



## Legislation Details (With Text)

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<b>On agenda:</b>	11/14/2022	<b>Final action:</b>		11/14/2022	
<b>Title:</b>	To repeal City Code §§ 11-19-11-50, concerning sound control, to repeal City Code § 26-929, concerning advertising and vehicles carrying sound devices on streets, and to amend ch. 11, art. II of the City Code by adding therein new §§ 11-32-11-38 for the purpose of modifying the City's sound control program. (As Amended)				
<b>Sponsors:</b>	Mayor Stoney, Cynthia Newbille, Katherine Jordan, Ann-Frances Lambert, Michael Jones, Kristen Nye				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Ord. No. 2022-219 - Amended 20221010, 2. 20221010 Admendment of Ord. No. 2022-219, 3. 20221114_Formal_Ord. 2022-219_Handout-Paul Rucker				

Date	Ver.	Action By	Action	Result
11/14/2022	1	City Council	adopted	Pass
10/10/2022	1	City Council		
9/28/2022	1	Governmental Operations Standing Committee	recommended for approval with amendment	
9/12/2022	1	City Council	continued and referred back	
7/27/2022	1	Governmental Operations Standing Committee		
6/27/2022	1	City Council	introduced and referred	

To repeal City Code §§ 11-19-11-50, concerning sound control, to repeal City Code § 26-929, concerning advertising and vehicles carrying sound devices on streets, and to amend ch. 11, art. II of the City Code by adding therein new §§ 11-32-11-38 for the purpose of modifying the City's sound control program. (As Amended)

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 11-19 through 11-31 of the Code of the City of Richmond (2020) be and hereby are

**repealed** as follows:

~~[Sec. 11-19. Title and application of article generally.]~~

~~This article may be cited as the "Sound Control Ordinance of the City of Richmond." It shall be applicable to the control of sound originating within the corporate limits of the City of Richmond, Virginia.~~

**Sec. 11-20. Definitions.**

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

*ANSI* means the American National Standards Institute and any successor or successors.

*Daytime extended hours* means the period beginning at 11:00 p.m. of each day and ending at 7:00 a.m. of the next day, local time, for which the Chief Administrative Officer or the designee thereof has expressly authorized the relevant activity in writing for reasons related to the health or safety of persons engaged in the activity or for reasons related to Federal or State funding requirements.

*Daytime hours* means the period each day beginning at 7:00 a.m. and ending at 11:00 p.m., local time.

*dBA* means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. For purposes of this article, sound pressure levels shall be measured at the place where sound is perceived to constitute a violation of this article and not at the place where it originates.

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

*Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate curative or corrective action.

*Emergency work* means any curative or corrective work performed for the purpose of preventing or alleviating the physical trauma or property damage caused by an emergency.

*Excessive sound* means sound that exceeds 55 dBA during nighttime hours and sound that exceeds 65 dBA during daytime hours when measured inside a structure, or sound that exceeds 65 dBA during nighttime hours and sound that exceeds 75 dBA during daytime hours when measured outside a structure, or both.

*GCWR* means gross combination weight rating.

*Gross combination weight rating* means, in cases where trailers and tractors are separable, the value

~~specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle.~~

*Gross vehicle weight rating* means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle.

*GVWR* means gross vehicle weight rating.

*Motor carrier vehicle engaged in interstate commerce* means any vehicle for which noise emissions regulations apply pursuant to Section 18 of the Noise Control Act of 1972 (P.L. 92-574), as amended, codified at 42 USC 4917.

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

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

*Multifamily dwelling or mixed use structure* means a structure whose principal use is as a two-family dwelling or a multifamily dwelling, and includes any dwelling unit contained within the same building as other permitted principal uses, as those terms are defined by Section 30-1220. It does not include hotels and motels or lodginghouses, as those terms are defined by Section 30-1220.

*Nighttime hours* means the period beginning at 11:00 p.m. of each day and ending at 7:00 a.m. of the next day, local time.

*Residential zone* means any location within any area zoned residential or residential-office pursuant to the City's zoning ordinance, and designated as such by the R- or RO- prefix in Chapter 30.

*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.

*Sound* means 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 definition of sound may include any characteristic of such sound, including duration, intensity and frequency.

*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 ANSI specifications for sound level meters.

*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.

**Sec. 11-21. Declaration of findings and policy.**

The City Council 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 City to prevent such excessive sound.

**Sec. 11-22. Administration and enforcement of article generally.**

The sound control program established by this article shall be enforced and administered by the Chief Administrative Officer with the assistance of other City departments as required.

**Sec. 11-23. Testing of metering devices used to enforce article.**

In order to implement and enforce this article effectively, the Chief of Police shall develop and promulgate standards and procedures for testing and validating sound level meters used in the enforcement of this article.

