



Date of Council Meeting: April 28, 2015

**TOWN OF LEESBURG  
TOWN COUNCIL MEETING**

**Subject:** Town of Leesburg Amended Sound and Noise Ordinance

**Staff Contact:** Scott E. Parker, AICP, Assistant Town Manager

**Council Action Requested:** Direction on whether to change the current plainly audible based Noise Ordinance to a decibel based ordinance.

**Staff Recommendation:** While generally supportive of a decibel based approach to the sound and noise ordinance, staff believes that the provision for 75 dBA in residential areas needs should be thoroughly discussed by Council.

**Commission Recommendation:** Not applicable

**Fiscal Impact:** A decibel based system will require the purchase of new data logging decibel meters (sound level meters) estimated at approximately \$2,000 by the Chief of Police, for a total of \$8,000.

In addition, there will also be training required for the Leesburg Police Department in the use of the meters, and an annual cost associated with calibration maintenance of the equipment.

**Executive Summary:** In March of 2014, The Town Council held a public hearing related to amending the current Noise Ordinance that has been in effect since 2009. The purpose of the amendment was to propose a change from a “plainly audible” structured noise ordinance to one that is based on a decibel system. After a series of meetings described below, it was directed by Council that the current ordinance should stay in effect.

A new proposal for a sound and noise ordinance has been brought forward by Council member Butler that proposes a decibel based system. The main focus of this ordinance is based on a chart that refers to daytime hours and decibels allowed.

**Background:** On March 25, 2014, Town staff presented a proposal for an amended Noise Ordinance. After the meeting, staff put together information related to the new ordinance to help explain the changes and posted it to the website. An information sheet that provided a pertinent comparison of the current ordinance and the proposed ordinance was attached, as well.

Given the public interest in the new ordinance, staff hosted a community meeting on Monday, April 7, 2014 in the Rose Garden of Town Hall, in order to provide a demonstration of decibels over various distances. Staff set up music and a PA system, as one might find at an outdoor music venue, and established defined distances of 50, 100 and 150 feet at which decibels were measured. The music consisted of various styles of

music through an iPod, as well as live acoustic guitar and vocal demonstration by a local musician, all routed through a PA system. Various decibels were measured over distance. The decibel ranges attained varied between a low of 55-60 dbA at 150 feet and a high of 80-85 dbA at 50 feet.

At their meeting of June 9, 2014, Town Council met to discuss the issue and direction was given to conduct a series of questions related to the Noise Ordinance that was submitted. No direction to change the current ordinance was given.

On September 22, 2014, staff presented the Council with a proposal to change the sound registration process of the current ordinance. It was directed at that time that the current ordinance was to remain in effect, and that compliance through cooperation should be the goal.

A new proposal has been brought forward that proposes a sound and noise ordinance that is based on a decibel system. The main focus of the new ordinance is the following chart that defines “daytime hours” in the context of allowable levels of sound:

- a. *Daytime hours* means the period each day in the following matrix:

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Start	9:00 am	7:00 am	7:00 am	7:00 am	7:00 am	7:00 am	9:00 am
End	9:00 pm	9:00 pm	9:00 pm	9:00 pm	9:00 pm	10:00 pm	10:00 pm

In combination with the chart above, the following decibel levels would be allowed:

- a. *Excessive sound* means any sound that exceeds 55 dBA or 55 dBC during *nighttime hours* and sound that exceeds 75 dBA or 75 dBC during *daytime hours* when measured across a residential real property boundary, across a commercial property boundary, or inside of a structure.

In summary, 75 dBA is proposed to be the allowable decibel level within the times associated with the chart above. This includes between common party walls of apartments and townhomes. During the night, which is all times outside of this chart, the level is 55dBA.

This type of an ordinance would require the purchase of data logging decibel meters and training on said devices. Yearly calibration of the equipment will be required, as well.

