie arcade" means any business wherein a film or videotape viewing device is operated.
  - (2) *Film or videotape viewing device*. The term "film or videotape viewing device" means any electrical or mechanical device in a business, which projects or displays any film, videotape or reproduction into a viewing area obscured by a curtain, door, wall, or other enclosure which is designed for occupancy by no more than five (5) persons and is not visible from a continuous main aisle.
  - (3) *Viewing area*. The term "viewing area" means the area where a patron or customer would ordinarily be positioned while watching a film or videotape viewing device.
- (b) It shall be unlawful for any person in the county to own, maintain or operate for himself or herself or as an employee or agent a movie arcade where the viewing area is not visible from a continuous main aisle and is obscured by any curtain, door, wall or other enclosure.
- (c) Any person who violates the provisions of this section shall be guilty of a class 1 misdemeanor.
- (d) All persons regulated pursuant to this section shall comply with said section within thirty (30) days of the effective date of this section.

(ORD-FY-06-02, 7-11-05)

## Secs. 7-11—7-25. - Reserved.

ARTICLE IV. - NOISE<sup>[4]</sup>

## Sec. 7-71. - Definitions.

The following words and phrases, when used in this article, shall for the purposes of this chapter, have the meanings assigned to them in this section.

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

*Decibel* means 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.

*Device* means any mechanism which is intended to, or which actually produces noise when operated or handled.

*Emergency work* means 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.

*Motor vehicle* means any vehicle which is self-propelled or designed for self-propulsion including, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, campers, motorboats and racing vehicles; and any motorcycle (including but not limited to motor scooters and minibikes) as defined in Code of Virginia, section 46.2-100.



*Noise* means any sound which may cause or tend to cause an adverse psychological or physiological effect on human beings.

*Noise disturbance* means 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.

*Person* means any individual, corporation, cooperative, partnership, firm, association, trust, estate, private institution, group, agency, or any legal successors, representative, agent or agency thereof.

*Public right-of-way* means any street, avenue, boulevard, highway, alley or public space which is owned or controlled by a public governmental entity.

*Sound* means a temporal and spatial oscillation in pressure, or other physical quantity, in a medium with internal forces that causes compression and rarefaction of that medium, and which propagates at a finite speed to distant points.

*Sound pressure* means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space.

*Stationary noise source* means any equipment or facility, fixed or movable, that is capable of emitting sound beyond the property boundary of the property on which it is used.

*Zoning district classification* refers to the scheme of land use classification contained in Chapter 10 of this Code.

(Ord. No. 1982-1, § 1(9.1-3), 1-4-82)

#### Sec. 7-72. - Penalties.

The provisions of this article shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00). Each day of violation of any provision of this chapter shall be a separate offense.

(Ord. No. 1982-1, § 1(9.1-11), 1-4-82)

#### Sec. 7-73. - Enforcement.

The provisions of this article shall be enforced by the sheriff of the county, who may issue orders and regulations and prescribe measurement procedures for such enforcement.

(Ord. No. 1982-1, § 1(9.1-12), 1-4-82)

#### Sec. 7-74. - Emergency exception.

The provisions of this article shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, nor to the emission of sound in the performance of emergency work.

(Ord. No. 1982-1, § 1(9.1-10), 1-4-82)

#### Sec. 7-75. - Declarations of findings and policy.

It is hereby declared to be the public policy of the county to promote an environment for its citizens that is free from noise which jeopardizes their health or welfare or which degrades the quality of life.

(Ord. No. 1982-1, § 1(9.1-2), 1-4-82)

Sec. 7-76. - Nuisance noise.

It shall be unlawful for any person to make, continue to make, or cause to be made or continued, a noise disturbance within the county.

(Ord. No. 1982-1, § 1(9.1-4), 1-4-82)

Sec. 7-77. - Specific prohibitions.

The following acts are declared to be noise disturbances in violation of this article, provided that the acts so specified shall not be deemed to be an exclusive enumeration of those acts which may constitute a noise disturbance under section 7-76 and provided that the acts so specified below may still constitute a noise disturbance under section 7-76 independently of the hours of day the acts take place:

- (1) Operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, or any other device for the production of sound in such a manner as to be plainly audible across property boundaries or through partitions common to two (2) residences within a building or plainly audible at fifty (50) feet from such device when operated within a motor vehicle parked on a public right-of-way or in a public place.
- (2) Owning, keeping, possessing or harboring any animal which frequently or habitually howls, barks, meows, squawks, or makes such other noise that is plainly audible across property boundaries or through partitions common to two (2) residences within a building; however, farm animals other than dogs shall be excluded.

