

**CITY OF WAYNESBORO, VIRGINIA
ORDINANCE NO. 2022-**



**AMENDING ARTICLE IV, SECTION 50-50, UNNECESSARY NOISE, OF THE
CITY CODE OF WAYNESBORO, VIRGINIA**

Sec. 50-50. Unnecessary Noise.

At certain levels, audible and discernable sound can be detrimental to the health, welfare, safety, and quality of life of the citizens of Waynesboro. The policy of the City of Waynesboro is to prevent such sounds while appropriately preserving each citizen's First Amendment rights.

Definitions:

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

- a) ***Sound*** is an oscillation in pressure, particle displacement, particle velocity, or other physical parameters, in a medium with internal forces that cause compression and rarefaction of that medium. The description of a sound may include any characteristic of such sound, including duration, intensity, and frequency.
- b) ***Noise*** means any unwanted or disturbing sound that by its character, intensity, and duration:
 - (1) Endangers or injures the health, safety, or well-being of persons within the city, or it annoys or disturbs persons in the city; and
 - (2) Is plainly audible to a person using his or her unaided hearing faculties.
- c) ***Plainly audible*** means any sound that can be detected by a person using his or her unaided hearing faculties. A sound shall be determined to be audible even if specific words, or phrases, cannot be distinguished.
- d) ***Discernible*** means that the sound is sufficiently distinct to identify its source clearly.
- e) ***Public property*** means any real property owned or controlled by the city, or any other governmental entity.
- f) ***Public right-of-way*** means any street, avenue, boulevard, highway, sidewalk, or alley.
- g) ***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.

- h) **Residential** has reference to single-family, multifamily, and residential mixed density zoning district classifications.
- i) **Emergency** means any occurrence or set of circumstances involving actual or imminent physical injury or illness or property damage that requires immediate action.
- j) **Emergency work** means any work performed to prevent or alleviate the physical injury, illness, or property damage threatened or caused by an emergency.
- k) **Motor vehicle** means every vehicle defined as a motor vehicle by section 46.2-100 of the Code of Virginia (1950), as amended.

It shall be unlawful for any person to make, cause, or allow to be made, upon any property in the City of Waynesboro the following:

- a) **Horns, signaling devices, etc.** The sounding of any horn or signaling device on any automobile, motorcycle, bicycle, or another vehicle on any street or public place in the city, except as an emergency or danger warning signal or for purposes of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work, or to vehicle alarms or other security devices, the duration of which shall not exceed ten minutes.
- b) **Radios, phonographs, etc.** Using, operating, or permitting to be played, used, or operated any radio receiving set, tape recorder, musical instrument, phonograph, television, or other devices for the production or reproducing of sound in such a manner that the operation of any such device is:
 - (1) Plainly audible and discernable at a distance of 100 feet or more from the building, structure, property, or vehicle from which the noise is emanating; or
 - (2) Plainly audible and discernable through partitions common to two or more dwelling units in a building at a distance of four (4) feet from the wall, ceiling, or floor closest to the noise source.
- c) **Animals.** The keeping of any animal, except farm animals in agricultural districts, which shall be the source of any noise that is plainly audible and discernible:
 - (1) Inside the confines of the dwelling unit, house, or apartment of another; or
 - (2) At a distance of 100 feet or more from the animal that is the noise source.
- d) **Yelling, shouting, etc.** No person on any public sidewalk, street, or right-of-way or on any other publicly owned property or any privately owned property shall engage in yelling, shouting, hooting, whistling, the playing of musical instruments, or singing that is plainly audible and discernible at a distance of 100 feet or more from the noise source or through partitions common to two or more dwelling units in a building at a distance of four (4) feet from the wall, ceiling or floor closest to the noise source.

- e) **Noise to attract attention to performances, etc.** The use of any drums or other musical instrument or device to attract attention by creating noise to any performance, show, or sale.
- f) **Business noises at night near residences.** The creation of noise in connection with loading or unloading any materials, product, merchandise, goods, vehicles, or opening and destroying bales, boxes, crates, and containers, between the hours of 10p.m. and 7a.m.
- g) **Acts in a motor vehicle or motorcycle.** The creation of noise in connection with the spinning of tires, racing of engines, or other similar acts in a motor vehicle or motorcycle including the emission of noise created by the absence of a muffler and/or exhaust system conforming to the provisions of Virginia Code §46.2-1047 and §46.2-1049 on a motor vehicle or motorcycle.
- h) **Other noises.** Refuse collection and sanitation services; activities related to the construction, repair, maintenance, remodeling or demolition, grading, or other improvements of real property; and gardening, lawn care, tree maintenance, or removal and other landscaping activities; between 10 p.m. and 7 a.m.