Another main focus of this ordinance is that there will be tiered levels of enforcement. The current ordinance in effect is a class 2 misdemeanor. The current proposal is as follows:



Category of Sound		Current Noise Ordinance	Proposed Sound Ordinance
Amplified sounds, including both speech and music (pertains to music within, or outside of, commercial and residential properties).	Equipment registered with the Town	Between 10:30am and 8:00pm music can be any volume. Between 8:00pm and 10:30am, amplified music or speech is not allowed inside or outside of a commercial or residential property.	Maximum volume allowed is 75dBA and 75dBC during <i>daytime</i> hours and 55dBA and 55dBC during <i>nighttime</i> hours. Daytime hours are defined as 7:00am and 9:00pm Monday through Thursday, 7:00am to 10:00pm on Friday, 9:00am to 10:00pm and Saturday, and 9:00am to 9:00pm on Sunday. All other hours are nighttime hours.
	Equipment NOT registered with the Town	Never allowed, even within one's home or business.	
Radios, television sets, record, tape, or CD players, unamplified musical instruments including drums, and similar devices.		Sound that can be heard on a residential property OR 50 feet away from the building (indoor music) OR 50 feet away from the source (outdoor music), is not allowed.	
Loudspeakers, public address systems, and sound trucks; horns, whistles, etc.		Sound that can be heard on a residential property, is not allowed.	
Explosive fireworks and similar devices; yelling, shouting, etc.		Allowed at any volume between 8:00am and 10:00pm. Between 10:00pm and 8:00am, sound that can be heard on a residential property, is not allowed.	
Any sound that interferes with the operation of a school, public building, place of worship, or hospital.		Not allowed at any time.	
Public speaking and public assembly activities on public property and religious services.		Allowed at any volume at any time.	
Amplified sound from within a motor vehicle.		Sound that can be heard at 100 feet is not allowed.	
Motor vehicle noise		Sound that can be heard at 200 feet is not allowed. This includes normal engine and braking noises.	
Activities on government properties including town, county, state, and federal.		Allowed at any volume at any time.	

Category of Sound	Current Noise Ordinance	Proposed Sound Ordinance
Household tools, lawnmowers, etc. with manufacturer's recommended mufflers installed	Allowed at any volume between 7:00am and 10:00pm.	<i>nighttime</i> hours. Daytime hours are defined as above.
Construction noises.	Allowed at any volume between the hours of 6:30am and 10:00pm. Exceptions can be granted by the Town Manager.	Allowed at any volume during <i>daytime</i> hours and 55dBA and 55dBC during <i>nighttime</i> hours. Daytime hours are defined as above. Nighttime exceptions may be granted by the Town Manager.
Fire/Burglar/Vehicle alarms	Allowed at any volume at any time as long as they the alarm is turned off within 30 minutes.	Allowed at any volume at any time.
Emergency noises	Allowed at any volume at any time.	
Locomotives and other railroad equipment		
The striking of clocks		
Activities at schools		
Military activities		
Agricultural activities		
Lawful discharge of firearms		
Sound volume deemed hazardous to one's health	Not specified	Tied to OSHA specifications.
Penalty(ies) for non-compliance	Class 2 misdemeanor	Escalates from a Class 4 misdemeanor to a Class 2 misdemeanor

Note: "Any volume" means up to, but not exceeding, levels deemed harmful to an average person's hearing.

**TOWN OF LEESBURG  
NOTICE OF PUBLIC HEARING**

**AMENDING THE LEESBURG TOWN CODE**

**CHAPTER 24 (OFFENSES AND MISCELLANEOUS PROVISIONS) ARTICLE 5  
(OFFENSES AGAINST PUBLIC PEACE AND ORDER) DIVISION 1  
(GENERALLY) SECTION 24-182 (NOISE ORDINANCE)**

In accordance with Code of Virginia of 1950, as amended, Sections 15.2-1102 and 15.2-1427, the Leesburg Town Council will hold a public hearing on:

**Tuesday, April 28, 2015, at 7:30 P.M.**  
in the Council Chambers of Town Hall,  
25 West Market Street, Leesburg, VA

at which time the public shall have the right to present oral and written testimony on proposed amendments to the Town’s noise ordinance.