(Ord. No. 1982-1, § 1(9.1-5), 1-4-82; ORD-FY-08-05, 8-13-07)

Sec. 7-78. - Places of public entertainment or assembly.

It shall be unlawful 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, unless conspicuous and legible signs are located outside such places near the entrances, stating "Warning. Exposure to sound environment within may cause hearing impairment."

(Ord. No. 1982-1, § 1(9.1-6), 1-4-82)

Sec. 7-79. - 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 subsection (b) below provided that conspicuous signs are displayed in adjacent or contiguous streets indicating that the 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 the 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 a quiet zone.

(Ord. No. 1982-1, § 1(9.1-7), 1-4-82)

Sec. 7-80. - Maximum permissible sound pressure levels.

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 below 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 (1) zoning district classification, the limits of the most restrictive classification shall apply:

<i>Receiving Land Use</i>	<i>Sound Level Limit dB(A)</i>	
	<i>7:00 a.m.— 10:00 p.m.</i>	<i>10:00 p.m.— 7:00 a.m.</i>
C-1, Residential and Agricultural Zones, A-1, A-2, R-1, R-2, R-3, RM-1, PD-R, PMR	57	52
Business-Zones GB, CB	67	62
Industrial-Zone M-1	77	77

(Ord. No. 1982-1, § 1(9.1-8), 1-4-82)

Sec. 7-81. - Prohibited noise.

- (a) No vehicle shall be loaded with materials likely to create prohibited noises by striking together without using every reasonable effort to deaden the noise.
- (b) Except pursuant to a permit issued by the board of supervisors, the use in, on or attached to any motor vehicle operating on any highway of the county, of any radio, phonograph, musical instrument, bell, whistle, loudspeaker, amplifier or device of any kind whatsoever whereby sound is cast on any highway to promote or advertise the sale of goods, wares or merchandise or for the purpose of advertising auction sales, sporting events or other businesses or things advertised thereby is prohibited. The provisions of this subsection shall not apply to motor vehicles driven in a duly authorized parade. The use of a loudspeaker on a motor vehicle for making auction sales on highways directly in front of the property then being sold and entirely outside of the business districts of the county shall not be construed as a violation of this subsection when such use is limited strictly to the selling at auction of such property.
- (c) It shall be unlawful for any person in operating a motor vehicle within the county to create in the operation thereof any prohibited noise. In operating such vehicle the following acts are in violation of this section, but such enumeration shall not be deemed to be exclusive:
  - (1) The use of a vehicle so out of repair as to cause thereby grating, grinding, rattling or any of such noises or any other prohibited noise;
  - (2) The practice of unnecessarily racing the motor of a vehicle while standing or moving, thereby causing prohibited noise from such motor;

- (3) The practice of unnecessarily retarding the spark to the motor of a vehicle and thereby causing prohibited r motor;
  - (4) In starting a vehicle from a standing position, the practice of gaining speed unnecessarily quickly and thereby causing prohibited noise from the motor and the screeching of tires or either of such noises;
  - (5) The practice of coming to an unreasonably quick stop with a vehicle and thereby causing unnecessary grinding of brakes and screeching of tires or either of such noises.
- (d) As used in this section, "prohibited noise" shall mean sound pressure above the levels permitted in section 7-82.

(Code 1975, § 9-14)

**State Law reference—** Unlawful muffler cutout, etc., Code of Virginia, § 46.1-302.

Sec. 7-82. - Permissible mobile sound pressure levels.

The maximum sound pressure levels emitted by mobile sources shall be as follows:

Maximum Permissible Noise Levels  
From Mobile Sources

Source	to 35 mph	above 35 mph
Motorcycle	80 dBA	84 dBA
Mobile sources or vehicles with a gross weight less than 10,000 pounds	70 dBA	79 dBA
Mobile sources or vehicles with a gross weight more than 10,000 pounds	86 dBA	90 dBA

(Ord. No. 1982-1, § 1(9.1-9), 1-4-82)

Secs. 7-83, 7-84. - Reserved.

Chapter 13 - NOISE<sup>[1]</sup>

## Section 13-100. - Declaration of policy.

At certain levels, noise can be detrimental to the health, welfare, safety and quality of life of inhabitants of the town, and in the public interest noise should be restricted. Mass outdoor social gatherings, using amplified sound, in this town, unless subjected to coordination and planning efforts with the town, create excessive noise and related adverse effects for the citizens of this town. It is, therefore, the policy of the town to reduce, and eliminate where possible, excessive noise and related adverse conditions in the community, and to prohibit unnecessary, excessive, harmful and annoying noises from all sources subject to its police power.

