

**AT A REGULAR MEETING OF THE  
COUNCIL OF THE TOWN OF BOONES MILL  
HELD AT THE TOWN HALL**

APRIL 11, 2006

**AN ORDINANCE prohibiting noise disturbances within the town; declaring certain specific acts to constitute a noise disturbance; and providing for exceptions, definitions, and penalties.**

**BE IT ORDAINED by the Council of the town of Boones Mill as follows:**

**Section 1. 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. It is, therefore, the policy of the town to reduce, and eliminate where possible, noise disturbances and related adverse conditions in the community, and to prohibit unnecessary, excessive, harmful and annoying noises from all sources subject to its police power.

**Section 2. Definitions.**

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

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

*Noise disturbance* means any sound which by its character, intensity and duration:

- (1) Endangers or injures health or safety of persons within the town, or
- (2) Annoys or disturbs reasonable persons of normal sensitivities within the town.

*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.

*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* has reference to single-unit, two-unit, and multi-unit dwellings, and residential areas within the Town.

*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.

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

### **Section 3 Noise disturbance--Prohibited generally.**

Any person causing or permitting a noise disturbance shall be guilty of a Class 4 misdemeanor; provided, however, that, upon a second conviction within the same twelve month period, any person violating this ordinance shall be punished by a fine of not less than \$100, and, upon a third conviction within the same twelve month period, any person violating this ordinance shall be punished by a fine of not less than \$200. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

### **Section 4. Same--Specific prohibitions.**

Subject to the exceptions provided in section 5, any of the following specific acts, or the causing or permitting thereof, among others, is declared to be a noise disturbance constituting a Class 4 misdemeanor and a public nuisance, but such enumeration shall not be deemed to be inclusive of all noise disturbances:

(a) *Radios, television sets, musical instruments and similar devices.* Operating, playing or permitting the operation or playing of any radio, television, record, tape or compact disc player, drum, musical instrument, or similar device:

(1) 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 between the hours of 10:00 p.m. and 8:00 a.m.; or

(2) In such a manner as to be plainly audible at a distance of fifty (50) feet from the building in which it is located; or

(3) When the sound source is located within a motor vehicle in or upon public right-of-way or when the sound emanates from some other source in the public right-of-way, the sound is plainly audible at a distance of fifty (50) feet from its source.

(b) *Loudspeakers, public address systems and sound trucks.* Using, operating or permitting the operation of any loudspeaker, public address system, mobile sound vehicle or other sound amplifying equipment for any purpose between the hours of 10:00 p.m. and 8:00 a.m. 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.

(c) *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.

(d) *Explosives, 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.

(e) *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 permit sound to be heard across a residential real property boundary or through partitions common to two (2) dwelling units within a building.

(f) *Schools, public buildings, places of worship, and hospitals.* The creation of any noise disturbance within any school, public building, place of worship, or on the grounds thereof.

(g) *Vehicles.* Operation of a motor vehicle or operation of a motorcycle within the town in a manner that creates a noise disturbance or 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.

(h) *Defective vehicles.* Operation of a motor vehicle or motorcycle so out of repair as to create a noise disturbance.

(i) *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: (i) nature of the emergency; (ii) proposed extended hours of operation; (iii) duration of period of requested extended hours; (iv) character of the area surrounding the construction site; and (v) number of residential units which would be impacted by the extended hours of construction.

(j) *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.

**Section 5. Same-Exceptions.**

Sections 3 and 4 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 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 and lawnmowers, except those that create a noise disturbance, between 10:00 p.m. and 7:00 a.m.
- (12) Agricultural activities.
- (13) Lawful discharge of firearms.

**Section 6. 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 a noise disturbance.

(b) Citizens of the town believing that a noise disturbance constituting a public nuisance exists may utilize the procedure set forth in § 48-1, et seq., Code of Virginia (1950), as amended, or any other legal civil or criminal remedies that may be available to them.

This ordinance shall be in full force and effect upon its adoption.

On motion of councilmember ROBERT HOGAN to adopt the ordinance and carried by the following recorded vote:

Ayes: TRACY AVERILL, SARAH EAMES, BEN FLORA, ROBERT HOGAN, DOUG PARSONS

Nays: 0 AND PEGGY STEEL

A copy teste:

Collen M. Hart

Clerk

Council of the Town of Boones Mill