

# Questions and Comments to Discuss with Staff

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## Specific Items in the Draft Revised Noise Code

### Page 12

1. Noting the definition that “Impulsive noise” means noise characterized by brief bursts (usually less than one (1) second in duration) of sound pressure which significantly exceed the sound pressure of the ambient environment sound pressure.
  - What standards will be used to determine that an impulsive noise is a violation? Specifically:
    - What duration is considered to be a violation?
    - How many bursts will be allowed over what specified period of time is considered to be a violation?
  - When the impulsive noise does meet the noise disturbance standard (dB, dBA, Hz, duration, and frequency), in order to be cited must it be observed by a Code Enforcement Inspector during the weekend daytime period and a police officer during the weekends or weekday nighttime period?

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2. Noting the definition that “Daytime” means the local time of day between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and between the hours of 10:00 a.m. to 9:00 p.m. on Saturdays, Sundays and legal holidays.
  - What constitutes a “legal holiday” for purposes of defining “Daytime”? Arlington County and the federal government observe different holidays. Also, on some occasions, both the federal government and Arlington County recognize a holiday to occur on one day but be “observed” on another.

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3. It is unclear how motorcycle or truck noise will be addressed.
  - Will the officer measure the noise from the motorcycle as it is travelling down the roadway?
  - How will modifications to motorcycles that are designed to amplify noise be addressed?

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4. We see the new and innovative standards for noise measurements in multi-unit structures.
  - What constitutes a “common area” for purposes of these measurements?
  - We do not see specific standards for measurements in common areas such as distance from noise source, doors open or closed. Was this intentional?
5. Noting the 90 dBA limit for construction noise:
  - Did you consider limiting the 90 dBA to shorter hours than the entire 14 hours of “daytime”? For example limiting construction noise to 70 dBA outside of typical and customary loud construction hours of 8 am to 5 pm; or
  - Did you consider limiting construction noise if the construction is close to residences?
  - What levels does pile driving usually produce?
  - Did you consider requiring a special permit for pile driving?
    - This might allow the County to ensure that pile driving is avoided when cost-effective alternatives are available on a particular site, as well as ensure community notification and perhaps limit the hours of pile driving.
6. Noting that many site plans have allowed developers to do after-hours construction (such as interior painting or carpet laying), subject to the requirement that it occurs behind closed doors and does not “disturb reasonable persons of normal sensitivities.”
  - Is it still going to be possible to make this accommodation for developers because they consent to such wording, or will we prohibit indoor construction?

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7. Noting the exemptions for church bells and carillons and that the Netherland's Carillon — a gift to America from the Dutch people for aid provided during and after World War II — is on federal property next to the Iwo Jima Memorial and Arlington Cemetery:
  - Is there another carillon other than the Netherland's Carillon to which this wording applies?
  - Did you consider extending exception to other unamplified religious activities, such as the Muslim call to prayer — or would these be considered to be covered by other portions of F. Exemptions?

8. Noting that exemptions in F. Exemptions do not address amplification:
  - Is the exception meant to include only *unamplified* church bells, carillons, and other noise sources? If not, did you consider amplification limits?
9. Noting that exemptions in F. Exemptions do not include daytime or nighttime hour limits or limits on decibel levels:
  - Was this intentional?
  - Do the exemptions extend to all daytime and nighttime hours?
  - Did you consider that, without limits, the following may occur continuously or at levels that disturb nearby residents or businesses?
    - Loudspeakers at school or sporting events
    - Fire alarm testing
    - Religious or political events (such as “occupy Courthouse Plaza”)
10. Noting the following wording in #7:

"Permanently installed commercial power generation systems used to provide emergency backup electric power at commercial properties, including multi-unit structures, institutional structures, and public utility, data and telecommunication facilities."

  - Note: There is an "and" after #5, which implies that #7 was added at the last minute.
  - Why is there no exception for single-family residential properties to use temporary or portable power generation systems during an emergency?
    - The earlier code referenced an emergency process that could be invoked with permission of the County Manager, however such process was not implemented.
  - Why is there no exception for commercial gas generators to be used for residential properties?
    - These are offered by natural gas companies. Such generators are likely to make the same level of noise as air conditioning compressors, which have limited placement options in part to avoid sending noise to adjacent properties.
    - When we inquired about residential installed gas generators a few years ago, we were told that there was no policy developed yet. Has that changed?

**Pages 18–19**

11. Noting Table 1 noise limits in various Zoning Districts:

- Looking at the R, R-A & S-3A portion of Table 1, there is no limit for 8000 Hz. Was this an intentional omission?
- Did staff analyze the typical dBA and Hz levels of noises that previously have been identified as noise disturbances? Some examples are:
  - Amplified music from a live band bursting from a restaurant with a live entertainment permit when the doors are opened to serve outdoor patrons
  - Dumpsters being emptied during nighttime hours
  - Loud parties such of people playing alcohol games, such as beer pong (without amplified music)
- When different Zoning Districts abut each other, which district takes precedence for determining limits — the district in which the noise is generated or the adjacent district that receives the noise?

