

ROCKBRIDGE COUNTY CODE

Chapter 4

AMUSEMENTS AND ENTERTAINMENT*

Art. IV. Regulation of Noise, §§4-39--4-49

ARTICLE IV. REGULATION OF NOISE

Sec. 4-39. Short title and application of article generally.

This Article shall be known and referred to as the “Noise Ordinance of Rockbridge County, Virginia.” It shall be applicable to the control of noises originating within the jurisdictional limits of Rockbridge County and from county-owned lands located outside the jurisdictional limits of the county.

Sec. 4-40. Declaration of policy.

At certain levels, noise can be detrimental to the health, welfare, safety, peace, and quality of life of the citizens of the county, and in the public interest, noise should be controlled. It is, therefore, the policy of the County to reduce noise in the county and to prohibit certain unnecessary, excessive, harmful and annoying noises.

Sec. 4-41. Administration and enforcement.

This article shall be enforced and administered by the Sheriff, with the assistance of other county departments as required.

Sec. 4-42. Definitions.

For purposes of this article, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:

Dwelling unit: one or more rooms arranged, designed or intended to be occupied as separate living quarters by one or more persons and including permanent provisions for living, sleeping, eating, cooking and sanitation.

* **Cross reference(s)**--Licenses and business regulations, Ch. 19; amusement and recreation services, §19-54(2), (5); carnival licenses, §19-58; licenses for coin-operated machine operators, §19-59.

Emergency: any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

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

Owner: the person owning, controlling, or possessing land, premises or personalty.

Person: any individual, partnership, corporation, firm, association, trust, estate, society, club, private institution, group of persons acting in concert, organization or agency, or any legal successor, representative, agent or agency of the foregoing. This term shall not include the federal, state, county, town, city or local government, or any agency or institution thereof.

Sheriff: the Sheriff of Rockbridge County, Virginia, or his duly appointed designees.

Sound: 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 finite speed. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound amplifying equipment: any machine, device or equipment 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.

Sec. 4-43. Loud noises prohibited.

It shall be unlawful for any person, on Sunday through Thursday between the hours of 11:00 p.m. and 8:00 a.m. the following day, and on Friday and Saturday between the hours of 11:59 p.m. and 8:00 a.m. the following day:

- (1) To use, operate or play any radio, phonograph, television, record, compact disc or tape player, musical instrument, loudspeaker, sound amplifying equipment or other machine or device capable of producing or reproducing sound in such a manner or with such volume or duration that it is plainly audible: (i) inside the confines of the dwelling unit, house or apartment of another person or (ii) at 50 or more feet from the device.
- (2) To create or allow noise from talking, yelling, shouting, whistling or singing, or any combination thereof, that is plainly audible either inside the confines of the dwelling unit, house or apartment of another person or at 50 or more feet from the source(s) of the noise, when the noise is generated from a gathering of ten or more people.

Sec. 4-44. Exemptions.

The following specific activities or sources of noise shall be exempt from the regulations set forth in this article:

- (1) Business, manufacturing, construction, industrial or agricultural operations.
- (2) Activities or land use for which a Special Use Permit has been issued or a Special Exception has been granted by the Board of Supervisors of Rockbridge County.
- (3) Activities or events for which a special entertainment permit has been granted pursuant to Article II of this Chapter.
- (4) Activities for which the regulation of noise has been preempted by federal law.
- (5) Sounds emitted in the performance of emergency work or for the purpose of alerting persons to the existence of an emergency.
- (6) Sound generated by the operation of any governmental function.
- (7) Lawful activities on or in public and school athletic facilities and on or in publicly owned properties and facilities, including but not limited to, devices permitted to be used at public parks or recreation fields, sporting events, school-sponsored activities on school grounds, or duly authorized parades, public functions or commemorative events.
- (8) Military activities of the Commonwealth of Virginia or of the United States of America.
- (9) 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.
- (10) Religious or political gatherings and other activities protected by the First Amendment to the United States Constitution.

Sec. 4-45. Undue Hardship Variance.

- (1) Any person responsible for the noise source may apply to the Board of Supervisors for a modification of the provisions of this article. The Board may grant such modification if it finds that:
 - (a) The noise does not endanger the public health, safety or welfare; or
 - (b) Compliance with the provisions of this article from which a modification is sought would produce serious hardship without producing equal or greater benefit to the public.

- (2) In determining whether to grant such a modification, the Board shall consider the time of day the noise will occur, duration of the noise, whether the noise is intermittent or continuous, its extensiveness, the technical and economic feasibility of bringing the noise into conformance with this article and such other matters as are reasonably related to the impact of the noise on the health, safety and welfare of the community and the degree of hardship that may result from the enforcement of the provisions of this article.
- (3) No modification issued pursuant to this article shall be granted for a period to exceed one (1) year, but any such modification may be renewed for like periods if the Board of Supervisors shall find that such renewal is justified after again applying the standards set forth in this section. No renewal shall be granted except upon application therefore.

Sec. 4-46. Penalties and violations.

- (1) Any person who violates any provision of this article shall be deemed guilty of a Class 3 misdemeanor for the first offense. Any person who violates any provision of this article within one (1) year after a previous conviction under this article shall be guilty of a Class 2 misdemeanor. Any person who commits a third or subsequent violation of any provision of this article within one (1) year after a previous conviction shall be guilty of a Class 1 misdemeanor.
- (2) Each day of violation of any provision of this article shall constitute a separate offense.
- (3) 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.
- (4) In addition to and not in lieu of the penalties prescribed in this section, the county 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.

Sec. 4-48. Other remedies.

No provision of this article shall be construed to impair any common law or statutory cause of action or legal remedy of any person for injury or damage to person or property, arising from violation of this article or arising from noise that either is exempted or does not violate this article.

This ordinance shall become effective on and from the date of its adoption.

Sec. 4-49. Reserved.

(Article IV Repealed in its entirety-Reenacted by Ord. of 3-22-10)
by Ord. of 4-27-09)