**Important changes will be discussed and may be enacted by the Town Council:**

1. The Town will change from a “plainly audible standard” to a decibel level standard for enforcement purposes and trained police officers will use calibrated sound level meters to enforce the ordinance when complaints are lodged by the public;
2. Schools within the Town will be subject to the noise ordinance;
3. The Town and County and any other government entity operating within the Town will be subject to the noise ordinance.

The following ordinance will be discussed and may be enacted in whole or in part:

**Sec. 24-182 – Excessive Sound or Noise Ordinance.**

At certain levels, sound can be detrimental to the health, welfare, safety and quality of life of inhabitants of the town, and in the public interest sound should be restricted. It is, therefore, the policy of the town to reduce, and eliminate where possible, excessive and extreme sound and related adverse conditions in the community, and to prohibit unnecessary, excessive, harmful, and annoying sounds from all sources subject to its police power.

(1) **Definitions.** The following words, when used in this chapter, shall have the following respective meanings.

- a. *Construction Activities* means the erection including excavation, demolition, alteration or repair of any building, street, public facility or improvement.
- b. *Daytime hours* means the period each day in the following matrix:

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Start	9:00 am	7:00 am	7:00 am	7:00 am	7:00 am	7:00 am	9:00 am
End	9:00 pm	9:00 pm	9:00 pm	9:00 pm	9:00 pm	10:00 pm	10:00 pm

- c. *dBA* means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. S. dBA is designed to emphasize frequencies that

could potentially damage the hearing of a typical human. It is most sensitive to mid-range frequencies.

- d. *dB* means the sound pressure level in decibels as measured on a sound level meter using the C-weighting network. *dB* is more sensitive to low frequencies than *dB*. It more effectively captures the perception of loudness for bass tones and other, often annoying frequencies that are felt but not always heard.
  - e. *Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which may demand immediate curative or corrective action.
  - f. *Excessive sound* means any sound that exceeds 55 *dB* or 55 *dB* during *nighttime hours* and sound that exceeds 75 *dB* or 75 *dB* during *daytime hours* when measured across a residential real property boundary, across a commercial property boundary, or inside of a structure.
  - g. *Extreme sound* means any sound that exceeds sound levels in Permissible Noise Exposures of the federal Occupational Safety and Health Administration standard 29 CFR 1926.52(d)(1) Table D-2.
  - h. *Government* means a municipal, county, state, or federal, facility, or on or in publicly owned property and facilities.
  - i. *Nighttime hours* means all hours that are not defined as *daytime hours*.
  - j. *School* means a public or private school for elementary, middle or high school grades or an institution of higher education offering postsecondary degrees as a college or university.
  - k. *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. For purposes of this ordinance, sound means the same as noise.
  - l. *Sound level meter* is an instrument used for measurement of sound levels which meets the standards set forth in Code of Virginia of 1950, as amended, § 2.2-1112.
  - m. *Sound pressure level* means the weighted sound pressure level obtained by the use of the sound level meter and the A-frequency weighting network, as specified in the American National Standards Institute specifications for sound level meters.
  - n. *Special Event* means outdoor gatherings of persons, outdoor concerts, outdoor parades, outdoor festivals and outdoor private parties.
- (2) **Prohibition:** Except as provided or permitted pursuant to subsections (4), (5), or (6) in this chapter, no person shall cause, or permit to be caused, excessive sound at any point within the property of another person or business. Violations are subject to penalties pursuant to subsection (7) in this chapter.
- (3) **Extreme sound:** As extreme sounds are considered unsafe and harmful to a person's hearing, at no time shall any person cause, or permit to be caused, extreme sound at any point within the property of another person or business. Violations are subject to penalties pursuant to subsection (7) in this chapter.
- (4) **Exceptions:** Subsection (2) of this chapter shall have no application to any sound generated by any of the following:
- a. Activities for which the regulation of sound has been preempted by state or federal law.

- b. Emergencies, or potential emergencies, including alerting people to the existence of an emergency, the performance of emergency work, fire alarms, burglar alarms, and vehicle alarms.
- c. Snow removal equipment.
- d. The lawful discharge of firearms.
- e. Activities authorized by a permit issued pursuant to subsection (6) of this code.
- f. Bona fide agricultural activities.
- g. Church bells and carillons.
- h. Motor vehicles and motorcycles with manufacturer's recommended mufflers installed.