12. Noting Table 2 noise limits:

- What was the rationale for requiring motorcycles and vehicles <10,000 GTW to meet stricter standards than the impulsive noise limits (95 dBA daytime and 90 dBA nighttime)?
- Would it be accurate to conclude that the noise from moving vehicles is functionally the same impulsive noise?

13. We note that the Board Report indicates:

"The additional staff hours required to administer and enforce the revised noise control ordinance are estimated at less than 1.0 FTE for Code Enforcement (CPHD) and less than 1.0 FTE for the Police Department. Staff is not requesting additional FTEs but will adjust other duties to accommodate this during the first year after adoption."

- Will the Police enforce the Noise Code when Code Enforcement is not on duty?
- Will Code Enforcement change its current Code Inspector work schedule — generally daytime on Monday-Friday?

14. In the past — and again after the Noise Code draft was released — the Police Department indicated that officers will be neither trained nor equipped to use noise measurement equipment.

- How will the noise limits in Table 1 and Table 2 be enforced without noise measurement equipment?

**Pages 19–20**

15. Noting the list of prohibited acts, the revised language states in F:

"It shall be unlawful for any person to use, operate, or play, or to permit the use, operation or playing of, any radio, television, phonograph, record, compact disc or tape player, drum, musical instrument, loudspeaker, sound amplifier or similar device or machine which produces, reproduces or amplifies sound in such a manner as to be heard within any nearby dwelling unit, house or apartment of another person at least 20 feet from the source of the sound, or at least 50 feet from the source of the sound and either across any real property boundary or at any built street at the curb or on the edge of the pavement."

- Is it correct to assume that the standard applied for F is "be heard" *per se* whether or not the noise meets the limits set in Table 1?
  - Please clarify when the 20-foot limit and the 50-foot limit will be applied. For example, is the intent to address noise heard inside (with the 20-foot limit) versus noise heard outside (with the 50-foot and property boundary limit)?
  - Did you consider adding additional prohibited acts, particularly at night? For example prohibiting the nighttime use of leaf blowers, lawnmowers, chain saws, and pneumatic equipment?
  - How did staff arrive at the "once per minute for 10 consecutive minutes" standard for animal noise?
16. We note that rooftop sports bars and covered or uncovered patios in commercial areas are new sources of noise that sometimes flows blocks away into adjacent residential neighborhoods. Sometimes the noise is created by amplified music or televisions, but sometimes the noise just comes from a crowd of people talking or yelling.
- Will the revised ordinance prohibit or otherwise regulate noise from rooftop bars?
  - How will this address amplified music or other amplified sound at these establishments?
  - If the outdoor noise is created for the purpose of entertaining existing patrons and not "for the purpose of commercial advertising or of attracting the attention of the public" will it be allowed?
17. What is the expectation for addressing malfunctioning fire alarms or other malfunctioning safety equipment. If a fire alarm continues (erroneously) to sound all night or for days on end, what remedies are available?
18. We note that noise complaints can be directed to either Code Enforcement via the Web or phone during working hours or the Police Department via the non-emergency number. Code Inspectors work in

two different sections (building code and zoning), and since the Virginia Supreme Court decision in April 2009, it's been difficult to get the police to respond to noise complaints.

- Will noise complaints be assigned to Code Inspectors based on their section?
- Will Code Inspectors, the Police, or both be expected to respond to complaints about prohibited acts?
- Has staff prepared a flow chart of how various types of noise complaints will be directed to help ensure timely response day, night, and on weekends?

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19. We note that our review of the Zoning Ordinance found only one reference to noise, which is in SECTION 26. "C-2" SERVICE COMMERCIAL--COMMUNITY BUSINESS DISTRICTS. The language reads:

"Use of a public address system or loudspeaker shall comply with the standards and regulations in Chapter 15, Noise Control Ordinance, or the Arlington County Code, except that use of such system shall not be permitted after 9:00 p.m., daily."

We further note that some restaurants are piping their indoor music to outdoor speakers on their property.

- Is staff planning to revise Section 26?

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## **Overarching Questions**

20. What is the overall expectation for practical investigation and enforcement of disturbances that occur at night? What training, equipment, response time and follow-up actions are anticipated for:

- Someone or a group of people screaming and yelling for an extended period outside in a residential area
- Use of loud mechanical equipment

21. What is the basis for the particular decibel limits currently being recommended?

- Does staff believe that 90 dBA is a "safe" level of noise for an extended period of time?
- There are many apartment buildings, condominiums and townhouses located in "C" and "C-O" zones. Is 65 dBA an appropriate nighttime limit within and around those residential buildings?

22. Will staff provide a demonstration of the decibel limits proposed for various times and zoning categories for the public and/or the County Board?
  23. Does staff believe that the land use zoning categories are fully sufficient to define the geographic areas of the County where there is greater or lesser sensitivity to noise? For example, should there be stricter requirements within a certain distance of a hospital or nursing home?
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