

**AMELIA COUNTY, VIRGINIA
BOARD OF SUPERVISORS**

WHEREAS, the Supreme Court of Virginia in *Tanner v. City of Virginia Beach (2009)* held that a subjective “reasonable person” standard is unconstitutionally vague, and therefore invalid and unenforceable as a standard for enforcing a local noise ordinance; and

WHEREAS, the current Amelia County Noise Ordinance, as adopted on May 16, 2001, is based mainly on a “reasonableness” standard, and therefore in conflict with the Court’s ruling; and

WHEREAS, the ability of Amelia County citizens to peaceably enjoy their residences, schools, businesses and public places without the intrusion of loud, unnecessary noise is important to the overall quality of life in the county; and

WHEREAS, the Board of Supervisors directed the county administrator to develop, in cooperation with the county attorney, sheriff, and Commonwealth attorney, a noise ordinance that would be in the best interests of the citizens of Amelia County and would also comport with the requirements established by the Virginia Supreme Court; and

WHEREAS, the Board of Supervisors has held a public hearing to receive citizen input on this matter; and

WHEREAS, Amelia County and several other localities in the Commonwealth were interested in pursuing legislation during the 2010 General Assembly Session that would authorize localities to assess civil penalties for noise ordinance violations, instead of criminal misdemeanor penalties, which are all state law currently authorizes; and

WHEREAS, Senate Bill 246, sponsored by Senator John Watkins, granting localities civil penalty authority for noise ordinance violations, passed the 2010 General Assembly session and was enacted into law on July 1, 2010.

NOW THEREFORE BE IT ORDAINED that the Amelia County Noise Ordinance adopted on May 16, 2001 and any other noise ordinances previously adopted are hereby repealed, and that the Amelia County Board of Supervisors hereby adopts a new Amelia County Noise Ordinance in its entirety as follows:

Amelia County Noise Ordinance

Loud Noise Prohibited.

Section 1. Declaration of policy

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

Section 2. Definitions

The following words, when used in this ordinance shall have the meaning assigned to them in this section:

“Plainly Audible” means any sound that can be heard clearly by a person using his or her unaided hearing faculties.

“Residential” refers to single unit, two-unit, and multi-unit dwellings, and residential areas of planned residential zoning district classifications, as set out in the zoning ordinance of Amelia County.

Section 3. Loud Noises Prohibited.

The following acts, or the causing or permitting thereof, are declared to be unlawful loud noises, but this enumeration shall not be deemed to be exclusive:

1. *Noise generally.*

The creation of any noise between the hours of 10:00 p.m. and 6:00 a.m.
(a) in such a manner as to permit sound to be heard inside the confines of the dwelling unit, house or apartment of another person; or (b) in such a manner as to be plainly audible at a distance of 200 feet or more from its source.

2. *Radios, television sets, musical instruments, and similar devices.* The using, operating or permitting to be played, any radio, musical instrument, record, tape, compact disc player, loudspeaker or other machine or similar device for the producing or reproducing of sound between the hours of 10:00 p.m. and 6:00 a.m.

- a. in such a manner as to permit sound to be heard inside the confines of the dwelling unit, house or apartment of another person; or

1. Sound which is necessary for the protection or preservation of property or the health, safety, life or limb of any person.
2. Radios, sirens, horns, and bells on police, fire, or other emergency response vehicles.
3. Parades, permitted fireworks displays, school related activities, and other such public special events or public activities.
4. Dogs.
5. Commercial forestry or timbering operation being conducted pursuant to a valid permit or license.
6. Commercial landscaping operations not being conducted in a residential subdivision.
7. Farming or agricultural operations.
8. Locomotives and other railroad equipment.
9. Aircraft.
10. The striking of clocks.
11. Bells from churches and other places of worship.
12. Noise generated in connection with business being performed on industrial property.

Section 5. Noises Authorized by Permit

The provisions of this ordinance shall not apply to any noise that is otherwise specifically authorized by a valid special exception, conditional use, or other permit approved by the county.

Section 6. Penalty for violation of Ordinance; civil penalties.

(1) Any person violating any of the provisions of this Ordinance shall be deemed guilty of a civil violation and shall be subject to a fine not exceeding \$250 for the first offense and \$500 for each subsequent offense. Each day of violation of any provision of this article shall be a separate offense.

(2) The person operating or controlling a noise source shall be guilty of any violation caused by that source. If that cannot be determined, any owner, tenant, resident or

manager physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the noise source.

Section 7. Enforcement.

This ordinance shall be enforced by the Amelia County Sheriff's Office, who shall issue a written civil summons on a form approved by the court, to any person found to be in violation of the provisions contained herein.

Section 8. Private remedies not affected.

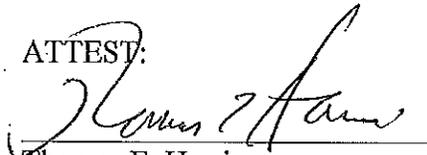
Nothing in this ordinance precludes a citizen from bringing a private nuisance claim or any other similar action in court against any individual related to noise.

Be it further Ordained that this ordinance, as approved by the Board of Supervisors upon due consideration and after all required public notice and hearing, shall take effect immediately this 16th day of February, 2011.



Franklin D. Harris, Chairman
Board of Supervisors
County of Amelia, Virginia

ATTEST:



Thomas E. Harris,
Clerk to the Board