

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 able to use and enjoy their homes free from noise that rises to the level of a nuisance. To that end, this article prohibits the creation of a noise nuisance on residential property which, by virtue of its volume, pitch, duration, repetition, and time of day, unreasonably and substantially disturbs or interferes with someone else’s peaceful enjoyment of their residential property.

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. Moreover, any activities added in the future to the definition of “agricultural operation” in the Right to Farm Act, Virginia Code § 3.2-300, are incorporated herein by this reference.

Commented [MT1]: As we discussed at the meeting, I added any activities added to Right to Farm Act in the future.

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. For residential property containing more than one dwelling unit, a noise violation may be found if the noise generated in one dwelling unit or in a common area creates a noise nuisance in another dwelling unit located on the same residential property: however multifamily structures containing more than 10 residential dwelling units are exempt from this article.

Commented [MT2]: This is the exemption for apartment complexes.

10-43 Noise Nuisance Violation.

A. Noise nuisance.

It is a violation of this article for any person to intentionally or unintentionally make repetitive noise, or allow the making of repetitive noise, except the noises exempted below, on residential property that, by reason of its volume, pitch, duration, repetition, and time of day, unreasonably

Commented [MT3]: This includes both intentional and unintentional violations in one paragraph

and substantially disturbs or interferes with someone else’s peaceful enjoyment of residential property they own, rent, or occupy.

B. Persons responsible.

Any person(s) who control the noise source can be held responsible for a violation, but if that person(s) cannot be reasonably ascertained, then any owner(s), tenant(s), resident(s) or occupant(s) who is physically present on the residential property during the nuisance noise, and to whom the required warning has been provided can be held responsible.

Commented [MT4]: Moved from 10-44 below. As we discussed at the meeting, I excluded owners not present. I did that by using “and” instead of “or” in the last phrase.

C. Warning.

No person shall be found in violation of this article unless there has been presented before the court competent evidence that the complainant or a law enforcement official had, prior to the issuance of any summons or warrant, requested the abatement of the nuisance complained of, and that such nuisance continued after the request for abatement. Written notice of the violation must be sent, certified mail, return receipt requested, to the property from which the noise nuisance emanated and, if a different address is listed for the property owner on the county’s geographic information system (GIS), also to the property owner(s) at the address shown in GIS.

Commented [MT5]: Moved from 10-46. As we discussed at the meeting, I added warnings from complainants. As we discussed at the meeting, the first sentence now tracks the language of the animal nuisance ordinance. I kept the second sentence (which isn’t in the animal nuisance ordinance) about written notice sent certified mail because that is what the judge has been requiring in the animal nuisance prosecutions.

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

Commented [MT6]: Moved into paragraph A

C. No person shall be charged with a violation of this article unless a complainant or law enforcement personnel appears before a magistrate and requests a summons be issued.

Commented [MT7]: Already a part of paragraph C

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), 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.

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;

Commented [MT8]: Moved into 10-43B. See that comment for other changes.

10-44 Exemptions.

The following are exempt such that noise from them cannot form the basis of a noise nuisance:

1. Agricultural activities;
2. Business or commercial activity permitted on residential property;
3. Companion animal noises which violate Code § 3-104; and
4. Hunting that is lawful under state and local laws and regulations.

~~5. Activities permitted by zoning, special events permits, parade permits, fireworks permits, or
B. The following are exempt such that noise from them cannot form the basis of a violation
under this article;~~

+5. Activities permitted by zoning, special events permits, parade permits, fireworks permits, or other governmental approvals; and

6. Activities for which noise regulation has been pre-empted by federal law.

Commented [MT9]: Combined the B exemptions with the A exemptions because there is no need for separate exemptions with intentional and unintentional combined in 10-43A

~~10-46 Warnings:~~

~~No person shall be charged with a violation of this article unless that person has been provided with (i) either an oral or written notice from law enforcement personnel that he is violating or has violated this article, and (ii) a reasonable opportunity to correct the violation. If written notice is provided, it must be sent, certified mail, return receipt requested, to the property from which the noise nuisance emanated and, if a different address is listed for the property owner on the county's geographic information system (GIS), written notice must also be sent to the property owner(s) at the address shown in GIS.~~

Commented [MT10]: Moved into 10-43C. See comment there for other changes.

~~10-45 Penalties.~~

A. Violations of this article 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.

D. 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.