COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2011 Legislative Session

Bill No.	CB-18-2011					
Chapter No.	9					
Proposed and Proposed	resented by Council Member Toles					
Introduced by	Council Members Toles, Franklin, Patterson, Turner, Johnson, Lehman,					
Campos and Olson						
Date of Introduc	*					
EMERGENCY BILL						
AN EMERGENO	CY ACT concerning					
	Dance Halls					
For the purpose of	of amending County regulations concerning dance hall premises, owners,					
lessors, operators	s, managers, promoters and patrons, establishing license requirements, setting					
penalties for viol	ators, declaring specific legislative intent to establish reasonable and uniform					
laws to reduce th	e number of violent crimes that occur as a result of events at dance halls and to					
promote the heal	th, safety, and welfare of the citizens and residents of Prince George's County					
and declaring tha	at a public emergency exists affecting the public health, safety, and welfare.					
BY repealing and	d reenacting with amendments:					
	SUBTITLE 5. BUSINESSES AND LICENSES.					
	Sections 5-197, 5-198, 5-199, 5-200, 5-200.01,					
	5-200.02, 5-200.03, and 5-200.04,					
	The Prince George's County Code					
	(2007 Edition, 2010 Supplement).					
BY adding:						
	SUBTITLE 5. BUSINESSES AND LICENSES.					
	Section 5-196.01,					
	The Prince George's County Code					
	(2007 Edition, 2010 Supplement).					
SECTION 1	1. BE IT ENACTED by the County Council of Prince George's County,					
Maryland, that S	ections 5-197, 5-198, 5-199, 5-200, 5-200.01, 5-200.02, 5-200.03, and 5-200.04					

1 2

1	of the Prince George's County Code be and the same are hereby repealed and reenacted with the				
2	following amendments:				
3	SUBTITLE 5. BUSINESSES AND LICENSES.				
4	DIVISION 14. PUBLIC DANCES.				
5	Sec. 5-197. Definitions.				
6	(a) The following words, as used in this Division, shall for the purpose of this Division,				
7	have the meanings respectively ascribed to them in this Section:				
8	(1) Administrative Board shall mean the entity that conducts an administrative				
9	hearing comprised of the Director of Environmental Resources or their designee, the Chief of				
10	Police or their designee, and the Chief of the Fire/EMS Department or their designee.				
11	[(1)] (2) [Dance hall shall be construed to mean any road house, restaurant,				
12	lunchroom, cafe, inn, hotel, or club for profit where public dancing is permitted.] Adult dance				
13	hall shall be construed to mean any road house, restaurant, lunchroom, cafe, inn, hotel,				
14	nightclub, club or any establishment or premises for persons twenty-one years of age or older				
15	where public dancing is permitted for profit. An owner, lessor, operator, manager, promoter or				
16	licensee of an adult dance hall may not allow an individual who is under the age of twenty-one				
17	years on the premises for which the permit is issued, unless the individual is employed by or is				
18	an immediate family member of the owner, lessor, operator, manager, promoter or licensee.				
19	[(2)] (3) Director shall mean the Director of Environmental Resources or the				
20	Director's designee, unless otherwise specified.				
21	(4) Police Department shall mean the Prince George's County Police Department.				
22	(5) Police Chief shall mean the Chief of the Prince George's County Police				
23	Department.				
24	(6) Police Officer shall mean a sworn member of the Prince George's County Police				
25	Department.				
26	[(3)] (7) Private club shall mean an establishment providing facilities for				
27	entertainment or recreation for only bona fide members and guests, and not operated for profit				
28	nor generally open to the public.				
29	[(4)] (8) Promoter shall mean a person or a business that makes arrangements for				
30	events for or not for profit.				

