

## Nuisance Noise- Ordinance

### Goochland County Code Chapter 10 Offenses

#### Sec. 10-36 to 10-40. Reserved

### Article II Noise Nuisances

#### 10-41 Purpose.

Residents should be freeable to use and enjoy their homes free from noise that rises to the level of a nuisance. To that end, this article prohibits ~~someone from the~~ creationng of a noise nuisance on ~~their~~ residential property which, by virtue of its volume, pitch, duration, repetition, and time of day, unreasonably and substantially disturbs or interferes with another person's ~~someone else's~~ peaceful enjoyment of their residential property.

NO COMMENT

#### 10-42 Definitions.

*Agricultural activities.* The raising or keeping of animals, fowl, or bees; the production or harvest of all crops including: fruits, vegetables, meat, dairy, poultry, fiber, nuts, tobacco, and flowers or other nursery products; the production or harvest of products from silviculture and aquaculture activity; and other, similar activities.

*Nuisance.* A nuisance is something that injuriously affects public safety or health, or which causes a material, substantial, repetitive, and unreasonable interference with the private use and enjoyment of another person's residential property.

*Residential property.* Residential property means any property on which one or more dwelling units exist, regardless of the property's zoning designation. ~~"Their" residential property refers to property that is owned, rented, or occupied by the violator.~~

Rewrite: Residential properties with businesses on them. Orapax/Dream Tack/Business in or with a residence on the property. Businesses operating out of a dwelling unit are exempted/not included.

Comment: Illegally operating a business? BUT can be caught as business without a license or in violation of zoning. No change.

#### 10-43 Violations.

##### A. Noise nuisance.

It is a violation of this article for any person to make repetitive noise, or allow the making of repetitive noise, except the noise exempted below, on ~~their~~ residential property that, by reason its

volume, pitch, duration, repetition, and time of day, unreasonably and substantially disturbs or interferes with someone's peaceful enjoyment of residential property they own, rent, or occupy.

Review: and/or for time of day. Conjunctive/disjunctive. Review.

Review: we want violation to occur on a different piece of property, not the same piece of property. Comment: what about apartments – not different property owners. What about several dwelling units on the same property.

B. Intentional act.

It is a violation of this article for any person to make repetitive noise on ~~their~~ residential property for the purpose of substantially disturbing or interfering with someone's peaceful enjoyment of residential property they own, rent, or occupy.

C. No person shall be charged with a violation of this article unless ~~(1)~~ a complainant or law enforcement personnel appears before a magistrate and requests a summons be issued; ~~or (2) a violation is committed in the presence of law enforcement personnel.~~

#### **10-44 Persons responsible.**

A. Persons responsible for violations of §10-43(A) include any person(s) who control the noise source, but if that person(s) cannot be reasonably ascertained, then any owner(s), tenant(s), ~~or~~ resident(s) or occupant(s) who is physically present on the residential property during the nuisance noise, or to whom the required warning has been provided~~made~~.

B. Persons responsible for violations of § 10-43(B) must have exercised control over the noise source in the creation of all or a part of the noise nuisance.

#### **10-45 Exemptions.**

A. The following ~~activities~~ are exempt such that noise from them cannot form the basis of a noise nuisance under § 10-43(A):

1. Agricultural activities;
2. Companion animal noises which violate Code § 3-104; and
3. Hunting that is lawful under state and local laws and regulations.

Comment: Lawful discharge of firearms as an exemption -- 2/7 committee members would support; 1 person with no opinion.

Comment: talk to people about noise ordinance. 2 major components are uncontrolled dog parking and firearms. Represent consensus of opinion in county.

Comment: Majority of Goochland Moms FB group noise complaints are rapid-fire and excessive shooting.

B. The following ~~activities~~ are exempt such that noise from them cannot form the basis of a violation under this article~~§ 10-43(A) or (B)~~:

1. Activities permitted by zoning, special events permits, parade permits, fireworks permits, or other governmental approvals; and
2. Activities for which noise regulation has been pre-empted by federal law.

### 10-46 Warnings.

No person shall be charged with a violation of this article unless that person has been provided with (i) ~~with~~ either an oral or written notice **from law enforcement personnel** that he is violating or has violated this article, and (ii) ~~with~~ a reasonable opportunity to correct the violation. If ~~w~~Written notice is provided, it must be sent, certified mail, return receipt requested, to ~~or posted~~ ~~on~~ the property from which the noise nuisance emanated. ~~and, if~~ if the property owner(s) does not reside on the property, written notice, certified mail, return receipt requested, must be sent to the property owner(s) at the address shown on the county's geographic information system (GIS).

Comment: 2/7 would include the opportunity for notice to be given by complainants simply provides a broader opportunity for the notice to be given, without being affected by the Sheriff's office resources to provide the notice.

Comment: law enforcement personnel issuing the warning helps to prevent a resident from "abusing" the nuisance noise ordinance by giving a warning when the noise doesn't rise to the level of a nuisance.

Comment: 2 or more neighbors who file a complaint jointly don't need law enforcement to provide notice.

### 10-47 Penalties.

A. Violations of this article ~~are subject to carry~~ a civil penalty not to exceed \$250 for the first offense and not to exceed \$500 for subsequent offenses.

B. The public nuisance procedures set forth in Virginia Code § 48-1 et. seq. may be used for violations of this article.

C. If the violation is unabated at the time of a court finding, the court shall order the violator to abate or remedy the violation in compliance with this article within a time period established by the court. Failure to abate or remedy the violation within the specified time period shall constitute a separate violation.

DE. In addition to and not in lieu of the other penalties, the county may apply to the circuit court for an injunction against any continuing, including intermittently continuing, violation of this article, and may seek any other remedy or relief authorized by law.

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