

BERKELEY COUNTY EXCESSIVE NOISE ORDINANCE

The Berkeley County Commission finds that excessive noise which, in its intensity, duration, or frequency 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. This is an amended version of the Ordinance last amended on April 30, 2009. Under the authority granted to the County Commission in W. Va. Code § 7-1-3kk, the Commission finds and orders the following:

NUISANCE: EXCESSIVE NOISE IN RESIDENTIAL AND SIMILAR SETTINGS

- (a) Any person who, from any source, disturbs the peace and quietude of others located in residential housing, including single or multiple family dwellings, dormitories, hotels, motels, dormitories, hospitals, nursing homes, or any other type structure used as boarding or sleeping quarters and who persists in such conduct after being requested to desist by a law-enforcement officer or a code enforcement officer acting in his or her lawful capacity, is guilty of causing and maintaining a nuisance, a misdemeanor.
- (b) Any person convicted under section (a) 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 \$2,000.00 for second and subsequent offenses.
- (c) In determining whether the peace and quietude of any residential setting has been disturbed by noise no specific decibel measurement is required, nor is it required that the noise be of a specific duration or frequency.
- (d) Residential setting is defined as any facility outlined in section (a) and the curtilage of such facility.
- (e) Noise from the following activities, places, or things are exempt from this Ordinance:
 - 1. Lawful hunting.
 - 2. Shooting ranges as defined in W. Va. Code § 61-6-23.
 - 3. Agricultural activities.
 - 4. Forestry activities.
 - 5. Emergency work, and use of emergency equipment and vehicles.
 - 6. Regular vehicular traffic on roads open to the public. Modifications of mufflers or to automobiles shall not be considered regular vehicular traffic.
 - 7. Aircraft.
 - 8. Trains.

9. Lawn, garden, or household equipment used for normal repair or maintenance between 7:00 a.m. and 10:00 p.m.
10. Construction activity between the hours of 7:00 a.m. and 10:00 p.m.
11. Organized athletic, recreation, and social functions on property generally used for such purposes including stadiums, parks, athletic fields, racetracks, parks, schools, churches, event venues, etc. between the hours of 7:00 a.m. and 10:00 p.m.
12. Manufacturing or industrial activity between the hours of 7:00 a.m. and 10:00 p.m.
13. Fireworks that are in compliance with the Berkeley County fireworks discharge restrictions.
14. The use of standby electricity generators during a power outage. Additionally, the testing and maintenance of standby electricity generators conducted in conformance with the manufacturer's recommendation between the hours of 7:00 a.m. and 10:00 p.m.
15. Noise regularly occurring from a location that predated the nearby residential area of the complaint. This should be interpreted as the common law "coming to the nuisance" defense.

Enforcement or lack of enforcement of this Ordinance in no way affects private nuisance causes of action.

Adopted September 13, 2007.

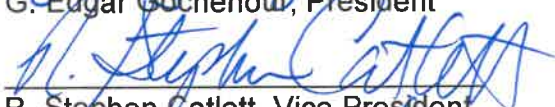
Amended April 30, 2009.

Amended October 23, 2025.

The undersigned hereby certifies that this Ordinance was amended by the Berkeley County Commission on October 23, 2025.

Entered this the 23 day of October, 2025.


G. Edgar Cochenour, President

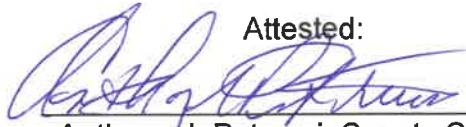

R. Stephen Catlett, Vice President


James P. Whitacre, Commissioner


H.D. Boyd, Commissioner


John Hardy, Commissioner

Attested:


Anthony J. Petrucci, County Clerk



Berkeley County
Anthony J. Petrucci, Clerk
Instrument 20250031194
10/23/2025 @ 03:39:29 PM
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Book 1543 @ Page 623
Times Recorded 2