- [(5)] (9) **Public dance** shall mean an event to which the general public is invited, with or without an admission fee, at which live or recorded music is played; attendees are allowed or encouraged to dance; and the purpose or goal of the event is to make a profit for the lessee, operator, manager, licensee, holder, owner, [or] promoter, person in charge or person in apparent charge of the event. A public dance is not a benefit performance as defined under Subtitle 5, Division 2, of this Code.
- [(6)] (10) **Public nuisance** shall be construed to mean anything that endangers life or health, obstructs the quiet enjoyment and reasonable use of the property of persons in a particular area.
- [(7)] (11) Teen Dance Hall shall be construed to mean any road house, restaurant, lunchroom, cafe, inn, hotel, nightclub, club or any establishment or premises for persons under twenty-one years of age where public dancing is permitted for profit. An owner, lessor, operator, manager, promoter or licensee of a teen dance hall may not allow an individual who is under the age of eighteen years on the premises for which the permit is issued, unless the individual is employed by or is an immediate family member of the owner, lessor, operator, manager, promoter or licensee. A teen dance hall may not serve alcohol nor allow persons to bring alcohol onto the premises or into the venue.

Sec. 5-198. License required; fee; and insurance.

- (a) It is unlawful for any person to maintain or operate a dance hall without first obtaining a license from the Department of Environmental Resources. It is unlawful to operate a public dance in any place other than a licensed <u>adult dance hall or teen</u> dance hall.
 - [(b) The nonrefundable license fee shall be Two Hundred Dollars (\$200.00) per year.]
- [(c)] (b) The nonrefundable license fee for adult dance halls shall be One Thousand Dollars (\$1,000.00) per year. The nonrefundable license fee for teen dance halls shall be One Thousand Dollars (\$1,000.00) per year. The County Council finds that the license fee established for adult dance halls and teen dance halls in this ordinance is based on the estimated cost of implementation, administration, and enforcement of the licensing program. The adult dance hall and teen dance hall license shall be applied for annually.
- [(d)] (c) The County Police Department shall conduct background investigations of all persons seeking to obtain an initial license or renewal license to maintain or operate an adult dance hall or teen dance hall. An application shall be denied if persons seeking to obtain a

- license have been convicted of a felony, violating any Federal or State laws relating to offenses involving moral turpitude, or crimes involving financial misrepresentations.
- (d) No license issued under this Division shall be transferred or assigned to any person other than the person and or establishment to whom it was issued.
- (e) The Director of the Department of Environmental Resources, before issuing or renewing a license, shall require documentation of bodily injury liability insurance, property damage liability insurance, or the equivalent self-insurance. The applicant shall provide proof of insurance prior to the issuance of a license. Said bodily injury liability insurance, property damage liability insurance, or the equivalent self-insurance, shall be commensurate with the mandatory minimum required by law for the establishment.
- (f) If, during the period for which a license is issued, there is any change in the factual information furnished by the licensee to the Department of Environmental Resources under Section 5-198 or Section 5-199 of this Division, such change shall be fully, truly, and promptly communicated by the licensee to the Director of Environmental Resources in writing, within 30 calendar days of the change, upon a form provided by the Director of Environmental Resources for that purpose.

Sec. 5-199. License application.

- (a) Before any license shall be granted under the provisions of this Division, applications shall be made in writing to the Department of Environmental Resources on forms provided by the Department of Environmental Resources. Copies shall be transmitted by the Department of Environmental Resources to the Police Department and the Fire/EMS Department.
- (b) Before any application for an initial license or renewal shall be granted for a proposed adult dance hall or teen dance hall to be located inside of or within one-half mile of the boundaries of an incorporated municipality, the Director of the Department of Environmental Resources or their designee shall notify the governing body of the municipality of the pending application within fourteen (14) days of receipt of the application. The municipality shall have forty-five (45) calendar days for review, comment, and to hold a public hearing at the option of the municipality. If the proposed adult dance hall or teen dance hall lies within a municipality and is also within one-half mile of one or more other municipalities, the public hearing may only be held by the municipality within which the proposed adult dance hall or teen dance hall is located, with notice given to any affected municipality. If the proposed adult dance hall or teen