**Sec. 11-24. Exemptions from article.**

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) The emission of sound by an emergency vehicle, as defined by Code of Virginia, § 46.2-920(C);

for the purpose of alerting persons to the presence of the emergency vehicle;

(4) Activities authorized by a permit issued pursuant to Section 11-29;

(5) Activities for which the regulation of sound has been preempted by Federal law;

(6) Performances or practices by marching bands, school orchestras or ensembles and similar groups, athletic contests or practices, and other school-funded activities, taking place on the grounds of a school;

(7) Bells and carillons;

(8) Activities related to the construction, repair, maintenance, remodeling, demolition, grading or other improvements of or to real property and any structures thereon during daytime hours or during daytime extended hours;

(9) Gardening, lawn care, tree maintenance or removal, and other landscaping activities during daytime hours;

(10) Refuse collection and sanitation services during daytime hours or during daytime extended hours; and

(11) Sound resulting from lawfully permitted fireworks displays occurring during daytime hours.

**Sec. 11-25. Violations of article.**

(a) A violation of this article shall constitute a Class 4 misdemeanor.

(b) A second violation of this article within any 12-month period shall constitute a Class 3 misdemeanor.

(c) A third violation and every additional violation of this article within any 12-month period shall constitute a Class 2 misdemeanor.

(d) Any person operating or controlling a source of sound shall be guilty of any violation caused by that source. If that person or persons cannot be identified by direct evidence, a court may infer that any owner, tenant, resident or manager physically present on the property where the violation is occurring was operating or

controlling the sound source. Such inference may be rebutted by any person so charged.

(e) In addition to and not in lieu of the penalties prescribed in this section, the City 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. 11-26. Maximum sound levels in residential zones.**

Except as provided or permitted by or pursuant to Sections 11-28 and 11-29, no person shall operate a device in such a manner as to create, or otherwise cause any source of sound to create, excessive sound at any point on the land of another person which is located in a residential zone.

**Sec. 11-27. Maximum sound levels in multifamily dwellings or mixed use structures.**

Except as provided or permitted by or pursuant to Sections 11-28 and 11-29, no person shall operate a device in such a manner as to create, or otherwise cause any source of sound to create, excessive sound in the residence of another person which is located in a multifamily dwelling or mixed use structure when measured at a point at least four feet from the wall, ceiling or floor nearest the sound source, regardless of whether the residence is located in a residential zone.

**Sec. 11-28. Maximum level of sound emitted by motor vehicles.**

(a) No person shall operate or cause to be operated a motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the level of sound emitted by the motor vehicle or motorcycle, when measured at a distance of at least 50 feet, 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 motor vehicle	76	82

~~This subsection shall not apply to any motor carrier vehicle engaged in interstate commerce.~~

(b) ~~It shall be unlawful for any person to play, use or operate, or permit the playing, use or operation of, any electronic device or horn used for the amplification of sound, which is located within a motor vehicle being operated or parked on public or private property within the City, including any public or private street or alley, in such a manner as to be plainly audible to the human ear at a distance of at least 50 feet from the vehicle in which it is located.~~

**Sec. 11-29. ~~Permit for use of loudspeakers on vehicles or mercantile establishments.~~**

(a) ~~No person shall use any mechanical loudspeaker or amplifier on any motor vehicle or other moving vehicle or on the exterior of any mercantile establishment, for advertising or other purposes, such that it is plainly audible on the property of another person, without first obtaining a permit from the Chief Administrative Officer or the designee thereof. Each application for a permit pursuant to this section shall be accompanied by payment of a fee in the amount of \$5.00.~~

(b) ~~Whenever the Chief Administrative Officer or the designee thereof determines that the use of mechanical loudspeakers or amplifiers on motor vehicles or other moving vehicles or on the exterior of any mercantile establishment, for advertising or other purposes, will not create excessive sound on the property of another person, the Chief Administrative Officer or the designee thereof shall grant a permit.~~

(c) ~~Nothing contained in this article shall be construed to relieve any person operating or causing a motor vehicle or other moving vehicle on which is situated any mechanical loudspeaker or amplifier to be operated in the City of obtaining the license and paying the license tax prescribed by Section 26-929.~~

**Sec. 11-30. ~~Noisy animals and birds.~~**

~~No person shall allow any animal or bird to create sound such that it is plainly audible at least once a minute for ten consecutive minutes:~~

- ~~(1) Inside the confines of the dwelling unit, house or apartment of another; or~~
- ~~(2) At least 50 feet from the animal or bird.~~

**Sec. 11-31. 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.]

§ 2. That section 26-929 of the Code of the City of Richmond (2020) be and hereby is **repealed** as follows:

**[Sec. 26-929. Advertising Vehicles carrying sound devices on streets.**

(a) No person shall operate or cause to be operated on the City streets a motor vehicle or other moving vehicle on which is situated any mechanical loudspeaker or amplifier as described in Section 11-29 without obtaining a license and paying a license tax therefor. For each such vehicle owned by any person whose bona fide residence or place of business is located in the City, the annual license tax shall be \$300.00.

