

# **Fairfax County Adopts New Nuisance Law for Residential Areas**

(Effective February 17, 2016)

## **ARTICLE 4. Prohibited Sounds.**

### **Section 108.1-4-1. Specific prohibitions.**

The following are violations of this Chapter:

(k) Any owner or person in control of any animal that allows or otherwise permits any such animal to bark, howl, bay, meow, squawk, quack, crow or make such other sound:

- (1) Between 10 p.m. and 7 a.m. that is plainly audible in any other person's residential dwelling with doors and windows closed and the source of sound generation shall be discernible regardless of whether such doors or windows are closed; or
- (2) Between 7 a.m. and 10 p.m. when the animal sound is plainly audible and discernible across real property boundaries or through partitions common to residential dwellings and such sound can be heard for more than five (5) consecutive or non-consecutive minutes in any ten (10) minute period of time. Animal sounds that can be heard for less than five (5) consecutive or non-consecutive minutes in any ten (10) minute period shall not be subject to this Chapter.

The provisions of this paragraph shall not apply to any animal that, at the time of the sound or sound generation, was responding to pain or injury or was protecting itself, its kennel, its offspring, or a person from an actual threat; when the animal is a police dog that is engaged in the performance of its duties at the time of making the sound; or when part of a bona fide agricultural operation. This provision shall apply to all animal sounds emanating from the same property. Notwithstanding the provisions of this paragraph, animals located in a dog park shall be subject to the provisions of Par. (l) below.

(l) The use of dog parks between dusk and 7 a.m. Sunday through Thursday, or between dusk and 8 a.m. on Friday, Saturday and the day before a Federal holiday.

### **Section 108.1-3-2. Penalties.**

(a) Any violation of any provision of this Chapter shall constitute a Class 2 misdemeanor and upon conviction thereof, shall be punishable up to no more than six (6) months in jail and a fine of not more than \$1,000, either or both. Failure to abate any such violation within the time period established by the Court shall constitute a separate Class 2 misdemeanor offense.

(b) In lieu of the criminal penalties set forth above, a violation of any provision of this Chapter may be punishable by a civil penalty of not more than \$250, or \$500 for each subsequent offense. However, this civil penalties provision shall not apply to noise generation in connection with business being performed on industrially zoned property, nor shall this provision apply to railroads or to sound emanating from any area permitted by the Virginia Department of Mines, Minerals and Energy or any division thereof.

(c) In addition to, and not in lieu of, the penalties prescribed in this section, the Board may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this Chapter and may seek any other remedy or relief authorized by law.