1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
29	
30	
21	۱

- dance hall is to be located within an unincorporated area, but is within one-half mile of two or more municipalities, the affected municipalities may hold a joint public hearing at their option. The municipality(ies) may recommend denial of the license after conducting a public hearing, upon a finding that the grant of the license would pose a threat to the peace and safety of the surrounding area or adversely affect the public health, safety, or welfare. If the municipality(ies) recommends denial, such license shall not be granted. The cost of any public hearing held by a municipality shall be borne by the applicant.
- (c) Before any application for an initial license or renewal shall be granted for a proposed adult dance hall or teen dance hall, the applicant shall not be in violation of any licensing provision of the Prince George's County Code.
- (d) Before any application for an initial license or renewal shall be granted for a proposed adult dance hall or teen dance hall, a security plan shall be submitted for review and approval of the Department of Environmental Resources, the Police Department and the Fire/EMS Department. A security plan shall be employed on the property owned or in control of by the licensee, owner, lessor, operator, promoter, person in charge or a person in apparent charge of the establishment and/or the property. The County approved security plan shall be employed at all times when the premises are used as an adult dance hall or teen dance hall.

Security Plan shall mean a document prepared under the direction of the applicant which minimally includes but is not limited to:

- (1) A plan for operable and recordable, indoor and outdoor, security surveillance cameras.
 - (2) A parking plan.
 - (3) A vehicular traffic flow management plan.
- (4) A lighting plan for the establishment and premises to include the parking lot(s) and all other portions of the premises within 1,000 feet of an adult dance hall or teen dance hall.
- (5) A life safety and evacuation plan prepared by a certified fire protection engineer, if the calculated occupant load exceeds two hundred and fifty persons.
- (6) A staffing plan for services provided which includes security staffing levels and responsibilities.

Such property includes, but is not limited to parking lots and areas within 1000 feet of the adult dance hall or a teen dance hall.

- (e) State or County certified private security officers wearing uniforms and bearing an identification card or sworn off duty police officers shall patrol the premises to include the outer perimeter of an adult dance hall and teen dance hall covering areas such as parking lots and areas within 1000 feet of the establishment. Public safety officers shall be granted a right of entry anytime during an event to ensure Code compliance.
- (f) Any party, including owners, lessors, operators, promoters, or persons in charge of or having apparent authority of an adult dance hall or teen dance hall, upon being issued a violation, shall have the right to request an administrative hearing comprised of the Director of the Department of Environmental Resources or their designee, the Chief of the Police Department or their designee, and the Fire/EMS Department or their designee, the Administrative Board, within 72 hours of the violation issuance. The Department of Environmental Resources, the Police Department, and the Fire/EMS Department shall be authorized to temporarily or permanently suspend or revoke a license upon issuance of a violation pending an administrative hearing and any judicial appeal. Any party aggrieved by the suspension or revocation of a license by the Administrative Board shall have the right to appeal to the Circuit Court. The enforcement action shall continue or terminate according to the determination of the Administrative Board.
- (g) The Department of Environmental Services, the Police Department and the Fire/EMS Department shall establish policies, rules, and procedures to implement this ordinance.

 Notwithstanding Sections 5-200(b)(c) (d) (e)(f) and (g) and 5-200.01, when the Department of Environmental Resources, the Police Department or the Fire/EMS Department determines that a violation of Section 5-200 or Section 5-200.01 has occurred with respect to the use of any building, structure, or land, or there is a failure to obtain a use and occupancy permit, or when a use and occupancy permit has been issued, or it is being used for another purpose or when this ordinance has been violated, the Director of the Department of Environmental Resources or their designee, the Chief of the Police Department or their designee, or the Chief of the Fire/EMS Department or their designee is authorized to suspend or revoke a license. The Director of the Department of Environmental Resources or their designee and the Chief of the Fire/EMS Department or their designee are authorized to direct the Department of Environmental Resources, the Police Department or the Fire/Emergency Medical Services Department, respectively, to issue a written violation notice directing that the violation cease and that all activities in the building, structure, and on the land

cease pending a hearing before the Administrative Board in accordance with Section 5-200 and 5-200.01.