(b) For each such vehicle owned by any person whose bona fide residence or place of business is not located in the City, the license tax shall be \$15.00 for each day such vehicle is so operated on the City streets.

(c) Every person whose bona fide residence or place of business is in the City shall have the privilege of procuring a license on a daily basis, as often as such person may desire, and upon the exercise of that privilege the person shall pay a license tax of \$15.00 for each day such vehicle is so operated on the City streets.

(d) This section shall not be construed to permit the operation of such vehicles upon the City streets without the payment of the license tax on such vehicles provided for elsewhere in this chapter, nor shall this section be construed to permit the operation of such vehicles upon the City streets for commercial purposes or in any manner contrary to any other law.]

§ 3. That Chapter 11, Article II of the Code of the City of Richmond (2020) be and hereby is amended and reordained by **adding therein new** sections numbered 11-32 through 11-38 as follows:

**Sec. 11-32. Definitions.**



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

*dBA* means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. For purposes of this article, sound pressure levels shall be measured at the place where sound is perceived to constitute a violation of this article and not at the place where it originates.

*Sound* means 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 definition of sound may include any characteristic of such sound, including duration, intensity, and frequency.

*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.

*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.

**Sec. 11-33. Declaration of findings and policy.**

The City Council 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 City to prevent such excessive sound.

**Sec. 11-34. Administration and enforcement of article generally.**

The sound control program established by this article shall be enforced and administered by the Chief of Police

with the assistance of other City departments as directed by the Chief Administrative Officer.

**Sec. 11-35. Testing of metering devices used to enforce article.**

In order to implement and enforce this article effectively, the Chief of Police shall develop and promulgate standards and procedures for testing and validating sound level meters used in the enforcement of this article.

**Sec. 11-36. Exemptions from article.**

No provision 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 necessary to immediately prevent or alleviate physical trauma or property damage;
- (3) The emission of sound by an emergency vehicle, as defined by Code of Virginia, § 46.2-920(C), for the purpose of alerting persons to the presence of the emergency vehicle;
- (4) Activities authorized by a permit issued pursuant to Section 27-417 for marathons, public assemblies, demonstrations, and parades;
- (5) The movement of aircraft, trains, or motor carriers which is conducted in accordance with or pursuant to applicable federal laws and regulations;
- (6) Performances or practices taking place on the grounds of an elementary, middle, or high school, college, or university of bands, orchestras, ensembles and similar musical groups, athletic contests, athletic practices, and other school-sanctioned activities;
- (7) Bells and carillons;
- (8) Activities related to the construction, repair, maintenance, remodeling, demolition, grading, or other improvements of or to real property and any structures thereon between the hours of 7:00 a.m. and 9:00 p.m. and

during other hours when the Chief Administrative Officer or the designee thereof has expressly authorized the relevant activity in writing for reasons related to the health or safety of persons engaged in the activity or for reasons related to federal or state funding requirements;

(9) The operation of domestic power tools such as power lawn mowers, chain saws, and weed eaters, used in connection with lawn care, leaf removal, gardening, tree maintenance or removal or other landscaping, lawn, or timbering activities, provided the operation of such equipment is limited between the hours of 7:00 a.m. and 9:00 p.m. and such equipment is operated with a standard muffler or sound dissipating devices;

(10) Refuse collection and sanitation services between the hours of 5:00 a.m. and 11:00 p.m.;

(11) Sound resulting from lawfully permitted fireworks displays; and

(12) Activities on the grounds of areas operated or regulated by the City's Department of Parks, Recreation and Community Facilities.

**Sec. 11-37. Violations.**

(a) *Single family homes and duplexes.* No person shall operate a device or otherwise create sound which, when measured from any point on a property containing a house or a duplex, exceeds 65 dBA between the hours of 7:00 a.m. and 11:00 p.m. or 55 dBA between the hours of 11:00 p.m. and 7:00 a.m.

(b) *Multifamily homes.* No person shall operate a device or otherwise create sound which, when measured from inside an apartment unit or condominium unit, but not including hotels, motels or lodging houses, and measured at a point at least four feet from the wall, ceiling, or floor nearest the sound source, with doors and windows to the receiving area closed, exceeds 65 dBA between the hours of 7:00 a.m. and 11:00 p.m. or 55 dBA between the hours of 11:00 p.m. and 7:00 a.m.

(c) *Schools.* No person shall operate a device or otherwise create sound which, when measured from any point on the property of a school where classes or other educational activities are occurring, exceeds 65 dBA.