(Ord. No. 1537, § 1, 9-8-09)

## Section 13-101. - Definitions.

The following words, when used in this chapter, shall have the following respective meanings, unless the context clearly indicates a different meaning:

*Excessive noise* means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans. Specific examples of prohibited excessive noise are set forth in section 13-103 of this chapter.

*Mass outdoor social gathering* means a social event conducted outside or in a partially enclosed structure, on public or private land in the town, to which two hundred (200) or more people are invited or expected to attend, as licensees, invitees, or trespassers, or as people who happen to show up, or at which two hundred (200) or more people are actually in attendance. This term may also be referred to as "the event".

*Motor vehicle* means a vehicle defined as a motor vehicle by Code of Virginia (1950), § 46.2-100, as amended.

*Owner* means the person owning, controlling, or possessing land, premises, or personalty.

*Person* means any individual, partnership, corporation, association, society, club, group of people acting in concert, or organization. This term shall not include the federal, state, county, town, city, or local government, or any agency or institution thereof.

*Public property* means any real property owned or controlled by the town or any other governmental entity or institution.

*Plainly audible* means any sound that can be heard clearly by a person using his or her unaided hearing faculties. When music is involved, the detection of rhythmic bass tones shall be sufficient to be considered plainly audible sound.

*Public right-of-way* means any street, avenue, boulevard, highway, sidewalk or alley.

*Real property boundary* means the property line along the ground surface, and its vertical extension, which separates the real property owned by one (1) person from that owned by another person.

*Residential* refers to single-unit, two-unit, and multiunit dwellings, and residential areas of planned residential zoning district classifications, as set out in the zoning ordinance, Appendix A, Blacksburg Town Code, as amended.

*Sound* means an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at a finite speed. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

*Sound amplifying equipment* means any machine or device 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.

*Sponsor* means a person or persons who organizes, supports, specifically benefits from, or is in charge of a mass outdoor social gathering.

*Town manager* means the town manager or the chief of police, or their respective designees.

(Ord. No. 1537, § 1, 9-8-09)

#### Section 13-102. - Excessive noise—Punishments.

Any person violating any of the provisions of this chapter shall be deemed guilty of a Class 2 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than three hundred dollars (\$300.00) for the first offense, five hundred dollars (\$500.00) for the second offense within a twelve (12) month period, and one thousand dollars (\$1,000.00) for any subsequent offense within the same twelve (12) month period. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(Ord. No. 1537, § 1, 9-8-09)

#### Section 13-103. - Same—Specific prohibitions.

Subject to the exceptions provided in section 13-104, any of the following acts, or the causing or permitting thereof, is declared to be excessive noise, constituting a class 2 misdemeanor and a public nuisance:

- (1) *Radios, television sets, musical instruments, loud speakers and other sound amplification devices.* Operating, playing, using or permitting the operation or use of any radio, television, or music player, drum, musical instrument, loud speaker, sound amplifier or other device capable of producing or reproducing sound:
  - a. In such a manner as to be plainly audible across a residential real property boundary or through partitions common to two (2) dwelling units within a building; or
  - b. In such a manner as to be plainly audible at a distance of fifty (50) feet or more from the building in which it is located; or
  - c. When the sound is plainly audible at a distance of fifty (50) feet or more from its source.
- (2) *Horns, whistles, etc.* Sounding or permitting the sounding of any horn, whistle or other auditory sounding device on or in any motor vehicle on any public right-of-way or public property, except as a warning of danger.
- (3) *Explosive, fireworks and similar devices.* Using or firing any explosives, fireworks or similar devices which create impulsive sound in such a manner as to permit sound to be heard across a residential real property boundary or through partitions common to two (2) dwelling units within a building, or on any public right-of-way or public property, in either case between the hours of 10:00 p.m. and 8:00 a.m. An exception to the hours limitation of this subsection may be granted by town council through a fireworks permit.
- (4) *Yelling, shouting, etc.* Yelling, shouting, whistling or singing between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to be plainly audible across a residential real property boundary or through partitions common to two (2) dwelling units within a building.
- (5) *Schools, public buildings, places of worship, and hospitals.* The creation of any noise on the grounds of any school, court, public building, place of worship, or hospital in a manner that is plainly audible within such school, court, public building, place of worship or hospital and interferes with the operation of the institution.
- (6) *Mass outdoor social gatherings.* Using or causing to be used sound amplifying equipment for the purpose of producing music or entertainment for a mass outdoor social gathering, unless such use is registered with the town manager, as provided in section 13-106.