- (h) The Director of Environmental Resources or their designee, the Chief of the Police
 Department or their designee, or the Chief of the Fire/EMS Department or their designee shall
 provide the written violation notice, issued pursuant to Section 5-200 and/or
 5-200.01, to one or more of the following: the licensee, owner, lessor, operators, promoters, or
 persons in charge of or in apparent charge of an adult dance hall or teen dance hall. In the event
 that no person or no person representing entities set forth in this Section are present or any
 person or any person representing entities set forth in this Section flees when the activity or
 activities take place and the written violation notice is being issued, the written violation notice
 shall be posted on the building, structure or on the land in which or upon which the activity or
 activities took place, directing that the violation cease and that all activities in the building,
 structure, or on the land cease pending a hearing before the Administrative Board. Posting of the
 issued written notice shall be deemed to be constructive notice to the licensee, owner, lessor,
 operators, promoters, or persons in charge of an adult dance hall or teen dance hall.
- (i) For violations of Section 5-200 and/or 5-200.01, the licensee, owner, lessor, operators, promoters, or persons in charge or in apparent charge of an adult dance hall or teen dance hall may request an administrative hearing in writing within 72 hours of the violation notice before the Administrative Board. The Administrative Board shall commence an administrative hearing within two days following receipt of the request for a hearing.
 - (j) The Administrative Board shall provide a hearing on the record.
- (k) The enforcement action of the Department of Environmental Resources, the Police

 Department or the Fire/EMS Department shall not be stayed during the pendency of the

 administrative hearing.
- (l) The Administrative Board shall render a decision on the enforcement action within two days after the conclusion of the hearing on the record. The decision shall include findings of fact, whether there is a use and occupancy permit; whether there was a use and occupancy permit that was used for another purpose; whether there is a threat to the public health, safety and welfare; and whether the activity constitutes a continuing threat to the public health, safety and welfare.

- (m) The Administrative Board may reverse, modify or remand the decision of the Department of Environmental Resources, Police Department or the Fire/EMS Department, respectively, only if the decision of the Department of Environmental Resources, the Police Department or the Fire/Emergency Medical Services Department, respectively, is clearly erroneous, or arbitrary and capricious, or unsupported by any substantial evidence.
- (n) The enforcement action of the Department of Environmental Resources, the Police

 Department or the Fire/EMS Department, respectively, shall terminate or continue according to the determination of the Administrative Board. Any party aggrieved by a decision of the Administrative Board may appeal the decision to the Circuit Court for Prince George's County, Maryland. The appeal shall proceed in accordance with the provisions of Title 7 of the Maryland Rules of Procedure.

Sec. 5-200. Denial, suspension, revocation.

- (a) The Director of Environmental Resources <u>in consultation with the Police Department</u> and the Fire/EMS Department, as appropriate, shall have the authority to deny, suspend, or revoke any application or license under the provisions of this Division and upon a violation of this Division.
- (b) [No license shall be denied, suspended, or revoked without the] <u>The Director of Environmental Resources or their designee, in consultation with the Chief of the Police Department or their designee, and the Chief of the Fire/EMS Department or their designee, as appropriate, [first notifying] <u>shall notify</u> in writing, the applicant or licensee, and providing the reasons for said denial, suspension, or revocation. The written notice shall be served by delivery of said notice to all parties by registered or certified mail.</u>
- (c) Any party aggrieved by a decision or action of the Director of Environmental Resources with respect to approval, denial, suspension, or revocation of an application or license shall have the right to appeal any such decision to the Board of Appeals for Prince George's County within ten (10) calendar days after the date of such decision. If the license is for, or exists on, premises located inside or within one-half mile of a municipality, the municipality shall automatically be a party to any related proceeding and administrative hearing and have the right to appeal therefrom. Additionally, the Board of Appeals for Prince George's County shall notify, in writing, all adjacent property owners and any person who has filed a written complaint against the applicant or licensee.