(d) *Places of worship.* No person shall operate a device or otherwise create sound which, when measured from inside a place of worship that is occupied and while services are occurring, exceeds 65 dBA between the hours of 7:00 a.m. and 11:00 p.m. or 55 dBA between the hours of 11:00 p.m. and 7:00 a.m. This subsection shall apply only if the place of worship has posted at least one sign that is visible from the public streets and sidewalks adjacent to the place of worship that provides notice that services are occurring.

(e) *Health care facilities.* No person shall operate a device or otherwise create sound which, when measured from any point on the property of a health care facility, exceeds 65 dBA between the hours of 7:00 a.m. and 11:00 p.m. or 55 dBA between the hours of 11:00 p.m. and 7:00 a.m. “Health care facility” as used in this subsection includes, but is not limited to, hospitals, physicians’ offices, walk-in medical centers, medical diagnostic centers, medical clinics, surgical centers, and any facilities that are licensed, certified, or otherwise authorized to provide health care services. “Health care facility” does not include residential homes, convalescent homes, or other facilities that provide long-term residency. This subsection shall apply only if the health care facility has posted at least one sign that is visible from the public streets and sidewalks adjacent to such facility that identifies the location as a “Health Care Facility Quiet Zone.”

(f) *Motor vehicles.* No person shall operate a motor vehicle or motorcycle on a public right-of-way at any time that, when measured at a distance of at least 50 feet, exceeds the levels in the following table:

Vehicle Class	Sound Level in dBA	
	Speed Limit 35 MPH or Less	Speed Limit over 35 MPH
Motor vehicles of 6,000 lbs. or more GVWR	86	90
Motorcycles	82	86
All other motor vehicles	76	82

(g) *Vehicle radios, horns, or other electronic devices.* No person shall operate any vehicle radio, horn, or other electronic device located on or within a motor vehicle in such a manner as to be plainly audible at a distance of 50

feet or more from the vehicle in which it is located.

(h) *Animals.* No person shall allow any animal or bird to create sound such that it is plainly audible inside the confines of another person's dwelling unit, house, or apartment at least once a minute for ten consecutive minutes or 50 feet or more from the animal or bird.

(i) *Restaurants or other establishments serving food or beverages.* No person shall permit, operate, or cause any source of sound to emanate from a restaurant or other establishment serving food or beverages which, when measured from any public right of way or private property, exceeds 80 dBA between the hours of 7:00 a.m. and 11:00 p.m. or 75 dBA between the hours of 11:00 p.m. and 7:00 a.m., unless such establishment is adjacent to a residentially-zoned property, in which case any sound shall not exceed 65 dBA between the hours of 7:00 a.m. and 11:00 p.m. or 55 dBA between the hours of 11:00 p.m. and 7:00 a.m.

(j) *Buskers.* No person shall play a musical instrument or operate any device emitting sound, outside of an enclosed structure which, at a distance of ten feet from the instrument or device, exceeds 75 dBA between the hours of 7:00 a.m. and 11:00 p.m. or 65 dBA between the hours of 11:00 p.m. and 7:00 a.m.

#### **Sec. 11-38. Penalties.**

(a) *Civil penalties.* Any person who commits, permits, assists in, or attempts any violation of this article, whether by act or omission, shall be liable for a civil violation as follows:

(1) The first violation of this article by such person shall be punished by a civil penalty in the amount of \$50.00.

(2) The second violation of this article committed by such person within seven days of the first violation shall be punished by a civil penalty in the amount of \$100.00.

(3) The third and any subsequent violation of this article committed by such person within 14 days of the first violation shall be punished by a civil penalty in the amount of \$500.00.

(b) *Continuing violations.* Each hour of a continued violation shall constitute a separate offense under this article.

(c) *Procedures.*

(1) If an authorized enforcement officer determines that a violation of this article has occurred, the officer may cause a notice of the violation to be served on any or all persons committing, permitting, assisting in, or attempting such violation.

(2) If the person operating or controlling the sound source cannot be identified, any owner, tenant, resident, or manager physically present on the property where the sound source is located may be charged if the circumstances establish their dominion and control over the sound source.

(3) The notice shall provide that the person charged with a violation may elect to make an appearance in person, or in writing by mail, to the Department of Finance; admit liability for or plead no contest to the violation; and pay the civil penalty established for the violation, all within the time period stated in the notice.

(4) If a person charged with a violation does not elect to admit liability or plead no contest, the violation may be tried in the General District Court of the City of Richmond upon a warrant in debt or the Circuit Court of the City of Richmond upon a motion for judgment.

(5) A finding of admission of liability or a plea of no contest to a violation of Section 11-37 shall not be deemed evidence of a criminal violation for any purpose.

§ 4. This ordinance shall be in force and effect upon adoption.