

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2014 Legislative Session

Bill No. CB-82-2014
 Chapter No. 73
 Proposed and Presented by Council Member Olson
 Introduced by Council Members Olson, Toles, Lehman, Franklin and Patterson
 Co-Sponsors _____
 Date of Introduction October 21, 2014

BILL

1 AN ACT concerning

2 Nuisance Abatement Board

3 For the purpose of amending the provisions concerning the administration and functions of the
 4 Prince George's County Nuisance Abatement Board.

5 BY repealing and reenacting with amendments:

6 SUBTITLE 14. MORALS AND CONDUCT.

7 Sections 14-171, 14-172, 14-173 and 14-174

8 The Prince George's County Code

9 (2011 Edition; 2013 Supplement).

10 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 11 Maryland, that Sections 14-171, 14-172, 14-173 and 14-174 of the Prince George's County Code
 12 be and the same are hereby repealed and reenacted with the following amendments:

13 SUBTITLE 14. MORALS AND CONDUCT.

14 DIVISION 14. NUISANCES.

15 **Sec. 14-171. Definitions.**

16 (a) As used in this Division:

17 * * * * *

18 (2) **Neighborhood nuisance** means any premises, except as defined by Section 13-
 19 138 (a) (9) of the County Code, on or in which, on two or more separate occasions within a one-
 20 year period before the start of a proceeding under this subtitle, an owner, tenant or occupant of
 21 the premises:

(a) acts in a disorderly manner that disturbs the public peace; or

(b) engages in acts, creates or maintains conditions that allows others to act in a disorderly manner that disturbs the public peace[.]; or

(c) engages in activities that are prohibited in residential neighborhoods and zones, including any event, gathering, party, or picnic that involves: admission fees; cover charges; door charges; entry fees; ticket sales; food or beverage sales; adult entertainment charges, fees or sales; personal profit to the homeowner or organizer of an event; or is open to the general public.

* * * * *

(7) **Public nuisance** shall mean any residential or commercial premises used:

* * * * *

(F) To endanger life [or], health, or safety, or obstruct the quiet enjoyment and reasonable use of the property of persons in a particular area.

* * * * *

(H) As a disorderly house as referenced in the Criminal Law Article of the Maryland Annotated Code.

* * * * *

Sec. 14-172. Operation of a public or neighborhood nuisance prohibited; action to abate.

(a) No person owning, operating, having charge or management of, a tenant living in or occupant of any premises may cause or shall permit such premises to be used in violation of County, State, or Federal laws governing controlled dangerous substances, prostitution, human trafficking, criminal gangs, the storage or concealment of illegal weapons, stolen property, contraband or other evidence of criminal activity at the premises, or as a public or neighborhood nuisance.

(1) A police or Fire/EMS report, documentation, or any citation, written in the regular course of business by any State, County, or municipal law enforcement agency, fire officer [or special police officer as defined under the Annotated Code of Maryland], or any other County or municipal agency or department authorized to issue citations or corrective orders, of a premises having been used for activities described in Section 14-171(a)(2) or (7) of this Division is prima facie evidence that the premises are a public or neighborhood nuisance.

(b) [The County Attorney] Any State, County, or municipal law enforcement agency, fire department, or any other County or municipal agency or department authorized to issue citations or corrective orders, may initiate proceedings under this Division to abate and prevent the nuisance and enjoin the person conducting or maintaining it, and the owner, lessee, resident, or agent of the premises in or upon which the nuisance exists, from directly or indirectly maintaining or permitting the nuisance whenever any [person or] agency or department of the County or municipality provides sufficient evidence to support such proceedings.

(1) Prior to the initiation of proceedings, [the County Attorney] any State, County, or municipal law enforcement agency, fire department, or any other County or municipal agency or department authorized to issue citations or corrective orders shall submit a petition to the Board which sets forth the basis for its belief that a public or neighborhood nuisance exists and that the owner, lessee, resident, or agent has failed or refused to cooperate with the [County's] State, County, or municipal law enforcement agency, fire department, or any other County or municipal agency or department attempts to abate the nuisance. The petition shall include affidavit(s) in support thereof. The Board shall review the petition and issue a notice of hearing if a majority of the Board finds that the [County Attorney] State, County, or municipal law enforcement agency, fire department, or any other County or municipal agency or department authorized to issue citations or corrective orders has sufficient evidence to support its case. A notice of hearing shall be issued no later than fifteen (15) days after the Board has reviewed the petition.