(5) **Daytime hours exceptions:** Subsection (2) in this chapter shall have no application to any sound generated by any of the following during daytime hours.

- a. Activities sponsored and scheduled by a school or governmental entity.
- b. Gardening, lawn care, tree maintenance or removal, or other landscaping activities with manufacturer's recommended mufflers installed.
- c. Construction Activities.

(6) **Permits:** Allowance for temporary exception to subsection (2) of this chapter.

- a. An application for a permit to temporarily cause excessive sound during a special event or construction activities, may be filed with the town manager. Such a permit, if approved at the manager's discretion, allows exception to subsection (2) of this chapter for the duration of the event.
- b. The application must be filed with the town manager at least 48 hours in advance of the special event, and shall state the following, unless the element would not be applicable.
  - i. Name and address of the applicant.
  - ii. Address of the place of business of the applicant.
  - iii. License number of any sound truck, or federal registration number of any aircraft, to be used by the applicant.
  - iv. Name and address of the person in direct charge of the special event.
  - v. The location of the special event.
  - vi. The hours of the special event.
  - vii. The proposed date(s) of the special event.
  - viii. A general description of the special event.

c. The town manager shall, if approved with or without appropriate conditions, return to the applicant for permit under this section one copy of a complete application filed pursuant to subsection (6)b of this chapter. This copy shall be considered as a certificate of registration, shall be filed in the office of the town clerk, shall be in the possession of the person in direct charge of the special event, and shall be promptly displayed and shown to any police officer of the town upon request.

(7) **Violations of this chapter**

- a. The first violation of this chapter within a twelve-month period shall constitute a Class 4 misdemeanor and be subject to fines and other penalties associated with this violation. A second violation of this chapter within any twelve-month period shall constitute a Class 3 misdemeanor and be subject to fines and other penalties associated with this violation.

- b. A third or subsequent violation of this chapter within any twelve-month period shall constitute a Class 2 misdemeanor and be subject to fines and other penalties associated with this violation.
  - c. In addition to the penalties prescribed above, the town may bring a suit for injunction, abatement, or other appropriate civil relief to remedy, correct, or abate excessive sound.
- (8) **Severability:** A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section, or part of this chapter shall not affect the validity of the remaining parts thereto.

Copies of the proposed ordinance are available for public examination prior to the public hearing in the office of the Town Clerk at Town Hall, 25 West Market Street, Leesburg, VA, during normal business hours. For more information about the ordinance, please contact Lee Ann Green, Clerk of Council at 703-771-2733.

Persons requiring special accommodations are requested to contact Lee Ann Green, Clerk of the Council at 703-771-2733, three days in advance of the public hearing. For TTY/TTD services, use the Virginia Relay Center by dialing 711.

4/22/15

PRESENTED: April 28, 2015

ORDINANCE NO. \_\_\_\_\_

ADOPTED: \_\_\_\_\_

AN ORDINANCE: TO AMEND TOWN CODE CHAPTER 24 (OFFENSES MISCELLANEOUS PROVISIONS); ARTICLE V (OFFENSES AGAINST PEACE AND ORDER); DIVISION I (GENERALLY); SECTION 24-182 (DECLARATION OF POLICY)

The Council of the Town of Leesburg in Virginia hereby ordains:

**SECTION I.**

Sec. 24-182. Excessive sound or noise

At certain levels, sound can be detrimental to the health, welfare, safety and quality of life of inhabitants of the town, and in the public interest sound should be restricted. It is, therefore, the policy of the town to reduce, and eliminate where possible, excessive and extreme sound and related adverse conditions in the community, and to prohibit unnecessary, excessive, harmful, and annoying sounds from all sources subject to its police power.

