

BEFORE THE COUNTY COMMISSION OF BERKELEY COUNTY, WEST VIRGINIA

The members of the Berkeley County Commission hereby find that excessive noise which, in its decibel level or its frequency, or both, disturbs the peace and quietude of others located in residential housing, whether such housing is single or multiple family dwelling; dormitory domicile; motel, hotel or other such sleeping accommodations; and, hospitals or nursing care facilities is a public nuisance and, as such, is under the jurisdiction of this body. Accordingly, upon motion of Commissioner Collins and second by Commissioner Stubblefield, the following Ordinance is adopted, as indicated, pursuant to the provisions of § 7-1-3kk, *Code of West Virginia*, 1931, as amended.

NUISANCE: EXCESSIVE NOISE IN RESIDENTIAL AND SIMLAR SETTINGS

- (a) Any person who, from any source, disturbs the peace and quietude of others located in residential housing, whether such housing is single or multiple family dwelling; dormitory domicile; motel, hotel or other such sleeping accommodations; or, hospitals or nursing care facilities and who persists in such conduct after being requested to desist by a law-enforcement officer acting in his or her lawful capacity, is guilty of causing and maintaining a nuisance, a misdemeanor and, upon conviction thereof, shall be fined not less than \$250.00 and not more than \$500.00 for a first offense and fined not less than \$500.00 and not more than \$1,000.00 for second and subsequent offenses.
- (b) The provisions of subsection (a) of this Ordinance do not apply to:
 - (1) Lawful hunting or target shooting, trap, skeet or shooting ranges as defined in § 61-6-23, *Code of West Virginia*, 1931, as amended;
 - (2) Bonafide agricultural or business activity; Provided, That, excessive noise from a business licensed by the West Virginia Alcohol Beverage Control Administration shall not be exempted from the provisions of subsection (a);
 - (3) Any motor racing event at a motor racing facility sanctioned by the national association for stock car auto racing, the association for motor sports, or the United States auto club; any racing or other event, including practice sessions, sanctioned by the American Motocross Association, to the extent that such events follow the rules and regulations of that Association with regard to noise; or any other sporting event sanctioned by the American athletic union, the national collegiate athletic association, the West Virginia high school athletic association, or any sporting event sanctioned by the West Virginia racing commission and other such organized horse or dog racing events; any organized Little League, Midget League baseball, football, basketball, soccer or similar event sponsored by civic organizations or by the Parks and Recreation Board; and

- (4) Noises from commercial or industrial activity, lawnmowers and agricultural equipment, noises of safety signals, warning devices and emergency pressure relief valves, noises resulting from any authorized emergency vehicles when responding to an emergency call or acting in time of emergency, noises resulting from emergency work or noise from school bells, church bells or chimes.

Adopted this the ____ day of _____, 2007.

Steven C. Teufel, President

Ronald K. Collins, Commissioner

William L. Stubblefield, Commissioner

ATTEST:

John W. Small, Jr., Clerk