

Bill No. 16-15

Concerning: Nuisance – Noise Levels and Enforcement

Introduced: August 15, 2016

Revised: Oct. 4, 2016 Draft No.

Enacted: Nov. 1, 2016

Effective: Dec. 31, 2016

Expires:

Frederick County Code, Chapter 1

Section(s) 1-11-6 & 1-11-7

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President Bud Otis on behalf of County Executive Jan Gardner

AN ACT to: Establish measurable criteria and enforcement to restrict generation of excessive noise and designate Enforcing Agencies and Enforcement Officials.

Executive: Jan H Gardner Date Received: 11-3-2016

Approved: ✓ Date: 11-7-2016

Vetoed: _____ Date: _____

By amending:

Frederick County Code, Chapter, 1 Section(s) 1-11-6 & 1-11-7

Other: _____

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

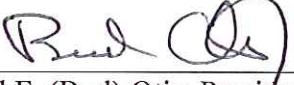
Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

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The County Council of Frederick County, Maryland, finds it necessary and appropriate to repeal and reenact Sections 1-11-6 and 1-11-7 of the Frederick County Code to establish criteria to define acceptable noise levels, to restrict generation of excessive noise and to designate Enforcing Agencies and Enforcement Officials.

NOW, THEREFORE, BE IT IN ENACTED, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.



Harold F. (Bud) Otis, President
County Council of Frederick County,
Maryland
Wk 11/11/14

Repeal existing Sections 1-11-06 and 1-11-7.

Enact:

§ 1-11-6. NUISANCE – NOISE LEVELS.

(A) The County Council finds that excessive noise harms public health and welfare and impairs enjoyment of property. The intent of this Chapter is to limit noise sources to protect public health and welfare and to allow the peaceful enjoyment of property.

(B) Definitions.

- (1) dBA means abbreviation for the sound level in decibels determined by the A-weighting network of a sound level meter or by calculation from octave band or one-third octave band data. (COMAR 26.02.03.01.)
- (2) Daytime hours means 7:00 a.m. to 10:00 p.m., local time.
- (3) Nighttime hours mean 10:00 p.m. to 7:00 a.m., local time.

(C) Noise Standards for Residential Areas as Receiving Property.

- (1) Except as provided in paragraph (2) of this subsection and in subsection (F) of this section, a person may not cause or permit noise levels emanating from any property, such that the levels received on residential property exceed the levels contained in Table 1 below. (COMAR 26.02.03.02B.(1))

Table 1
Maximum Allowable Noise Levels (dBA)
for Receiving Land Use Categories

<u>Day/Night</u>	<u>Industrial</u>	<u>Commercial</u>	<u>Residential</u>
<u>Day</u>	<u>75</u>	<u>67</u>	<u>65</u>
<u>Night</u>	<u>75</u>	<u>62</u>	<u>55</u>

- (2) A person may not cause or permit noise levels emanating from construction or demolition-site activities that exceed:
 - (i) During daytime hours, 90 dBA; or
 - (ii) During nighttime hours, the levels specified in Table 1 above (COMAR 26.02.03.03B.(1))

(D) Measurement of Noise Levels.

- (1) The measurement of noise levels under this subsection shall be conducted at points on or within the property line of the receiving property (or the boundary of a land use area,) and may be conducted at any point for the determination of identity in multiple source situations.

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Amended Bill No. 16-15

(2) Sound level meters used to determine compliance with this section shall meet or exceed the specifications for Type II sound level meters.

(E) Off-road Internal Combustion Vehicles –

- (1) A person may not operate or permit to be operated an off-road internal combustion engine powered recreational vehicle, including, but not limited to, a dirt bike, an all terrain vehicle, a go cart, a snowmobile, or a similar vehicle, on private property without the express written permission of a person owning an interest in the property.
- (2) A person may not operate or permit to be operated an off-road internal combustion engine powered recreational vehicle, including, but not limited to, a dirt bike, an all terrain vehicle, a go cart, a snowmobile, or a similar vehicle, on private property closer than 300 feet to a neighboring residence, without the written permission of the affected resident, unless the operator of the vehicle can demonstrate that the operation of the vehicle, at all of its operating speeds, within 300 feet of the neighboring residence, will at not cause the noise levels set forth in (C) 1 above to be exceeded at the receiving property line. (COMAR 26.02.03.02 B.(5))

(F) Exemptions. The provisions of this section do not apply to:

- (1) Devices used solely for the purpose of warning, protecting, or alerting the public, or some segment thereof, of the existence of an emergency situation;
- (2) Household tools and portable appliances in normal usage;
- (3) Lawn care and snow removal equipment during daytime hours, when used and maintained in accordance with the manufacturer's specifications;
- (4) Agricultural field machinery when used and maintained in accordance with manufacturer's specifications;
- (5) Blasting operations for demolition, construction, and mining or quarrying, between the hours of 7:00 a.m. and 5:00 p.m.;
- (6) Motor vehicles on public roads;
- (7) Aircraft and related airport operations at airports licensed by the State Aviation Administration;
- (8) Boats on State waters or motor vehicles on State lands under the jurisdiction of the Department of Natural Resources;
- (9) Emergency operations;
- (10) Pile driving equipment, between the hours of 8:00 a.m. and 5:00 p.m.;
- (11) Sound not electronically amplified created by sporting, amusement, and entertainment events and other public gatherings operating according to terms and conditions imposed by the County, between the hours of 7:00 a.m. and 12:00 midnight;

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Amended Bill No. 16-15

- (12) Railroads;
- (13) Construction and repair work on public property; and
- (14) Air conditioning or heat pump equipment used to cool or heat housing on residential property. For this equipment, a person may not cause or permit noise levels which exceed 70 dBA for air-conditioning equipment at receiving residential property, and 75 dBA for heat pump equipment at receiving residential property.
- (15) Trash and Recycling collection between the hours of 7 a.m. and 10 p.m.
- (16) Carnivals, fairs and amusements conducted by civic and service organizations.
- (17) Sporting events conducted by primary or secondary schools, colleges, or recreational leagues on Board of Education, County or municipally owned properties, between the hours of 7 a.m. and 11 p.m.
- (18) Trapshooting, skeet shooting, or other target shooting on any range or property approved by the Division of Planning and Permitting for such activities. (Envir. Art. §3-401.)

§1-11-7. ENFORCEMENT AND PENALTIES.

- (A) A violation of Section 1-11-6 shall be subject to enforcement by the Director of the Division of Planning and Permitting or the Director's designees, the Zoning Administrator, or the Sheriff of Frederick County and the Sheriff's designees, ("Enforcement Official") pursuant to Section 1-1-9 of the Code.
- (B) The Enforcement Official is not required to issue a warning notice.
- (C) A first offense shall be deemed a Class E civil offense. Each subsequent offense by the same individual or property owner(s) shall be cited at the next highest Class of offense.
- (D) The Enforcement Official may, in consultation with the County Attorney, seek additional legal remedies as appropriate as under the circumstances.