(1) **Definitions:** The following words, when used in this chapter, shall have the following respective meanings.

a. Construction Activities means the erection including excavation, demolition, alteration or repair of any building, street, public facility or improvement.

b. Daytime hours means the period each day in the following matrix:

	<u>Sunday</u>	<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>	<u>Saturday</u>
<u>Start</u>	<u>9:00 am</u>	<u>7:00 am</u>	<u>7:00 am</u>	<u>7:00 am</u>	<u>7:00 am</u>	<u>7:00 am</u>	<u>9:00 am</u>
<u>End</u>	<u>9:00 pm</u>	<u>9:00 pm</u>	<u>9:00 pm</u>	<u>9:00 pm</u>	<u>9:00 pm</u>	<u>10:00 pm</u>	<u>10:00 pm</u>

c. dBa means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. dBA is designed to emphasize frequencies that could potentially damage the hearing of a typical human. It is most sensitive to mid-range frequencies.

d. dBc means the sound pressure level in decibels as measured on a sound level meter using the C-weighting network. dBC is more sensitive to low frequencies than dBA. It more effectively captures the perception of loudness for bass tones and other, often annoying frequencies that are felt but not always heard.

AN ORDINANCE: TO AMEND TOWN CODE CHAPTER 24 (OFFENSES MISCELLANEOUS PROVISIONS); ARTICLE V (OFFENSES AGAINST PEACE AND ORDER); DIVISION I (GENERALLY); SECTION 24-182 (DECLARATION OF POLICY)

- e. Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which may demand immediate curative or corrective action.
- f. Excessive sound means any sound that exceeds 55 dBA or 55 dBC during nighttime hours and sound that exceeds 75 dBA or 75 dBC during daytime hours when measured across a residential real property boundary, across a commercial property boundary, or inside of a structure.
- g. Extreme sound means any sound that exceeds sound levels in Permissible Noise Exposures of the federal Occupational Safety and Health Administration standard 29 CFR 1926.52(d)(1) Table D-2.
- h. Nighttime hours means all hours that are not defined as daytime hours.
- i. School means a public or private school for elementary, middle or high school grades or an institution of higher education offering postsecondary degrees as a college or university.
- j. 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. For purposes of this ordinance, sound means the same as noise.
- k. Sound level meter is an instrument used for measurement of sound levels which meets the standards set forth in Code of Virginia of 1950, as amended, § 2.2-1112.
- l. Sound pressure level means the weighted sound pressure level obtained by the use of the sound level meter and the A-frequency and/or C-frequency weighting network(s), as specified in the American National Standards Institute specifications for sound level meters.
- m. Special Event means outdoor gatherings of persons, outdoor concerts, outdoor parades, outdoor festivals, outdoor private parties or other like activities.
- n. Temporary or temporarily means lasting for limited period of time. For purposes of obtaining a Special Event permit, temporary or temporarily does not mean continuing or recurring at regular or patterned intervals, and shall not be used for outdoor restaurants and/or bars.

AN ORDINANCE: TO AMEND TOWN CODE CHAPTER 24 (OFFENSES MISCELLANEOUS PROVISIONS); ARTICLE V (OFFENSES AGAINST PEACE AND ORDER); DIVISION I (GENERALLY); SECTION 24-182 (DECLARATION OF POLICY)

- (2) **Prohibition:** Except as provided or permitted pursuant to subsections (4), (5), or (6) in this chapter, no person shall cause, or permit to be caused, excessive sound at any point within the property of another person or business. Violations are subject to penalties pursuant to subsection (7) in this chapter.
- a. Measurements in multifamily dwellings or mixed use structures. In a structure used as a multifamily dwelling or a mixed use structure, the police department may take measurements to determine sound levels from indoor common areas or other dwelling units within the structure, when requested to do so by a residential occupant in possession and control thereof. Such measurement shall be taken at a point at least four (4) feet from the wall, ceiling or floor nearest the noise source, with doors and windows to the receiving area closed.
- (3) **Extreme sound:** As extreme sounds are considered unsafe and harmful to a person's hearing, at no time shall any person cause, or permit to be caused, extreme sound at any point within the property of another person or business. Violations are subject to penalties pursuant to subsection (7) in this chapter.
- (4) **Exceptions:** Subsection (2) of this chapter shall have no application to any sound generated by any of the following:
- a. Activities for which the regulation of sound has been preempted by state or federal law.
- b. Emergencies, or potential emergencies, including alerting people to the existence of an emergency, the performance of emergency work, fire alarms, burglar alarms, and vehicle alarms. However, with respect to vehicle alarms, if the owner and/or driver of the vehicle knows or has reason to know that such vehicle's alarm system is faulty, such sound shall not fall under this Exceptions clause.
- c. Activities on school property or school athletic facilities.
- d. Snow removal equipment.
- e. The lawful discharge of firearms, as set out in the Code of Virginia of 1950, as amended, § 18.2-280
- f. Activities authorized by a permit issued pursuant to subsection (6) of this code.
- g. Bona fide agricultural activities.

