

NOISE

**Chapter 12**

NOISE

STEPHENS CITY CODE

## NOISE

### Section 12-1

Excessive sound vibration and inadequately controlled noise are serious hazards to the public health, safety and welfare, and a source of annoyance to the populace.

The residents of and visitors to the Town of Stephens City are entitled to an environment free from excessive sound vibration and inadequately controlled noise that may endanger their health or welfare, or degrade their quality of life, comfort, repose or peace.

It is the policy of the Town of Stephens City to protect the health, safety and welfare of its residents and visitors and to promote an environment free from noise disruptive of peace and good order.

It is the policy of the Town of Stephens City to prevent excessive noise that may endanger the health or welfare, or degrade the quality of life, comfort, repose or peace of residents and visitors.

### Section 12-2 Declaration of Findings and Policy

Town Council hereby finds and declares that excessive noise 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 noise that may jeopardize the public health, welfare, peace and safety or degrade the quality of life; and that it is the policy of the town to prevent such excessive noise.

### Section 12-3 Definitions

Unless otherwise defined in the Town Code the following words shall have meanings ascribed to them as follows:

*A-weighted sound level* means 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.

*Background noise level* shall mean the aggregate of all sound sources impacting at the place where a specific sound generation is measured or evaluated, excluding the specific sound generation itself.

*Decibel (dB)* means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

*Emergency* means any occurrence or set of circumstances involving actual or imminent physical injury or illness or property damage that requires immediate action.

*Emergency work* means any work performed for the purpose of preventing or alleviating the physical injury or illness or property damage threatened or caused by an emergency.

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*Gross vehicle weight rating (GVWR)* means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

*Instrument, machine or device* means and refers to any musical instrument, radio, phonograph, compact disc player, cassette tape player, amplifier or any other machine or device for producing, reproducing or amplification of sound.

*Motor carrier vehicle engaged in interstate commerce* means any vehicle for which regulations apply pursuant to section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

*Motorcycle* means any motor vehicle designed to travel on not more than three (3) wheels in contact with the ground and any four-wheeled vehicle weighing less than five hundred (500) pounds and equipped with an engine of less than six (6) horsepower, excepting farm tractors.

*Motor vehicle* means any self-propelled device or device designed for self propulsion, upon or by which any person or property is or may be drawn or transported upon a street or highway, except devices moved by human power or used exclusively upon stationary wheels or tracks.

*Noise* means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

*Public area* means any real property owned by the government, including, but not limited to, public rights-of-way, sidewalks, parks, and buildings.

*Residential dwelling* means any building or other structure in which one or more persons resides on a permanent or temporary basis, including, but not limited to, houses, apartments, condominiums, hotels, and motels.

*Restaurant* means any building or structure where in the normal course of business food or drink is available for eating on the premises, in consideration for payment. For purposes of this chapter, the term restaurant includes, but is not limited to, bars, lounges, taverns, coffee shops and cafes.

*Sound generation* means any conduct, activity or operation, whether human, mechanical, electronic or other, and whether continuous, intermittent or sporadic, and whether stationary or ambulatory in nature, which produces or results in an audible sound.

*Sound level* means 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.

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*Sound level meter* means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.

**Sections 12-3 – 12-9 reserved**

### **Section 12-10 Administration and enforcement.**

The Town Police Department shall be responsible for enforcement of the noise control program established by this article and may be assisted by other town departments as required.

### **Section 12-11 Violations**

(a) Any person who violates any provision of this article shall be deemed to be guilty of a Class 3 misdemeanor for a first offense. Any person who violates a provision of this article within one (1) year after a previous conviction under this article shall be guilty of a Class 2 misdemeanor.

(b) 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 presumed to be operating or controlling the noise source.

(c) In addition to and not in lieu of the penalties prescribed in this section, the town may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this article and may seek any other remedy or relief authorized by law.

### **Section 12-12 Exceptions**

No provisions of this article shall apply to (1) the emission of sound for the purpose of alerting persons to the existence of an emergency; (2) the emission of sound in the performance of emergency work; (3) activities sponsored by the Town; (4) activities authorized by a permit issued by the Town; or (5) activities for which the regulation of noise has been preempted by federal law.

### **Section 12-13 Use of Sound Level Meters**

The decibel level of any noise regulated by this article shall be measured by a sound level meter. In order to implement and enforce this article effectively, the chief of police shall promulgate standards and procedures for using and testing sound level meters used in the enforcement of this article.

### **Section 12-14 Maximum Sound Levels and Residential Dwellings**

(a) *Nighttime*. No person shall permit, operate or cause any source of sound to create a sound level that can be heard in another person's residential dwelling during the hours between 10:00 p.m. and 6:00 a.m. in excess of 55 dBA when measured inside the residence at least four (4) feet from the wall nearest the source, with doors to the receiving area closed and windows in the normal position for the season.

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(b) *Daytime.* No person shall permit, operate or cause any source of noise to create a sound level in another person's residential dwelling during the hours between 6:00 a.m. and 10:00 p.m. in excess of 65 dBA when measured inside the residence at least four (4) feet from the wall nearest the source, with doors to the receiving area closed and windows in the normal position for the season.

