

Virgin Islands Code – Anti-Noise Ordinance

Title 19 (Health), Part VI (Regulatory Provisions Concerning Public Health), Chapter 62 (Noise Pollution Control).

§ 2041. Definitions

The following words, terms and phrases have the following meanings:

(a) "Authorized emergency vehicle" means a vehicle equipped with a siren, exhaust whistle or bell necessary to warn other vehicle operators or pedestrians of the approach of the emergency vehicle, including an ambulance, police or fire service vehicle and vehicles of the Water and Power Authority, the Department of Public Works, the Territorial Emergency Management Agency and such other vehicles that may be so designated by the Police Commissioner when these vehicles are being used in actual emergencies.

(b) "Construction activity" means all activity incidental to the erection, demolition, assembling, altering, installation or equipping of buildings, structures, roads or appurtenances thereof, including land clearing, grading, excavating and filling.

(c) "dBA" refers to sound levels measured on the "A" scale of a standard sound level meter. "dB" means decibel, a unit used to measure the level of sound.

(d) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical harm or property damage which demands immediate action.

(e) "Motor vehicles" means all vehicles propelled by power other than muscular.

(f) "Indoor sound amplification device" means any equipment or machine used for the magnification of speech, music or other sound within any roofed structure having more than fifty percent of its floor plan enclosed by walls.

(g) "Noise" means the intensity, frequency, duration and character of sounds from a source or number of sources which annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans.

(h) "Noise disturbance" means any sound that is or may be:

(1) harmful or injurious to the health, safety or welfare of any individual;

(2) unreasonably interferes with the enjoyment of life, quiet, comfort or outdoor recreation of an individual of ordinary sensitivity and habits;

(3) endangers or injures the conduct of business;

(4) jeopardizes the value of property and erodes the integrity of the environment; and

(5) exceeds a sound level of 75 dBA.

(i) "Noncommercial purpose" means the installation, use or operation of any outdoor sound amplifying device for other than a commercial purpose, including a charitable, patriotic, philanthropic, political or private purpose.

(j) "Outdoor sound amplification device" means any equipment or machine used for the out-of-doors magnification of speech, music or other sound.

(k) "Person" means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, governmental agency, political subdivision, public officer or any other entity or any combination of entities, jointly or severally.

(l) "Residential zone" means all those districts zoned for residential uses.

(m) "Sound level" means the A-weighted sound pressure level measured with fast response using an instrument complying with the specifications for sound level meters of the American National Standards, Inc.

(n) "Sound level meter" means an instrument that includes a microphone, an amplifier, an output meter and frequency weighing networks for the measurement of noise and sound levels.

(o) "Sound-producing device" means any equipment or machine used for the production or reproduction of speech, music or other sound, including radios, television, phonographs, tape players, musical instruments, compact disc or tape cassette players, walkie-talkies, CD radios or synthesizers.

(p) "Soundproof" means to insulate so as to obstruct the passage of sound.

(q) "Warning device" means a sound emitting device used to alert and warn people.

(r) "Watercraft" means any boat or craft, including a vessel, used or capable of being used as a means of transport on water.

(s) "Noise sensitive zone" means existing quiet zones, if any, and those areas containing noise sensitive activities including, but not limited to, operations of schools, libraries open to the public, houses of worship, hospitals, and nursing homes.

(t) "Weighted average dBA" means the 24-hour energy average of the sound pressure level in decibels (dB), as measured on a sound level meter using the A-weighted network; any readings taken during the period between 10:00 p.m. and 7:00 a.m. the following day are increased by ten dBA before averaging the other readings.

§ 2042. Prohibitions

It is unlawful--

(a) to operate a sound-producing device that creates a noise disturbance;

(b) to operate or cause to be operated an indoor or outdoor sound amplification device that creates a noise disturbance;

(c) to sell anything by using a sound producing device within a residential zone or within 500 feet of a residential zone such that it creates a noise disturbance;

(d) to create a noise disturbance by intentionally and repeatedly accelerating or stopping a motor vehicle;

(e) to operate a motor vehicle or watercraft so out of repair or defective that it creates a noise disturbance;

(f) to operate a bar or tavern in a residential zone or within 500 feet of a residential zone such that it creates a noise disturbance;

(g) to operate power-driven machinery, including lawn mowers, edgers, trimmers or shears in a residential zone or within 500 feet of a residential zone between 11:00 p.m. and 7 a.m. at a sound level exceeding 75 dBA;

(h) to load, unload, pack or unpack crates, boxes or containers on any vehicle within a residential zone or within 500 feet of a residential zone between 11:00 p.m. and 7 a.m. at a sound level exceeding 75 dBA;

(i) to create a noise disturbance by repairing, rebuilding, modifying or testing a motor vehicle or watercraft within a residential zone or within 500 feet of a residential zone between 11:00 p.m. and 7 a.m. at a sound level exceeding 75 dBA;

(j) to operate or permit to be operated a watercraft in the waters of the Virgin Islands which emits sound greater than 90 dBA at a distance of 50 feet from the vessel; or

(k) to discharge a firearm in a repetitive and continuous manner in a residential zone or within 500 feet of a residential zone.