- (7) *Vehicles.*
- a. Operation of a motor vehicle or operation of a motorcycle within the town with a gutted muffler, muffler cutout, straight exhaust, or without an exhaust in good working order, as provided by Code of Virginia, §§ 46.2-1047 and 46.2-1049. Violations of this subsection shall be considered traffic infractions punishable as provided for in Town Code section 12-113.
  - b. Operation of sound amplifying equipment in a motor vehicle at a volume sufficient to be plainly audible at a distance of fifty (50) feet from the vehicle.
- (8) *Construction.* The erection, including excavation, demolition, alteration, or repair of any building or improvement between the hours of 7:00 p.m. and 7:00 a.m., except in the case of emergency under a permit granted by the town manager. In considering the granting, conditioning, or denial of the permit, the town manager shall be guided by the following standards:
- a. Nature of the emergency;
  - b. Proposed extended hours of operation;
  - c. Duration of period of requested extended hours;
  - d. Character of the area surrounding the construction site; and
  - e. Number of residential units which would be impacted by the extended hours of construction.
- (9) *Pneumatic hammer, chain saw, etc.* The operation between the hours of 7:00 p.m. and 7:00 a.m. of any chain saw, pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance.
- (10) *Animals.* The owning, keeping, or possessing of any animal or animals (except dogs, which are covered by chapter 5, article II) which frequently or habitually howl, bark, meow, or squawk in such a manner that creates noise that is plainly audible at least once a minute for ten (10) consecutive minutes (1) inside the confines of the dwelling unit, house or apartment of another or (2) at fifty (50) or more feet from the animal or bird. This subsection shall not apply to any bona fide agricultural activity.
- (11) *Large party public nuisance.* A gathering of ten (10) or more people where the gathering is not contained within a structure, but spills outdoors into balconies, yards, common areas, parking lots, or other outdoor spaces, and produces noise that is plainly audible at a distance of fifty (50) feet or more.
- (12) *Commercial vehicle and trash collection vehicle operation.* Except in the downtown commercial zoning district, the operation of a commercial vehicle or trash collection vehicle between the hours of 10:00 p.m. and 7:00 a.m., in such a manner as to be plainly audible at any residence one hundred (100) or more yards away.



Section 13-104. - Same—Exceptions.

Sections 13-102 and 13-103 shall have no application to any sound generated by any of the following:

- (1) Sound which is necessary for the protection or preservation of property or the health, safety, life or limb of any person.
- (2) Public speaking and public assembly activities conducted without the use of sound amplifying equipment on any public right-of-way or public property.
- (3) Radios, sirens, horns, and bells on police, fire, or other emergency response vehicles.
- (4) Parades, fireworks displays, school-related activities, and other such public special events or public activities.
- (5) Activities on or in municipal, county, state, United States, or school athletic facilities, or on or in publicly owned property and facilities.
- (6) Fire alarms and burglar alarms, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises served by any such alarm to turn off the alarm.
- (7) Religious services, religious events, or religious activities or expressions, including, but not limited to music, singing, bells, chimes, and organs which are a part of such service, event, activity, or expression.
- (8) Locomotives and other railroad equipment, and aircraft.
- (9) The striking of clocks.
- (10) Military activities of the Commonwealth of Virginia or of the United States of America.
- (11) Household tools, lawnmowers, and other lawn care equipment with manufacturer's recommended mufflers installed, between 8:00 a.m. and 10:00 p.m.
- (12) Agricultural activities.
- (13) Lawful discharge of firearms.

(Ord. No. 1537, § 1, 9-8-09; Ord. No. 1819, § 1, 3-14-17)

Section 13-105. - Reserved.

**Editor's note—** Ord. No. 1626, § 1, adopted Oct. 11, 2011, repealed § 13-105, which pertained to sound amplifying equipment—registration and derived from Ord. No. 1537, § 1, adopted Sept. 8, 2009.

Section 13-106. - Same—Permit for use for mass outdoor social gathering.

- (a) No person shall operate, cause to be operated, or permit the operation on any land of which that person is an owner or on any land of which that person is in control, of any sound amplifying equipment in the town in connection with a mass outdoor social gathering; and

no person shall sponsor a mass outdoor social gathering at which sound amplifying equipment is proposed to be used, or is used, unless a permit has first been obtained from the town for such use of sound amplifying equipment as provided in this section.

