

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2018 Legislative Session

Bill No. CB-18-2018

Chapter No. 66

Proposed and Presented by Council Member Glaros

Introduced by Council Members Glaros, Lehman, Turner, Taveras and Franklin

Co-Sponsors _____

Date of Introduction September 25, 2018

BILL

1 AN ACT concerning

2 Noise Control

3 For the purpose of supplementing the County noise policy; defining certain terms; providing
4 generally for noise levels; providing for noise levels for construction; providing for waivers;
5 providing for exceptions; providing for enforcement and penalties; and providing for certain civil
6 citations; and generally regarding noise control.

7 BY repealing and reenacting with amendments:

8 SUBTITLE 19. POLLUTION.

9 Sections 19-120, 19-121, 19-122, 19-123,
10 19-124, and 19-125,

11 The Prince George's County Code
12 (2015 Edition; 2017 Supplement).

13 BY adding:

14 SUBTITLE 19. POLLUTION.

15 Sections 19-122.01 and 19-122.02,

16 The Prince George's County Code
17 (2015 Edition; 2017 Supplement).

18 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
19 Maryland, that Sections 19-120, 19-121, 19-122, 19-123, 19-124, and 19-125 of the Prince
20 George's County Code be and the same are hereby repealed and reenacted with the following
21 amendments:

SUBTITLE 19. POLLUTION.

DIVISION 2. NOISE CONTROL.

Sec. 19-120. Declaration of Policy.

The County Council for Prince George's County, Maryland, hereby declares it to be the public policy of the County that every resident of the County is entitled to noise levels that are not detrimental to health, safety, or welfare and the use, enjoyment and protection of property; and the general intent of this Division is to control noise levels throughout the County so as to promote public health, safety, welfare, the peace and quiet of the inhabitants of the County.

Sec. 19-121. - Definitions.

(a) For the purposes of this Division, the following words and phrases shall have the meanings respectively ascribed to them in this Section:

(1) **Commercial** means anything other than a residential zone or industrial zone as set forth in Subtitle 27.

(1.1) **Construction** means temporary activities directly associated with site preparation, assembly, erection, repair, alteration, or demolition of structures or roadways.

(2) **dB**A means decibels of sound, as determined by the A-weighting network of a sound level meter or by calculation from octave band or one-third octave band data.

(3) **Daytime** means the hours from 7 a.m. to 9 p.m.

(4) **Decibel** means a unit of measure equal to 10 times the logarithm to the base 10 of the ratio of a particular sound pressure squared to the standard reference pressure squared. The standard reference pressure is 20 micropascals.

(5) **Department** shall mean the Department of Permitting, Inspections, and Enforcement or another authorized designee agency or department.

(6) **Director** shall mean the Director of the Department of Permitting, Inspections, and Enforcement for Prince George's County, Maryland, or their authorized designee.

(7) **Enforcement officer** means:

- (a) for a noise originating from any source:
 - (i) an employee or agent of the Department designated by the Director to enforce this Division;
 - (ii) a police officer; or

1 (b) for a noise originating from an animal source, the Director of the Animal
 2 Control Division or the Director's authorized designee within the Department of the
 3 Environment.

4 (7.1) **Industrial Zone** means any property that has been zoned industrial.

5 (8) **Landlord** shall mean the person who manages, leases, holds, or otherwise
 6 controls the property of an owner.

7 (9) **Nighttime** means the hours from 9 p.m. to 7 a.m.

8 (10) **Noise** means sound, created or controlled by human activity, from one or more
 9 sources, heard by an individual over a period of time.

10 (11) **Noise disturbance** means any noise that is:

11 (a) unpleasant, annoying, offensive, loud, or obnoxious;

12 (b) unusual for the time of day or location where it is produced or heard;

13 (c) detrimental to the health, comfort, quality of life, or safety of any individual
 14 or to the reasonable enjoyment of property or the lawful conduct of business because of the
 15 loudness, duration, or character of the noise or;

16 (d) exceeds the objective standards of this Division.

17 (12) **Noise-suppression plan** means a written plan to use the most effective noise-
 18 suppression equipment, materials, and methods appropriate and reasonably available for a
 19 particular type of construction.

20 (13) **Owner** shall mean the person listed on the tax records of the County as the
 21 property owner.

22 (14) **Person** means an individual, group of individuals, corporation, firm, partnership,
 23 or voluntary association; or a department, bureau, agency, or instrument of the County or any
 24 municipality, or of any other government to the extent allowed by law.

25 (15) **Police Chief or officer** shall mean the Chief of the Prince George's County Police
 26 Department, a sworn member of the Prince George's County Police Department, or their
 27 authorized designee.

28 (16) **Receiving property** means any real property where people live or work and
 29 where noise is heard, including an apartment, condominium unit, or cooperative building unit.