(l) to exceed a sound level reading of 0.79 weighted average dBA for the daily period of operation at or across a real property boundary. Such sound levels must be measured with a sound level meter manufactured according to standards prescribed by the American National Standards Institute.

(m) for any person, by himself or by the operation of any instrument, agency or vehicle, to make any exceeding a sound level of .079dBA within 100 feet of any portion of the grounds and premises on which is located a hospital or other institution reserved for the sick, aged or any school during school hours.

(n) for any person owning, occupying or having charge of any building or premises or any part thereof, where the noise or music is plainly audible at a distance of 100 feet from the building, structure, vehicle or premises in which it is produced, at any time to cause or suffer or allow:

(1) any loud, unnecessary, excessive or unusual noises in the operation of any radio, phonograph or other mechanical sound-making device or instrument or reproducing device; or

(2) instrument, or in the playing or amplification of any band, orchestra, musician or group of musicians; or

(o) The fact that the noise or music exceeding a sound level of .079dBA at a distance of 100 feet from the vehicle or premises from which it originates constitutes prima facie evidence of a violation of this chapter.

§ 2043. Taverns and bars; soundproofing

All taverns and bars within 500 feet of any church, school or residential area must be enclosed and must be soundproofed within 180 days after enactment of this chapter, and any owner or operator of a tavern or bar not in compliance with this subsection shall be subject to the penalties enumerated in section 2044.

§ 2044. Enforcement

(a) The Virgin Islands Department of Police shall investigate any possible violations of this chapter.

(b) Police officers from the Virgin Islands Police Department shall use a sound level meter to determine whether a sound constitutes a noise disturbance or exceeds the sound level permitted for certain acts as provided in section 2042 of this chapter. The sound level meter must be calibrated annually.

(c) Any person who refuses to submit to a sound level test when requested to do so by a police officer is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000, or both the fine and the imprisonment.

(d) Any person convicted of violating section 2042 of this chapter is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than \$2,000, or both the fine and the imprisonment. A separate offense is committed each day the noise disturbance continues and may be punished separately.

(e) Any person who owns, has charge of, or, where applicable, occupies a building in which a sound, or sounds emanate which constitute a noise disturbance or exceed the noise limit as provided in section 2042 of this chapter shall receive a written warning for each violation. Upon a third violation such person shall, in addition to receiving a written warning, be subject to a fine of \$200 for the third violation and each violation thereafter.

(f) The Attorney General may seek civil remedies, including an injunction to prevent or abate violations of this chapter.

§ 2045. Action for actual damages

Any person who suffers actual damage as a result of violation of this chapter committed by any other person may bring an action against the person under this chapter and may bring any other common law or statutory causes of action. The court may award actual economic damages or any other relief that the court considers proper.

§ 2046. Exemptions and special permits

(a) This chapter does not apply to sounds emanating from the following sources or causes:

- (1)** aircraft and airport activity conducted in accordance with federal laws and regulations;
- (2)** authorized emergency vehicles;
- (3)** maintenance of public service facilities;
- (4)** law enforcement and public safety activities, including training;
- (5)** operation of a regulated utility;
- (6)** construction activities conducted pursuant to a building permit;
- (7)** collection of solid waste;
- (8)** projects conducted or supervised by the Department of Public works; and
- (9)** activities sponsored by or related to the operation of educational institutions on property owned or controlled by the institution.

(10) Carnival activities held in the Fort Christian Parking on St. Thomas, subject to a 2:00 a.m. ending time and the imposition by the Commissioner or the Commissioner's designee of appropriate safeguards as necessary to mitigate the affects of the activity permitted.

(b) Any person desiring to operate a sound amplification device or otherwise engage in any activity that would violate this chapter shall apply to the Virgin Islands Department of Police for a special permit authorizing the activity.

(c) The Commissioner of Police may grant a temporary permit to a person desiring to engage in any activity that would violate this chapter after considering the following factors:

(1) the proximity of any residences or businesses that would be adversely affected by the noise emanating from the activity for which the permit is sought;

(2) the level of sound to be generated by the activity for which the permit is sought;

(3) whether the activity is normal for the area for which the permit is sought;

(4) the date and time the activity is to take place; and

(5) the nature of the sound to be produced, including whether the sound will be steady, intermittent, impulsive or repetitive.

(d) A special permit must be in writing and signed by the Commissioner or his designee and must set forth the name of the person to whom the permit is granted, the location of the activity, and the date and time for which the permit is effective. The Commissioner or his designee may impose appropriate conditions and safeguards as necessary to mitigate the affects of the activity permitted.

§ 2047. Severability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not effect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.