AN ORDINANCE: TO AMEND TOWN CODE CHAPTER 24 (OFFENSES MISCELLANEOUS PROVISIONS); ARTICLE V (OFFENSES AGAINST PEACE AND ORDER); DIVISION I (GENERALLY); SECTION 24-182 (DECLARATION OF POLICY)

- h. Church bells and carillons.
  - i. Motor vehicles and motorcycles with manufacturer's recommended mufflers installed.
- (5) **Daytime hours exceptions:** Subsection (2) in this chapter shall have no application to any sound generated by any of the following during daytime hours.
- a. Activities sponsored and scheduled by a school or governmental entity.
  - b. Gardening, lawn care, tree maintenance or removal, or other landscaping activities with manufacturer's recommended mufflers installed.
  - c. Construction Activities.
- (6) **Permits:** Allowance for temporary exception to subsection (2) of this chapter.
- a. An application for a permit to temporarily cause excessive sound during a special event or construction activities, may be filed with the town manager. Such a permit, if approved at the manager's discretion, allows exception to subsection (2) of this chapter for the duration of the event. The town manager may place conditions on the permit prior to approval. In determining whether to approve an application for a permit, the town manager shall consider all of the information contained within the application, as listed in subsection (6)b, and any other information which may affect the applicant's neighbors and other community members, including safety and nuisance issues.
  - b. The application must be filed with the town manager at least 48 hours in advance of the special event, and shall state the following, unless the element would not be applicable.
    - i. Name and address of the applicant.
    - ii. Address of the place of business of the applicant.
    - iii. License number of any sound truck, or federal registration number of any aircraft, to be used by the applicant.
    - iv. Name and address of the person in direct charge of the special event.

AN ORDINANCE: TO AMEND TOWN CODE CHAPTER 24 (OFFENSES MISCELLANEOUS PROVISIONS); ARTICLE V (OFFENSES AGAINST PEACE AND ORDER); DIVISION I (GENERALLY); SECTION 24-182 (DECLARATION OF POLICY)

- v. The location of the special event.
  - vi. The hours of the special event.
  - vii. The proposed date(s) of the special event.
  - viii. A general description of the special event.
- c. The town manager shall, if approved with or without appropriate conditions, return to the applicant for permit under this section one copy of a complete application filed pursuant to subsection (6)b of this chapter. This copy shall be considered as a certificate of registration, shall be filed in the office of the town clerk, shall be in the possession of the person in direct charge of the special event, and shall be promptly displayed and shown to any police officer of the town upon request.

(7) **Violations of this section:**

- a. The first violation of this section within a twelve-month period shall constitute a Class 4 misdemeanor and be subject to fines and other penalties associated with this violation. A second violation of this section within any twelve-month period shall constitute a Class 3 misdemeanor and be subject to fines and other penalties associated with this violation.
- b. A third or subsequent violation of this section within any twelve-month period shall constitute a Class 2 misdemeanor and be subject to fines and other penalties associated with this violation.
- c. In addition to the penalties prescribed above, the town may bring a suit for injunction, abatement, or other appropriate civil relief to remedy, correct, or abate excessive sound.

(8) **Severability:** A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section, or part of this section shall not affect the validity of the remaining parts thereto.