- (d) In addition to the provisions of Section 5-200.01, the Director of Environmental Resources, in consultation with the Police Department and Fire/EMS Department, as appropriate, shall have the authority to deny, suspend, or revoke a license if it is determined that exercise of the license proximately causes, gives rise, or substantially contributes to a situation wherein the quiet enjoyment or use of property of persons in the vicinity of the [dance hall] adult dance hall or teen dance hall is unreasonably obstructed or interfered with by arriving or departing patrons of the [dance hall] adult dance hall or teen dance hall so as to constitute a continuing public nuisance or a repeated disturbance to the public peace.
- (e) Notwithstanding Sections 5-200(b)(c) and (d), the Department of Environmental Resources, the Police Department, and the Fire/EMS Department shall have the right to take all immediate and necessary action to cease and desist the operation of an adult dance hall and a teen dance hall when an activity is found to pose a threat to the peace and health, safety, and welfare of the public. Immediate and necessary action by the Department of Environmental Resources, the Police Department, the Fire/EMS Department shall include, but is not limited to: entering the building, structure, and land; securing the building, structure, and land; removing the occupants of the building, structure, and land; and padlocking the building, structure, and land. The Department of Environmental Resources, the Police Department, and the Fire/EMS Department shall be authorized to temporarily or permanently close an establishment pursuant to Section 5-200(e) pending an administrative hearing by the Administrative Board and any judicial appeal.

Sec. 5-200.01. Violations.

- (a) It shall be considered to be a violation of this Division if:
- (1) Dancing is permitted between the hours of 2 A.M. and 11 A.M., or in violation of Section 5-198.
- (2) The Prince George's Health Department finds that noise levels emanating from a dance hall are in excess of 50dBA at the property line between the adult dance hall <u>or teen dance</u> hall and adjoining residential zone, or 62dBA at the property line between the dance hall and adjoining commercial zone, using a Type 2 or better sound level meter in accordance with the definitions and measurement procedures as prescribed by the Maryland State Environmental Health Administration Regulation 10.03.45, titled "Rules and Regulations Governing the Control

of Noise Pollution in the State of Maryland," provided that measurements may be conducted on properties adjoining dance halls as well as at the property line.

- (3) [An] <u>A licensee</u>, owner, lessor, operator, <u>promoter</u>, [or] person in charge, or <u>person in apparent charge</u> of [a] <u>an adult</u> dance hall <u>or a teen dance</u> hall permits any disorderly conduct or allows a public nuisance to exist on his property.
- (4) A private club holds public dances as evidenced by advertising to attract the general public for an admission fee and the private club is not a nonprofit organization in possession of a valid County benefit performance permit issued under the requirements of Subtitle 5, Division 2, of this Code.
- (5) [An] A licensee, owner, lessor, operator, promoter, person in charge, or a person in apparent charge of an adult dance hall or a teen dance hall that permits an activity prohibited by the security plan.
- (6) [An] A licensee, owner, lessor, operator, promoter, person in charge, or a person in apparent charge of an adult dance hall or a teen dance hall that permits an activity that poses a threat to the health, safety and welfare of the public.
- (7) [An] A licensee, owner, lessor, operator, promoter, a person in charge, or a person in apparent charge of an adult dance hall or a teen dance hall operates an adult dance hall or teen dance hall without the required license.

Sec. 5-200.02. Compliance with applicable regulation.

No license shall be issued <u>or renewed</u> for <u>an adult dance hall or</u> a <u>teen</u> dance hall until applicable sanitary, building code, housing code, fire prevention, zoning, business licensing, <u>security plan</u> and safety regulations of Prince George's County are met.

Sec. 5-200.03. Additional rules and regulations.

The Department of Environmental Resources, the Police Department and the Fire/EMS Department may hereby establish any additional rules and regulations in order to enforce the provisions of this Division.

Sec. 5-200.04. Enforcement and penalty.