Exceptions. Notwithstanding any provisions of this section, to the contrary, this section shall not apply to any sound generated by any of the following:

- a) School-sponsored band performances or practices, school-sponsored athletic contests or practices, and other school-sponsored activities on the grounds of public or private schools.
- b) City-sanctioned athletic contests and other city-sanctioned activities on city-owned property.
- c) Refuse collection and sanitation services; activities related to the construction, repair, maintenance, remodeling or demolition, grading, or other improvements of real property; and gardening, lawn care, tree maintenance or removal, and other landscaping activities between 7:00 a.m. and 10:00 p.m.
- d) Church bells or carillons.
- e) Religious or political activities that are protected by the First Amendment to the U.S. Constitution.
- f) Activities for which the noise regulation has been preempted by state or federal law.
- g) City-sanctioned parades, sporting events, public functions, or public commemorative events, activities conducted in any gymnasium, arena, theater, amphitheater, swimming pool, stadium, rifle range, gun club, or any similar sporting facility, whether any such activity occurs indoors or outdoors.

- h) Any such parade, function, event, or activity presented by an entity other than the city, or an educational institution shall be prohibited or limited by the terms or conditions of any required use permit issued in connection therewith.
- i) City utility plants, city activities, city motor vehicles, and other emergency vehicles, aircraft, or any noise, or sound, created thereby or to any noise or sound created by any person to sound a warning or call attention to a bona fide emergency.
- j) Emergency operations include, but are not limited to; audible signal devices employed as warning or alarm signals (other than vehicle alarms) in an emergency event, including sirens, loudspeakers, or sound produced by power generators during power outages and other emergencies.
- k) Emergency work, including the sound of emergency communications radios in public safety vehicles.
- l) Lawful discharge of firearms.
- m) The City Manager or his/her designee, upon written request, may exempt persons from the provisions of this chapter for a period of up to ten calendar days. Any period of exemption over ten calendar days, or a request for a subsequent ten calendar day extension, shall be referred to the city council.

Limitations:

Except for those business activities which are expressly subject to the provisions of this article, this article shall not apply to business or industrial noises made in conjunction with a lawfully operated and lawfully located business or industry in the City of Waynesboro. Notwithstanding the foregoing, nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances concerning the business or industrial noise, and to cause their removal or abatement according to the provisions of Chapter 38 of this Code.

Administration:

Any citizen having sufficient evidence of a violation of one or more of the prohibitions set out in the section above may present such evidence and make an affidavit to the Magistrate and request issuance of a summons or warrant based thereon. Corroboration of the alleged violation by the Waynesboro Police Department or the Animal Control Officer shall not be necessary for a citizen to pursue a summons or warrant against another person for such violation. In no event shall this section be construed as a limitation or restriction of any person's right to access the courts or to seek the abatement of violations of this article by any lawful means.

Violations:

Any violations of the provisions of this section shall be punishable as follows: shall be deemed guilty of a class 4 misdemeanor upon the first conviction thereof and shall be punished by a fine of not more than \$250.00; upon a second or subsequent conviction within a period of 12 months shall be deemed

guilty of a class 3 misdemeanor and shall be punished by a fine of not more than \$500.00 for each offense; Each calendar day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. (Code of Virginia §15.2-980)

CERTIFICATE

The undersigned Mayor and Clerk of the City Council of City of Waynesboro, Virginia hereby certify that the foregoing constitutes a true and correct copy of an ordinance entitled Ordinance Amending Article IV, Noise, Section 50-50, Unnecessary Noise, of the City Code of Waynesboro, Virginia, adopted by the City Council at a meeting held on January 24, 2022.

INTRODUCED: ON JULY 11, 2022 BY COUNCIL MEMBER SAM HOSTETTER

ADOPTED:

EFFECTIVE:

CLERK

MAYOR