AN ORDINANCE: TO AMEND TOWN CODE CHAPTER 24 (OFFENSES MISCELLANEOUS PROVISIONS); ARTICLE V (OFFENSES AGAINST PEACE AND ORDER); DIVISION I (GENERALLY); SECTION 24-182 (DECLARATION OF POLICY)

~~Sec. 24-182. 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. Mass outdoor social gatherings, using amplified sound, in this town, unless subjected to coordination and planning efforts with the town, create excessive noise and related adverse effects for the citizens of this town. It is, therefore, the policy of the town to reduce, and eliminate where possible, excessive noise and related adverse conditions in the community, and to prohibit unnecessary, excessive, harmful and annoying noises from all sources subject to its police power.~~

~~(1) *Definitions.* The following words, when used in this chapter, shall have the following respective meanings, unless the context clearly indicates a different meaning:~~

~~*Excessive noise* means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans. Specific examples of prohibited excessive noise are set forth in subsection 24-182(3) of this chapter.~~

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

~~*Owner* means the person owning, controlling, or possessing land, premises, or personality.~~

~~*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.~~

~~*Plainly audible* means any sound that can be heard clearly by a person using his or her unaided hearing faculties. When music is involved, the detection of rhythmic bass tones shall be sufficient to be considered plainly audible sound.~~

~~*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 person from that owned by another person.~~

~~*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.~~

~~*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.~~

~~(2) *Excessive noise — Punishments.* Any person violating any of the provisions of this chapter shall be deemed guilty of a class 2 misdemeanor. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.~~

~~(3) *Specific prohibitions.* Subject to the exceptions provided in subsection 24-182(4), any of the following acts, or the causing or permitting thereof is declared to be excessive noise, constituting a class 2 misdemeanor and a public nuisance:~~

AN ORDINANCE: TO AMEND TOWN CODE CHAPTER 24 (OFFENSES MISCELLANEOUS PROVISIONS); ARTICLE V (OFFENSES AGAINST PEACE AND ORDER); DIVISION I (GENERALLY); SECTION 24-182 (DECLARATION OF POLICY)

- 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 dwelling units within a building; or~~
  - 2. ~~In such a manner as to be plainly audible at a distance of 50 feet or more from the building in which it is located; or~~
  - 3. ~~When the sound is plainly audible at a distance of 50 feet or more 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 similar device amplifying sound therefrom for any purpose in such a manner as to permit sound to be heard across a residential real property boundary, or through partitions common to two 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. ~~Explosive, 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 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 dwelling units within a building.
- f. ~~Schools, public buildings, places of worship, and hospitals.~~ The creation of any noise on the grounds of any school, court, public building, place of worship, or hospital, in a manner that is plainly audible within such school, court, public building, place of worship or hospital and interferes with the operation of the institution.
- g. ~~Vehicles.~~ Operation of a motor vehicle or operation of a motorcycle within the town that creates mechanical or exhaust noise that is plainly audible at a distance of 200 feet or more from the vehicle. Operation of sound amplifying equipment in a motor vehicle at a volume sufficient to be plainly audible at a distance of 100 feet from the vehicle.
- h. ~~Construction.~~ The erection, including excavation, demolition, alteration, or repair of any building, street, public facility, or improvement between the hours of 10:00 p.m. and 6:30 a.m., except in the case of that it is in the best interests of the public, for public improvements and to provide for public safety, to perform the construction between said hours. The town manager shall have the authority to approve the operation of the construction equipment that may generate said noise. In considering the granting, conditioning, or denial of the permit, the town manager shall be guided by the following standards: (i) significant impact to businesses; (ii) pedestrian safety; (iii) traffic volume and traffic control safety; (iv) staff to endeavor to avoid night construction if possible; and (v) staff will notify affected businesses and residents are properly notified in advance prior to construction.