Sec. 14-173. Nuisance Abatement Board.

(a) Creation.

* * * * *

(2) The Board shall consist of seven members. There shall be a representative from the Police Department, the Department of Permitting, Inspections, and Enforcement, and the Fire/EMS Department. The other four citizen members shall be appointed by the County Executive and approved by the County Council to serve staggered terms of [three] two years each. At least one of the citizen appointees shall represent the business community. Additionally, a citizen appointee shall be designated [Chairman] as the Chair of the Board.

(3) Any member who fails, without an excused absence, to attend two (2) consecutive meetings of the Board, or six (6) or more meetings in any given calendar year, shall be considered to have resigned from the Board.

(4) Any member may be removed by the County Executive, pursuant to Section 507 of the County Charter.

(b) Powers and duties.

(1) The Board shall hear complaints which allege that any premises constitute a public or neighborhood nuisance.

(2) Upon the receipt of such an allegation, the Board shall give notice and an opportunity for a hearing to determine whether a public or neighborhood nuisance exists in the premises to the owner, lessor, lessee, mortgagor, and mortgagee of the premises.

* * * * *

(c) Hearing.

* * * * *

(3) The lack of knowledge of, acquiescence or participation in, or responsibility for a public or neighborhood nuisance on the part of any person who may be the owner, lessor, lessee, mortgagor, mortgagee, or other interested person and all those persons in possession of or having charge of as agent or otherwise, or having any interest in the property, real or personal, used in conducting or maintaining the public or neighborhood nuisance, is not sufficient grounds to dismiss the hearing.

(4) [The County] Any State, County, or municipal law enforcement agency, fire department, or any other County or municipal agency or department authorized to issue citations or corrective orders must show, by a preponderance of the evidence, that a public or neighborhood nuisance does exist at the premises, and that the property owner, lessee, resident, or agent has failed or refused to cooperate with [the County's] attempts to abate the nuisance.

* * * * *

(d) Order.

(1) After notice and an opportunity for a hearing, if five of the seven Board members concur, the Board is authorized:

(A) To order the discontinuance of the public or neighborhood nuisance in the premises where the public or neighborhood nuisance exists; and

1 * * * * * * * *

2 (2) An order of the Board issued pursuant to this Division shall be posted on the

3 premises and notice thereof shall be given to those persons and in the manner set forth in

4 Subsection ([a]b). On and after the tenth business day following the posting, the order may be

5 enforced. The Board may vacate the provisions of the order to close if an interested person posts

6 a bond for the period of the ordered closing in an amount not to exceed the assessed value of the

7 premises as shown in the tax assessment records, prorated for the proportional assessment of

8 units closed if less than all units therein are closed, but not to exceed One Million Dollars

9 (\$1,000,000) in any case, and submits reasonably adequate proof to the Board that the nuisance

10 has been abated and will not be maintained or permitted in any unit of the premises during the

11 period of the ordered closing.

12 * * * * * * * *

13 (4) The Board shall produce a written decision detailing the Board's final order or

14 action no later than fifteen (15) days after the conclusion of the hearing.

15 **Sec. 14-174. Violation or destruction of order, other enforcement.**

16 * * * * * * * *

17 (e) The civil monetary fine for each civil violation of this Division shall be Five Hundred

18 [Fifty] Dollars (\$500.00) for a first violation and One Thousand Dollars (\$1,000) for a second

19 and any subsequent violation.

20 * * * * * * * *

21 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby

22 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,

23 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of

24 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining

25 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this

26 Act, since the same would have been enacted without the incorporation in this Act of any such

27 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

28 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)

29 calendar days after it becomes law.

Adopted this 19th day of November, 2014.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Mel Franklin
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

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

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.