

Please note the following excerpt:

Sec. 19-124. Enforcement and penalties

(a) Any person, who after instructed to cease the noise, shall allow or cause a continued violation of this Section shall, upon conviction, be guilty of a misdemeanor and subject to a fine not exceeding \$500 for a first offense, and \$1,000 for each subsequent offense or imprisonment not exceeding thirty (30) days, or both such fine and imprisonment.

(b) As an alternative to criminal action, the Director, Police Chief or police officer may issue a civil citation for any violation of this Section not exceeding \$500 for a first offense, and \$1,000 for each subsequent offense.

2011 Legislative Session

Bill No. CB-21-2011

Chapter No. 38

Proposed and Presented by Council Members Olson, Turner and Toles

Introduced by Council Members Olson, Turner, Toles, Franklin, Patterson, Lehman

and Campos

Date of Introduction October 18, 2011

BILL

AN ACT concerning

Noise Control

For the purpose of authorizing the Director of Environmental Resources and Police Department to administer and enforce the County's noise control program, and providing for civil citations and penalties for violations of this section.

BY repealing:

SUBTITLE 19. POLLUTION.
Section 19-126
The Prince George's County Code
(2007 Edition, 2010 Supplement).

BY adding:

SUBTITLE 19. POLLUTION.
Sections 19-120, 19-121, 19-122, 19-123,
19-124 and 19-125
The Prince George's County Code
(2007 Edition, 2010 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Section 19-126 of the Prince George's CountyCode be and the same is hereby repealed:

SUBTITLE 19. POLLUTION.

DIVISION 2. NOISE CONTROL.

[Sec. 19-126. Noise in a residential area.

(a) No person, who has been ordered by a police officer to cease using, operating, or permitting to be played or operated any radio, television set, tape or disk recorder, phonograph, musical instrument, or any other machine, equipment, or tool which produces or reproduces any sound or noise which is audible more than fifty (50) feet from the source of the sound or noise, shall continue to use, operate, or permit to play or operate the device causing the sound or noise.

(b) This Section shall apply only to a sound or noise, which is audible in a residential area between the hours of 9:00 P.M. and 7:00 A.M. of the next day. Residential area is an area located within a residential zone listed in Section 27-109(a)(1) of this Code.

(c) This Section shall not apply:

(1) To any sound resulting from the emergency operation of a public service company as defined in Article 78, Section 2(o), Annotated Code of Maryland;

(2) To any sound resulting from the operations of an instrumentality of the Federal, State, or County government, or of a municipality;

(3) To a sound resulting from the operation of farm equipment or aircraft.

(4) On private property for which a use and occupancy permit has been issued for purposes of sporting, recreational, entertainment events, or for any other event to which the public is invited; or

(5) To an event or activity which takes place on property owned by the United States, the State, the County, the Board of Education, a bicounty agency, or a municipality.

(d) Any person who violates any provision of this Section shall, upon conviction, be guilty of a misdemeanor and subject to a fine not exceeding \$250 for a first offense, and \$500 for each subsequent offense or imprisonment not exceeding thirty (30) days, or both such fine and imprisonment.]

SECTION 2. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 19-120, 19-121, 19-122, 19-123, 19-124 and 19-125 of the Prince George's County Code be and the same are hereby added:

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) **Noise** shall mean noise related to human activity including noise produced vocally, with a radio receiving set, musical instrument, phonograph or any other device or by a machine, tool or other equipment which produces, reproduces or amplifies any sound or noise which is continuous in nature and audible more than fifty (50) feet from the source of the sound or noise in the public right of way or an adjacent building.

(2) Department shall mean the Department of Environmental Resources or another authorized designee agency or department.

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

(4) Director shall mean the Director of the Department of Environmental Resources for Prince George's County, Maryland, or their authorized designee.

(5) Owner shall mean the person listed on the tax records of the county as the property owner.

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

(7) Residential area is an area located within a residential zone listed in Section 27-109(a)(1) of this Code, including residential areas abutting mixed-use, commercial and industrial areas as defined in Subtitle 27.

(8) Recreational or Entertainment Establishment is an establishment as defined in Section 27-107.1(a)(192) of this Code.

Sec. 19-122. Prohibition

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

Sec. 19-123. Exceptions

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

(a) any sound resulting from the emergency operation of a public service company as defined in Section 1-101(x), Public Utilities Article of the Annotated Code of Maryland;

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

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

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

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

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

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

Sec. 19-124. Enforcement and penalties

(a) Any person, who after instructed to cease the noise, shall allow or cause a continued violation of this Section shall, upon conviction, be guilty of a misdemeanor and subject to a fine not exceeding \$500 for a first offense, and \$1,000 for each subsequent offense or imprisonment not exceeding thirty (30) days, or both such fine and imprisonment.

(b) As an alternative to criminal action, the Director, Police Chief or police officer may issue a civil citation for any violation of this Section not exceeding \$500 for a first offense, and \$1,000 for each subsequent offense.

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

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

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

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

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 this Act shall take effect on forty-five (45) calendar days after it becomes law.

Adopted this 15th day of November, 2011.

COUNTY COUNCIL OF PRINCE

GEORGE'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:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.