

The Fairfax County Federation of Citizens Associations
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Resolution

Daytime Noise Limits

Background

A recent court case nullifies all limits on daytime noise within Fairfax County.

Resolution

WHEREAS, in the *Tanner v. City of Virginia Beach* (VLW 009-6-044) case, the Virginia Supreme Court ruled unconstitutional noise ordinances that use “reasonable persons” as the measure of acceptable noise, because it is vague;

WHEREAS, the current Code of Fairfax County uses “reasonable persons” as the measure of unacceptable daytime noise;

WHEREAS, *Tanner* renders void any limit on daytime noise in Fairfax County;

WHEREAS, daytime noise sources, either that are currently in place or that might be instituted before a new ordinance is instituted, though annoying, might be “grandfathered” and thereby made permanently allowed;

WHEREAS, the current Code of Fairfax County limits nighttime noise by total sound level (in dBA) and in each audible sound octave in dB; and

WHEREAS, the current Code of Fairfax County limits nighttime noise to a total sound level to 55 dBA in residential areas;

THEREFORE

BE IT RESOLVED, that the Federation of Citizens Associations requests that the Code of the County of Fairfax, Section 108, be revised such that the daytime limits on noise be specified in both total sound level (dBA) and in each audible sound octave (dB) as done for the nighttime limits, and the limits be set at no more than 3 dBA and 3 dB on an interim basis, respectively, above nighttime values, with exemptions given for noise generated during construction and maintenance.

FURTHERMORE, BE IT RESOLVED, that this revision to Section 108 be instituted at the

earliest possible date, preferably before January 2010, so that the limits are established before some noises are “grandfathered” as permissible.

Approved at the Federation membership meeting on December 17, 2009.