(c) *Measurements in multifamily dwellings or mixed use structures.* In a structure used as a multifamily dwelling or a mixed-use structure, the Town Police Department may take measurements to determine 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 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 to the receiving area closed and windows in the normal position for the season.

(d) *Exemptions.* The following activities or sources of noise shall be exempt from the daytime prohibition set forth in subsection (b) of this section:

- (1) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, colleges, or universities.
- (2) Athletic contests and other officially sanctioned activities in town parks or facilities.
- (3) Activities related to the construction, repair, maintenance, remodeling or demolition, grading or other improvement of real property.
- (4) Gardening, lawn care, tree maintenance or removal, and other landscaping activities.
- (5) Agricultural activities.
- (6) Church bells, carillons, or calls to worship by other sound-producing devices.
- (7) Religious or political gatherings to the extent that those activities are protected by the First Amendment to the United States Constitution.
- (8) Public transportation, refuse collection and sanitation services.

### **Section 12-15 Motor Vehicle Maximum Sound Levels; Amplified Sound from Vehicles**

(a) No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle

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or motorcycle, when measured at a distance of fifty (50) feet or more, exceeds the level set forth in the following table:

Vehicle Class	Sound level in dBA	
	Speed limit 35 MPH or less	Speed limit over 35 MPH
All motor vehicles of GVWR or GCWR of 6,000 lbs. or more	86	90
Any motorcycle	82	86
Any other motor vehicle or any combination of vehicles towed by any other motor vehicle	76	82

(b) This section shall not apply to any motor carrier vehicle engaged in interstate commerce.

(c) Notwithstanding any other provisions of this section or article, it shall be unlawful for any person to play or operate, or permit the playing, use or operation of, any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound, which is located within a motor vehicle being operated or parked on public or private property within the town, including any public or private street or alley, in such a manner as to be audible to the human ear at a distance of one hundred (100) or more feet from the vehicle in which it is located.

The provisions of this subsection shall not apply to motor vehicles driven in a duly authorized parade, nor to motor vehicle alarms or other security devices, nor 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.

**Section 12-16 Specific Prohibitions**

The following acts are declared to be violations of this article. This enumeration shall not be construed to limit, in any way, the general prohibitions contained in Section 12-14:

(a) *Vehicle horns, signaling devices and similar devices.* Sounding any horn, signaling device, or similar device on any automobile, motorcycle or other vehicle on any right-of-way or in any public space continuously or intermittently for more than ten (10) consecutive seconds, except when the sounding of any such device is intended as a danger warning.

(b) *Non-emergency signaling devices.* Sounding or permitting the sounding of any amplified signal continuously or intermittently from any bell, chime, siren, whistle or similar device intended primarily for non-emergency purposes from any one location for more than ten (10) consecutive seconds

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in any hourly period; provided, however, that this subsection shall not apply to the sounding of such devices by religious uses or by public bodies or agencies for testing, traffic control or other public purposes.

(c) *Emergency signaling devices, security, burglar and fire alarms, etc.* Sounding or permitting the continuous or intermittent sounding outdoors of any emergency signaling device, or any security, burglar or fire alarm, siren, whistle, or similar device, including without limitation any motor vehicle security alarm, siren, whistle, or similar device, for a period in excess of ten (10) minutes in any residential area and fifteen (15) minutes in any other area, except in response to a burglary, attempted burglary, fire, or other emergency.

(d) *Audio and audio-visual devices, musical instruments, etc.* The playing of any television, boombox, stereo, phonograph, radio, tape player, compact disc player, MP3 player, video player, musical instrument, drum, or any other device that produces, reproduces or amplifies sound, including any such device in a motor vehicle, where the sound is plainly audible to any person other than the players(s) or operator(s) of the device and those who are voluntarily listening to the sound and is plainly audible and discernable at a distance of fifty (50) feet or more from the source of the sound; provided, however that the provisions of this subsection shall not apply to any outdoor performance, parade, gathering, dance, concert, show, sporting event, or other event sponsored by the town or for which the town has granted a permit.

(e) *Noise-sensitive areas.* The making of any unreasonably loud and raucous noise within two hundred (200) feet of any school, place of worship, court, hospital, nursing home, or assisted-living facility while the same is being used as such, that interferes with the workings of the institution.

(f) *Construction equipment.* The operation of any bulldozer, crane, backhoe, front loader, pile driver, jackhammer, pneumatic drill, or other construction equipment between the hours of 10:00 p.m. and 6:00 a.m. except when operated in the course of emergency work or as authorized by the Town Manager.

### **Section 12-17 Sound Levels; Restaurants**

No person shall permit, operate or cause any source of sound to create a sound level emanating from a restaurant during the hours between 10:00 p.m. and 6:00 a.m. (1) in excess of seventy-five (75) dB(A) when measured from any public area, including but not limited to adjacent streets or sidewalks; or (2) that is plainly audible and discernable at a distance of fifty (50) feet from any of the restaurant's external walls when measured from any property other than the property on which the restaurant is located.

### **Section 12-18 Severability**

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

*State Law References:* Town Charter. 15.2-917 as to shooting sports, 15.2-919 as to noise from motorcycles or motor scooters. 15.2-918 as to noise from air cannons. 24.2-605 as to loudspeakers at polls. 46.2-1047, et. seq. as to motor vehicle exhaust systems.