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## **CHAPTER 15. NUISANCES.**

### **ARTICLE I. Noise Control.**

#### **§ 15-1. Short title; scope.**

This article may be cited as the "Noise Control Ordinance of the County of Augusta." It shall be applicable to the control of noises originating within the county limits.

State law reference--Virginia Code § 15.2-1200; Acts of Assembly, 1990, Chapter 699, pg. 1049.

#### **§ 15-2. Declaration of findings and policy.**

The board of supervisors hereby finds and declares that excessive sound is a serious hazard to the public health, welfare, peace and safety, and the quality of life; that a substantial body of science and technology exists by which excessive sound may be substantially abated; that the people have a right to and should be ensured an environment free from excessive sound that may jeopardize the public health, welfare, peace and safety or degrade the quality of life; and that it is the policy of the county to prevent such excessive sound by prescribing the decibel levels, degrees, and types of sound which shall be unacceptable in the county.

#### **§ 15-3. Definitions.**

The following terms, when used in this article, shall have the meanings hereinafter ascribed to them, unless otherwise clearly indicated by the context:

(a) A-weighted sound level. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

(b) Decibel (dB). A unit for measuring the volume of a sound, equal to twenty times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (twenty micronewtons per square meter).

(c) Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

(d) Emergency Work. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

(e) Noise. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

(f) Property boundary. An imaginary line along the ground surface, and its vertical extension, which separates the real property owned, leased or otherwise legally controlled by one person from that owned, leased or otherwise legally controlled by another person, including intra-building real property divisions.

(g) Sound. An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

(h) Sound level. The weighted sound pressure level obtained by the use of a sound level meter and the A-frequency weighting network, as specified in American National Standards Institute specifications for sound level meters.

(i) Sound level meter. An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.

#### **§ 15-4. Administration and enforcement.**

The noise control program established by this article shall be enforced and administered by the sheriff's department with the assistance of other county departments as required.

#### **§ 15-5. Use of sound level meters.**

In order to enforce this article, the decibel level of any noise may be measured by the use of a sound level meter which measures sound pressure levels.

#### **§ 15-6. Procedure for testing and validating metering devices.**

A. Any individual operating a sound level meter pursuant to the provisions of the Noise Control Ordinance of the County of Augusta shall issue a certificate which will indicate:

1. That the sound level meter used to take the decibel level reading was operated in accordance with the manufacturer's specifications;
2. That the county has on file an attested document from the manufacturer which states that the sound level meter has been tested within the past twelve months and has been found to be accurate;
3. The name of the accused;
4. The location of the noise;

5. The date and time that the reading was made; and
6. The decibel level reading.

B. The certificate, as provided for in this section, when duly attested by the operator taking the decibel level reading, shall be admissible in any court in any criminal or civil proceeding as evidence of the facts therein stated and of the decibel level reading. Any such certificate purporting to be signed by the operator shall be admissible in evidence without proof of seal or signature of the person whose name is signed to it. A copy of such certificate shall be delivered to the accused upon his or his attorney's request.

#### **§ 15-7. Maximum sound levels in County.**

(a) No person shall permit, operate or cause any source of sound from leisure and recreational activities to create a sound level during the hours between 12:00 midnight and 6:00 a.m. in excess of 65 dBA when measured at or outside the property boundary.

(b) Measurements in multi-family structures. In a structure used as a multi-family dwelling the Sheriff's department may take measurements to determine such sound levels from common areas within or outside the structure or from other dwelling units within the structure, when requested to do so by the owner or tenant in possession and control thereof. Such measurement shall be taken at a point at least four feet from the wall, ceiling or floor nearest the noise source, with doors to the receiving area closed and windows in the normal position for the season.

#### **§ 15-8. Exemptions.**

The following activities or sources of noise shall be exempt from the prohibitions set forth in § 15-7 of this article:

- (1) Business, manufacturing, construction or agricultural operations.
- (2) Activities for which the regulation of noise has been preempted by federal law.

#### **§ 15-9. Unnecessary Noises Enumerated.**

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Article, but such enumeration shall not be deemed to be exclusive:

##### **A. Barking Dogs**

1. It shall be unlawful to own, keep, possess or harbor any dog on property zoned Single Family Residential, Attached Residential, Multi-family Residential, Manufactured

Home Park or Planned Unit Development which by loud, frequent or habitual barking or howling or by other conduct likely to cause annoyance and disturb the peace and quiet of any person or neighborhood between the hours of 12 midnight and 6 a.m., which loud, frequent or habitual barking or howling or other conduct is heard or observed by any animal control officer, other officer or other person, shall be unlawful, and any such dog is hereby declared to be a public nuisance.

2. Any citizen having sufficient evidence of violation of one or more of the prohibitions set out in the section above may present such evidence and make affidavit to the Augusta County Magistrate and request issuance of a summons or warrant based thereon. Corroboration of the alleged violation by the sheriff's department or the animal control officers shall not be necessary in order 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.

(Ord. 12/10/14, effective 1/1/15)

**§ 15-10. Emergency exception.**

No provisions of this article shall apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.