(a) Any person who <u>is a licensee</u>, and/or owns, <u>leases</u>, operates, <u>is in charge of or in apparent charge of an adult dance hall or teen dance hall</u>, or promotes a facility or event required to be licensed under this Division without first having obtained a public dance license shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed

One Thousand Dollars (\$1,000.00) or incarceration up to six (6) months in jail, or both such fine and imprisonment.

- (b) In lieu of a violation notice, the Director of the Department of Environmental Resources, his designees, or any sworn County police officer or Fire/EMS officer may issue a citation pursuant to Subtitle 28, Division 3, to any person who is a licensee, and/or owns, leases, operates, is in charge or in apparent charge or promotes any event or facility in violation of this Division. The citation shall serve as notification to the person that he has committed a civil violation and must pay to the County a monetary fine, subject to the decision of the Administrative Board and his right to trial under Section 28-257 of the County Code.
- (c) The person issued the civil citation shall be subject to a monetary fine of Five Hundred Dollars (\$500.00) for each violation of this Division.
- (d) Each day a violation continues is deemed a separate offense and is subject to an additional citation and fine.
- (e) A licensee, owner, lessor, operator, promoter, a person in charge, or a person in apparent charge of an adult dance hall or a teen dance hall found to have violated any provision of this Act shall be fined up to \$1,000.00 or may be sentenced to not more than six (6) months of imprisonment, or both such fine and imprisonment.
- [(e)] (f) In addition to the other remedies provided herein, the County Attorney, on behalf of the County, may institute an injunction, mandamus, or other appropriate action or proceeding to enforce the provisions of this Division.
- SECTION 2. BE IT ENACTED by the County Council of Prince George's County, Maryland that Section 5-196.01 of the Prince George's County Code be and the same is hereby added:

Sec. 5-196.01. Legislative Intent.

- (a) The purpose and intent of this legislation is to regulate dance hall premises, licensee, owner, lessor, operator, manager, promoter and patron by establishing license requirements and penalties for violators by repealing and reenacting with amendments relevant provisions of the County Code to establish reasonable and uniform laws to promote the health, safety, and welfare of the citizens and residents of the County and to prevent or control detrimental effects upon neighboring properties and existing and proposed land uses in the general area.
 - (b) The provisions of this law are in response to violent crimes taking place in or in close

proximity to adult dance halls or teen dance halls throughout the County.

(c) The provisions of the Prince George's County Code have neither the purpose nor effect of imposing a limitation or restriction on legal conduct.

SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

SECTION 4. BE IT FURTHER ENACTED that in accordance with the provisions of Section 317 of the Charter, the County Council hereby declares that a public emergency exists affecting the public health, safety, and welfare; said emergency being the provisions of this law are in response to violent crimes and the increase in violent crimes, including but not limited to assaults and homicides, taking place in or in close proximity to adult dance halls and teen dance halls throughout the County; the purpose and intent of this legislation is to regulate dance hall premises, licensees, owners, lessors, operators, managers, promoters and patrons by establishing license requirements and penalties for violators by repealing and reenacting with amendments relevant provisions of the County Code to establish reasonable and uniform laws to promote the health, safety, and welfare of the citizens and residents of the County and to prevent or control detrimental effects upon neighboring properties and existing and proposed land uses in the general area.

SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect on the date it becomes law.

1	Adopted this <u>19th</u> day of <u>July</u>	, 201	1, by an affirmative vote of two-thirds of			
2	the members of the full County Council	ne members of the full County Council.				
			UNTY COUNCIL OF PRINCE DRGE'S COUNTY, MARYLAND			
		BY:	Ingrid M. Turner Chair			
	ATTEST:					
	Redis C. Floyd Clerk of the Council					
			APPROVED:			
	DATE:	BY:	Rushern L. Baker, III County Executive			
	KEY: <u>Underscoring</u> indicates language added [Brackets] indicate language deleted fro Asterisks *** indicate intervening existi	m ex	isting law.			