30 (17) **Sound** means an auditory sensation evoked by the oscillation of air pressure.

31 (18) **Source** means any person, installation, device, or animal causing or contributing

1 to noise.

2 (19) **Residential** means any property in a residential zone as set forth in Subtitle 27.

3 **Sec. 19-122. Prohibition.**

4 [A person may not create noise or allow noise to be created that disturbs the peace, quiet,
5 and comfort of a residential area and includes residences in all areas.]

6 (a) Maximum allowable noise levels.

7 (1) Except as otherwise provided in Section 19-122.01, a person must not cause or
8 permit noise levels that exceed the following levels:

9
10 Maximum Allowable Noise Levels (dBA) for Receiving Land Use Categories

11 Day/Night	Industrial	Commercial	Residential
12 Day	75	67	65
13 Night	75	62	55

14
15 (2) A person must not cause or permit the emission of a prominent discrete tone or
16 impulsive noise that exceeds a level, at the location on a receiving property where noise from the
17 source is greatest, that is 5 dBA lower than the level set in paragraph (1) for the applicable noise
18 area and time. Impulsive noise may include, for example, noise from weapons fire, pile drivers,
19 or punch presses.

20 (3) Sound that crosses between residential and non-residential areas must not exceed the
21 level set in paragraph (1) for residential noise areas.

22 (b) Noise disturbance. A person must not cause or permit noise that creates a noise
23 disturbance.

24 (c) Examples. The following examples illustrate common noise-producing acts that violate
25 this section if they exceed the noise level standards set in subsection (a) or create a noise
26 disturbance. The examples are illustrative only and do not limit or expand the noise level or
27 noise disturbance standards of this section:

28 (1) Sounding a horn or other signaling device on any motor vehicle on private
29 property except:

30 (A) in an emergency; or

1 (B) as a danger warning signal during daytime hours if the device complies with
2 noise level limits.

3 (2) Operating a sound-producing device on public streets for commercial advertising
4 or to attract public attention.

5 (3) Selling anything by outcry.

6 (4) Loading, unloading, opening, closing or otherwise handling containers, building
7 materials, construction equipment, or similar objects.

8 (5) Operating a device that produces, reproduces, or amplifies sound.

9 (6) Allowing an animal to create a noise disturbance.

10 **Sec. 19-123. Exceptions.**

11 The following noise generating activities shall be exempt from enforcement under this
12 Division:

13 (a) any sound resulting from the emergency operation of a public service company or
14 their contractors as defined in Section 1-101(x), Public Utilities Article of the Annotated Code of
15 Maryland or resulting from emergency operations by fire and rescue services, and police
16 agencies;

17 (b) any sound resulting from the operations of an instrumentality of the Federal, State, or
18 County government, the Board of Education, a bi-county agency, or of a municipality;

19 (c) a sound resulting from the operation of an aircraft.

20 (d) an outdoor event on private property for which a valid use and occupancy permit has
21 been issued for purposes of sporting, recreational, entertainment establishment, or for any
22 other event to which the public is invited; or

23 (e) an event or activity with a validly issued permit, license or other written authority
24 which takes place on property owned by the United States, the State, the County, and the Board
25 of Education, a bi-county agency, or a municipality.

26 (f) farm equipment being used on more than five (5) acres or outside of one hundred (100)
27 feet of the property line.

28 (g) lawn care, snow removal equipment and other household tools or equipment when
29 used and maintained in accordance with the manufacturer's specifications between the hours of
30 7:00 am to 9:00 pm.

31 (h) a source or condition expressly subject to any State or federal noise-control law or
32 regulation [that is more stringent than this Division].

1 **Sec. 19-124. Enforcement and penalties.**

2 (a) Any person, who after instructed to cease the noise, shall allow or cause a continued
3 violation of this Section shall, upon conviction, be guilty of a misdemeanor and subject to a fine
4 not exceeding \$500.00 for a first offense, and \$1,000.00 for each subsequent offense or
5 imprisonment not exceeding thirty (30) days, or both such fine and imprisonment. Each day a
6 violation continues is a separate offense.

7 (b) As an alternative to criminal action, the Director, Police Chief, enforcement officer
8 or police officer may issue a civil citation for any violation of this Section not exceeding \$500.00
9 for a first offense, and \$1,000.00 for each subsequent offense.

10 (c) Violations of this Section may be reviewed by the Administrative Court as established
11 in Subtitle 13, Division 15.

12 **Sec. 19-125. Civil citation to owner or landlord.**

13 (a) The Director, Chief of Police, police officer, enforcement officer, or a designee
14 may issue a civil citation to the owner or landlord of the building or premises from which noise
15 in violation of Section 19-122 of this title emanates, if more than three civil citations have been
16 filed against an occupant, at one address, within a 60-day period.