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- i. ~~Pneumatic hammer, chain saw, etc.~~ The operation between the hours of 10:00 p.m. and 6:30 a.m. of any chain saw, pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance unless as set forth in subsection 24-182(11).
  - j. ~~Animals.~~ In addition to the prohibition set forth in ch. 4, art. II, subsection 4-35(6), the owning, keeping, or possessing of any animal or animals, which frequently or habitually howl, bark, meow, [and/or] squawk in such a manner as to permit sound to be heard across a residential real property boundary or through partitions common to two dwelling units within a building, for a period of time exceeding 30 minutes past sundown, unless authorized by separate ordinance.
    - 1. This subsection shall not apply to any bona fide agricultural activity as defined in the Code of Virginia, title 3.5, ch. 4.5, or to an emergency vehicle which causes noise in the performance of emergency work.
- (4) ~~Exceptions.~~ Subsections (3)a.—j. above shall have no application to any sound generated by any of the following:
- a. Sound which is necessary for the protection or preservation of property or the health, safety, life or limb of any person.
  - b. Public speaking and public assembly activities conducted on any public right-of-way or public property.
  - c. Radios, sirens, horns, and bells on police, fire, or other emergency response vehicles.
  - d. Parades, fireworks displays, school-related activities, and other such public special events or public activities.
  - e. Activities on or in municipal, county, state, United States, or school athletic facilities, or on or in publicly owned property and facilities.
  - f. Fire alarms, burglar alarms, and vehicle 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, and if turned off within 30 minutes.
  - g. 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.
  - h. Locomotives and other railroad equipment, and aircraft.
  - i. The striking of clocks.
  - j. Military activities of the Commonwealth of Virginia or of the United States of America.
  - k. Household tools, lawnmowers, and other lawn care equipment with manufacturer's recommended mufflers installed, between 7:00 a.m. and 10:00 p.m.
  - l. Agricultural activities.
  - m. Lawful discharge of firearms.
- (5) ~~Sound amplifying equipment—Registration.~~
- a. Except as provided in subsection (4) of this section, no person shall use or cause to be used sound amplifying equipment in or over the town, unless such equipment is first registered with the town. Application for such registration shall be filed with the town manager at least 48 hours in advance of the use. The application for registration shall be in

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a form approved by the town manager, and shall state the following, unless the element would not be applicable:

- ~~1. The name and address of the applicant.~~
  - ~~2. The address of the place of business of the applicant.~~
  - ~~3. The license number of any sound truck, or federal registration number of any aircraft, to be used by the applicant.~~
  - ~~4. The name and address of the person who owns the sound amplifying equipment.~~
  - ~~5. The name and address of the person having direct charge of the sound amplifying equipment.~~
  - ~~6. The names and addresses of all persons who will use the sound amplifying equipment.~~
  - ~~7. The location in the town in which sound amplifying equipment will be employed.~~
  - ~~8. The proposed hours of operation, which shall not begin before 10:30 a.m. or extend past 8:00 p.m. of any day.~~
  - ~~9. The proposed dates of operation.~~
  - ~~10. A general description of sound amplifying equipment to be used.~~
- ~~b. The town manager shall return to the applicant for registration under this section one copy of a complete application filed pursuant to subsection (5)a. This copy shall be considered as a certificate of registration, shall be filed in the office of the town clerk, shall be in the possession of the person operating the sound amplifying equipment, and shall be promptly displayed and shown to any police officer of the town upon request.~~
- ~~c. In case of an emergency, or other circumstance calling for the immediate use of sound amplifying equipment, so that the 48-hour deadline set out in subsection (5)a. cannot be met, the town manager may waive the deadline using the following standards as applicable; the intensity or immediacy of the emergency or circumstance; lack of alternate means of applicant's accomplishing the same goals by complying with the deadline; and avoidance of nullifying the deadline by a repeated course of conduct. The waiver shall be in writing, shall address these standards as applicable, and shall be filed in the office of the town clerk.~~
- ~~(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 excessive noise.~~
  - ~~b. Citizens of the town believing that excessive noise constituting a public nuisance exists may utilize the procedure set forth in Code of Virginia (1950), § 48-1 et seq., as amended, or any other legal civil or criminal remedies that may be available to them.~~

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**SECTION II.** All prior ordinances in conflict herewith are hereby repealed.

**SECTION III.** Severability. A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this section shall not affect the validity of the remaining parts thereto.

**SECTION IV.** This ordinance shall be effective January 1, 2016.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council