**§ 15-11. Penalties and violations.**

A. Any person who violates Section 15-9 of this article shall be fined \$100 for the first offense, \$250 for the second offense within a twelve month period, and \$500 for the third and subsequent offenses within a twelve month period.

B. Any person who violates any other provision of this article shall be deemed to be guilty of a class II misdemeanor.

C. Each day of violation of any provision of this article shall constitute a separate offense.

D. The person operating or controlling a noise source shall be guilty of any violation caused by that source. If that person cannot be determined, any owner, tenant or resident physically present on the property where the violation is occurring is rebuttably presumed to be guilty of the violation.

(Ord. 12/10/14, effective 1/1/15)

**§ 15-12 through § 15-20. Reserved.**

## **ARTICLE II. Refuse and Condition of Premises.**

### **§ 15-21. Removal of trash, garbage, etc.**

A. The owners of property in the county shall at all times remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the county.

B. The county may, whenever the board of supervisors deems it necessary, after reasonable notice, have all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the county, removed by its own agents or employees. In such event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the county as taxes and levies are collected.

State law reference--Virginia Code § 15.2-901.

### **§ 15-22. Removal of grass, weeds and foreign growth.**

The owners of property in the county shall at all times, whether such property be vacant or otherwise, cut the grass, weeds, or other vegetation, except trees and ornamental shrubs, cultured plants and flowers, and growing or producing vegetable plants, of such property which might endanger the health or safety of other residents of the county subject to the following:

#### A. Agriculture Districts.

Property owners shall cut the grass, weeds, or other vegetation in excess of fifteen inches (15") on all lots one acre or less in area. Any grass, weeds, or other vegetation fifteen inches (15") above the surface of the surrounding ground shall be judged to be in violation of the provisions of this section.

#### B. Residential Dwelling Districts.

1. Property owners shall cut the grass, weeds, or other vegetation in excess of ten inches (10") on all lots two (2) acres or less in area in all residential zoned districts (except Rural Residential). Any grass, weeds, or other vegetation ten inches (10") above the surface of the surrounding ground shall be judged to be in violation of the provisions of this section.

2. Property owners shall cut the grass, weeds, or other vegetation in excess of fifteen inches (15") on all lots containing two (2) acres or less in area in Rural Residential zoned districts. Any grass, weeds, or other vegetation fifteen inches (15") above the surface of the surrounding ground shall be judged to be in violation of the provisions of this section.

C. Business and Industrial Districts.

Property owners shall cut the grass, weeds, or other vegetation in excess of fifteen inches (15") on all lots two (2) acres or less in area in Business and Industrial Districts. Any grass, weeds, or other vegetation fifteen inches (15") above the surface of the surrounding ground shall be judged to be in violation of the provisions of this section.

D. In General.

For all Residential, Business or Industrial lots not otherwise specified above the following shall apply:

In all cases where there is a residential, business, or industrial structure on the adjacent lot, property owners shall cut the grass, weeds, or other vegetation in excess of fifteen inches (15") within an area one hundred fifty feet (150') in width along the property line that is adjacent to such structure. For the purpose of this section, adjacent lots will not include parcels separated by a street.

**§ 15-22.1 Enforcement.**

It is the purpose of this section to establish requirements for the enforcement by county staff of the provisions of this article concerning grass, weeds, or other vegetation.

A. Notification. The county will notify property owners in writing regarding violations of the provisions of this section. The notification process will consist of two "notice of violation" letters as follows:

1. The first notice of violation will be sent by certified mail giving the property owner ten (10) days to mow the property and notify the county so that an inspection may be made.

2. The second notice of violation will be a "final notice" giving the property owner ten (10) days to mow the property and notify the county so that an inspection may be made.

3. Where the owner of a property has received a notice of violation or a series of notices of violation for a property in the current or immediately preceding calendar year, with respect to subsequent violations concerning the same property, the provision of "reasonable notice" shall require only a final notice of violation sent to the owner of the property. This "final notice" will require compliance within fifteen (15) days of the final notice or staff will proceed with abatement of the violation.

B. Abatement of violation.

1. The county may, after reasonable notice, have such grass, weeds or other vegetation cut by its agents or employees. In such event the actual cost incurred by the county for mowing said property plus an administrative fee of \$100.00 shall be chargeable to and paid by the owners of such property and may be collected by the county as taxes and levies are collected or a warrant in debt. (Ord. 10/28/15)

2. A violation of this section may be punishable by a civil penalty not to exceed \$100.00.

(Ord. 2/10/10, eff. 3/1/10)

State law reference--Virginia Code § 15.2-901.

**§ 15-23. Collection of charges as lien.**

Every charge authorized by this article with which the owner and lien holder of any such property has been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in articles 3 (' 58.1-3940 *et seq.*) and 4 (' 58.1-3965 *et seq.*) of chapter 39 of title 58.1 of the Code of Virginia (1950), as amended.

State law reference--Virginia Code § 15.2-901.

**§ 15-24. Nuclear waste materials.**

Nuclear waste materials shall be deemed substances which might endanger the health or safety of the residents of the county under ' 15-21 of this article. No property lying within the boundaries of the county shall at any time be used as a permanent or temporary disposal site for the storage of nuclear waste materials or any spent radioactive substance. (Ord. 11/25/80)