17 (b) The Director, Chief of Police, police officer, enforcement officer, or a designee
18 may issue additional civil citations for each subsequent violation within 6 months after the initial
19 citation of the owner or landlord.

20 (c) Before issuing a citation, the Director, Chief of Police, enforcement officer, police
21 officer or a designee shall send by certified mail or deliver written notice to the owner or
22 landlord that [three] two citations have been filed under Section 19-122 of this title within a 60-
23 day period.

24 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,
25 Maryland, that Sections 19-122.01 and 19-122.02 of the Prince George's County Code be and the
26 same are hereby added:

27 **Sec. 19-122.01 Noise level and noise disturbance standards for construction.**

28 (a) Maximum allowable noise levels for construction.

29 (1) A person must not cause or permit noise levels from construction activity that
30 exceed the following levels:

31 (A) From 7 a.m. to [5] 6 p.m. [weekdays]:

1 (i) 75 dBA if the Department has not approved a noise-suppression plan
 2 for the activity; or

3 (ii) 85 dBA if the Department has approved a noise-suppression plan for
 4 the activity.

5 (B) The level specified in Section 19-122(a) at all other times.

6 (2) Construction noise levels must be measured at the location, at least 50 feet from the
 7 source, on a receiving property where noise from the source is greatest.

8 (3) The Department must establish requirements for noise-suppression plans and adopt
 9 procedures for evaluating and approving plans. The requirements must provide that, at least 10
 10 days before approving a noise-suppression plan, the Director must provide public notice
 11 reasonably calculated to reach at least a majority of households that might be affected by the
 12 construction activity noise levels above 75 dBA.

13 (b) Construction noise disturbance. The prohibition on noise disturbance in Section 19-122(b)
 14 applies to construction activities, notwithstanding subsection (a).

15 **Sec. 19-122.02 Waivers.**

16 (a) Temporary waiver.

17 (1) The Director may waive any part of this Division for a temporary event if the noise the
 18 event will create or cause in excess of the limits established under this Division is offset by the
 19 benefits of the event to the public.

20 (2) When the Director receives an application under this subsection, the Director must
 21 provide public notice of the application reasonably calculated to reach at least a majority of
 22 households that might be affected by noise levels anticipated for the event. The Director must not
 23 approve an application under this subsection less than 10 days after the public notice.

24 (b) General waiver.

25 (1) The Director may waive any part of this Division if the Director determines that
 26 compliance in a particular case is not practical and would impose undue hardship.

27 (2) When the Director receives an application under this subsection, the Director must
 28 schedule a hearing on the application within 60 days.

29 (3) At least 30 days before the hearing, the applicant must advertise the hearing by:

30 (A) placing a display advertisement in a newspaper of general circulation in the
 31 community where the source that is the subject of the application is located; and

1 (B) posting a sign at the location of the source.

2 (4) Based on evidence presented at the hearing, the Director may grant a waiver for up
3 to 3 years, under terms and conditions appropriate to reduce the impact of the exception.

4 (5) The Director may renew a waiver granted under this subsection if the applicant
5 shows that the circumstances supporting the original waiver have not changed.

6 (c) Violation of waiver. The Director may suspend, modify, or revoke a waiver granted under
7 this section if a person violates the terms or conditions of the waiver.

8 (d) Regulations and fees. The Director must issue regulations implementing this section that:

9 (1) set the procedures and fees to apply for a waiver under subsections (a) or (b);

10 (2) require the applicant to use the best technology and strategy reasonably available to
11 mitigate noise, as determined by the Director;

12 (3) allow temporary waivers under subsection (a) of no more than 30 days, renewable at
13 the discretion of the Director no more than twice; and

14 (4) specify the requirements for the hearing advertisement and sign required under
15 subsection (b)(3).

16 **Sec. 19-126: Measurement of Sound.**

17 (a) The Department must issue regulations establishing the equipment and techniques
18 it will use to measure sound levels. The Department may rely on currently accepted standards of
19 recognized organizations, including the American National Standards Institute (ANSI),
20 American Society for Testing and Materials (ASTM), and the United States Environmental
21 Protection Agency.

22 (b) If the Department adopts regulations based on currently accepted standards
23 of recognized organizations referenced in subsection(s), a prima facie violation may be
24 established by the Department utilizing a commercially available noise meter that complies with
25 the standards in subsection (a).

26 (c) For multiple sources of sound, the Department may measure sound levels at any
27 point to determine the source of a noise.

28 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby
29 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
30 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
31 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining

1 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
2 Act, since the same would have been enacted without the incorporation in this Act of any such
3 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
4 or section.

5 SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
6 calendar days after it becomes law.

Adopted this 23rd day of October, 2018.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Dannielle M. Glaros
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Rushern L. Baker, III
County Executive