- (b) Persons applying for a permit under this section at least thirty (30) days prior to the event shall file with the town manager an application, in writing, giving the following information, hereby ordained as substantive requirements of this chapter:
- (1) Evidence of plans to mitigate and limit the sound from the mass outdoor social gathering, so that the effects of the excessive noise are minimized or eliminated;
  - (2) The name, address, and telephone number of the owner or owners of the site for the event;
  - (3) The name, address, and telephone number of the sponsor or sponsors;
  - (4) The name, address, and telephone number of a contact person representing the sponsor or owner, or both, who shall be available at the provided telephone number during the event and authorized to address problems related to the event that affect private citizens;
  - (5) The proposed location of the event; the boundaries of the event site; a general description of the sound equipment to be used; and the land use characteristics of the area surrounding the site;
  - (6) The expected number of persons to attend the event;
  - (7) The date and beginning and ending times for the use of amplified sound, and the beginning and ending times of the event, which in both cases shall not precede 10:30 a.m. or exceed 10:00 p.m. of any day.
  - (8) An indication that plans and provisions for the following have been addressed: Provision of at least one (1) toilet facility per fifty (50) people; sufficient refuse containers; and provision of ample, designated parking areas, or arrangement for transporting attendees to and from a remote parking area, or both, including if applicable, copies of written permission to use private property, not that of the owner of the site of the event or sponsor, for parking;
  - (9) Evidence that all town and state parking laws, and all town noise control laws, will be complied with;
  - (10) Evidence of plans to clean up the event site and surrounding area after the event;
  - (11) Evidence that notice of the event and names, telephone numbers, and addresses of the owner, sponsor and contact person have been given to representatives of any residential area that might be impacted by the mass outdoor social gathering;
  - (12) Evidence that the owner or sponsor has arranged for the presence during the mass outdoor social gathering of a sufficient (as determined by the town manager) number of monitors. The monitors shall aid the owner or sponsor in the resolution of any

problems created by the event, including the conduct of objectionable activities by participants, and may report to the town police any violations of the law that may take place during the event. Nothing in this subparagraph shall afford the monitors town or other police powers or create an agency relationship between the town and the monitors. Monitors shall be acting for the owner or sponsor of the mass outdoor social gathering.

- (c) Upon receipt of a substantially completed registration form, as determined by the town manager, using the standards of this section, the town manager shall immediately accept in writing the application.
- (d) The town manager may negotiate with the applicant to lessen, adjust, or accommodate to the peculiarities of the situation, but not increase, the requirements of this chapter, in order to achieve the goals and meet the standards of public safety, comfort, convenience, and welfare, by reducing or limiting excessive noise and other adverse effects from the mass outdoor social gathering. To this end, with the town manager's permission, the applicant may amend the applicant's application up to three (3) days prior to the event.
- (e) Upon the town manager's satisfaction that the applicant for the permit has met the standards of this section, the town manager on behalf of the town shall issue a written permit called for under this section to the applicant and shall send a copy of the permit to the town clerk for filing.
- (f) The applicant shall comply with the permit and with the terms of this chapter in the conduct of the mass outdoor social gathering and in the use of amplified sound for a mass outdoor social gathering. The permittee shall keep the permit in the permittee's possession during the mass outdoor social gathering and shall promptly display it to any police officer on request.
- (g) In case of emergency, or other circumstance calling for the immediate conduct of a mass outdoor social gathering, so that the 30-day deadline set out in subsection (b) cannot be met, the town manager may waive the deadline using the following standards, as applicable: the intensity or immediacy of the emergency or circumstance; lack of alternate means of applicant's accomplishing these same goals by complying with the deadline; and avoidance of nullifying the deadline by a repeated course of conduct. The waiver shall be in writing, shall address these standards as applicable, and shall be filed in the office of the town clerk.

(Ord. No. 1537, § 1, 9-8-09; Ord. No. 1626, § 2, 10-11-2011)

Section 13-107. - Reserved.

**Editor's note**— Ord. No. 1537, § 1, adopted Sept. 8, 2009, repealed § 13-107, which pertained to warning; violation. See the Code Comparative Table for complete derivation.

Section 13-108. - Other enforcement.

- (a) Instead of the criminal enforcement of this chapter, the town may bring a suit for injunction, abatement, or other appropriate civil relief to remedy, correct, or abate excessive noise.
- (b) Citizens of the town believing that excessive noise constituting a public nuisance exists may utilize the procedure set forth in Code of Virginia (1950), § 48-1 et seq., as amended, or any other legal civil or criminal remedies that may be available to them.

(Ord. No. 1537, § 1, 9-8-09)