

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2007, Legislative Day No. 8

Bill No. 28-07

Introduced by Mr. Dillon, Chairman
(by request of the County Executive)

By the County Council, April 16, 2007

Introduced and first read on April 16, 2007
Public Hearing set for May 7, 2007
Bill Expires July 20, 2007

By Order: Judy C. Holmes, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Public Safety – Noise Control

2

3 FOR the purpose of establishing a noise control law; defining certain terms; prohibiting a
4 person from exceeding certain noise levels; setting standards for measurement of
5 noise levels; establishing procedures for requesting and obtaining variances from the
6 noise level standards; providing for the enforcement of violations of the noise control
7 law; and generally relating to noise control.

8

9 BY renumbering §§ 12-5-101 through 12-5-104, and the title “Title 5. Miscellaneous
10 Provisions”, to be §§ 12-6-101 through 12-6-104 and the title “Title 6. Miscellaneous
11 Provisions”, respectively
12 Anne Arundel County Code (2005, as amended)

13

14 BY adding: §§ 12-5-101 through 12-5-107 to be under the new title “Title 5. Noise
15 Control”
16 Anne Arundel County Code (2005, as amended)

17

18 SECTION 1. *Be it enacted by the County Council of Anne Arundel County,*
19 *Maryland,* That §§ 12-5-101 through 12-5-104 and the title “Title 5. Miscellaneous
20 Provisions” of the Anne Arundel County Code (2005, as amended) are hereby
21 renumbered to be §§ 12-6-101 through 12-6-104 and the title “Title 6. Miscellaneous
22 Provisions”, respectively.

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.

SECTION 2. *And be it further enacted*, That Section(s) of the Anne Arundel County Code (2005, as amended) read as follows:

ARTICLE 12. PUBLIC SAFETY

TITLE 5. NOISE CONTROL

12-5-101. Scope

THIS TITLE IS SUPPLEMENTAL TO § 9-1-706 OF THIS CODE, AND IN THE EVENT OF A CONFLICT, THE PROVISIONS OF § 9-1-706 CONTROL.

12-5-102. Definitions.

(A) COMAR. IN THIS TITLE, THE FOLLOWING WORDS HAVE THE MEANINGS STATED IN COMAR 26.02.03.01.B:

- (1) CONSTRUCTION;
- (2) CURTILAGE;
- (3) DAYTIME HOURS;
- (4) DBA;
- (5) DEMOLITION;
- (6) EMERGENCY;
- (7) NIGHTTIME HOURS;
- (8) NOISE;
- (9) PERIODIC NOISE;
- (10) PROMINENT DISCRETE TONE;
- (11) SOURCE; AND
- (12) VIBRATION.

(B) Other. IN THIS TITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:

- (1) "DEPARTMENT" MEANS THE POLICE DEPARTMENT; AND
- (2) "ZONING DISTRICT" MEANS A GENERAL LAND USE CATEGORY, AS CREATED IN § 18-2-105 OF THIS CODE.

12-5-103. Noise and vibration prohibitions.

(A) General. EXCEPT AS OTHERWISE PROVIDED IN § 12-5-104, A PERSON MAY NOT CAUSE OR PERMIT NOISE OR VIBRATION THAT EXCEEDS THE LEVELS PROHIBITED IN THIS SECTION.

(B) Levels established. A PERSON MAY NOT CAUSE OR PERMIT NOISE LEVELS THAT EXCEED THE FOLLOWING LEVELS:

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**MAXIMUM ALLOWABLE NOISE LEVELS (DBA)
FOR ZONING DISTRICTS**

TIME OF DAY	INDUSTRIAL	COMMERCIAL	RESIDENTIAL
DAYTIME HOURS	75	67	65
NIGHTTIME HOURS	75	62	55

1
2 (C) **Construction or demolition.** A PERSON MAY NOT CAUSE OR PERMIT NOISE
3 LEVELS EMANATING FROM CONSTRUCTION OR DEMOLITION SITE ACTIVITIES THAT
4 EXCEED:

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- 5
- 6 (1) 90 DBA DURING DAYTIME HOURS; OR
- 7
- 8 (2) THE NOISE LEVELS SPECIFIED IN SUBSECTION (B) DURING NIGHTTIME HOURS.
- 9

10 (D) **Prominent discrete tones and periodic noises.** A PERSON MAY NOT CAUSE OR
11 PERMIT THE EMISSION OF PROMINENT DISCRETE TONES AND PERIODIC NOISES, THAT
12 EXCEED A NOISE LEVEL THAT IS 5 DBA LOWER THAN THE APPLICABLE NOISE LEVELS
13 SPECIFIED IN SUBSECTION (B).

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15 (E) **Vibration.** A PERSON MAY NOT CAUSE OR PERMIT, BEYOND THE PROPERTY LINE
16 OF A SOURCE, VIBRATION OF SUFFICIENT INTENSITY TO CAUSE ANOTHER PERSON TO BE
17 AWARE OF THE VIBRATION BY SUCH DIRECT MEANS AS SENSATION OF TOUCH OR
18 VISUAL OBSERVATION OF MOVING OBJECTS.

19
20 (F) **Certain off-road vehicles.** A PERSON MAY NOT OPERATE OR PERMIT TO BE
21 OPERATED AN OFF-ROAD INTERNAL COMBUSTION ENGINE POWERED RECREATIONAL
22 VEHICLE, INCLUDING, A DIRT BIKE, AN ALL TERRAIN VEHICLE, A GO CART, A
23 SNOWMOBILE, OR A SIMILAR VEHICLE, ON PROPERTY CLOSER THAN 300 FEET TO A
24 NEIGHBORING RESIDENCE OR THE ASSOCIATED CURTILAGE, WITHOUT THE WRITTEN
25 PERMISSION OF THE AFFECTED RESIDENT, UNLESS IT CAN BE DEMONSTRATED TO THE
26 DEPARTMENT THAT THE VEHICLE CAN BE OPERATED WITHIN THE NOISE LEVELS
27 SPECIFIED IN SUBSECTION (B).

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28
29 **12-5-104. Exemptions.**

30
31 THE NOISE AND VIBRATION PROHIBITIONS SET FORTH IN § 12-5-103 DO NOT APPLY TO:

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32
33 (1) DEVICES USED SOLELY FOR THE PURPOSE OF WARNING, PROTECTING, OR
34 ALERTING THE PUBLIC, OR SOME SEGMENT OF THE PUBLIC, OF THE EXISTENCE OF AN
35 EMERGENCY OR HAZARDOUS SITUATION;

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37 (2) HOUSEHOLD TOOLS AND PORTABLE APPLIANCES, WHEN USED FOR
38 HOUSEHOLD MAINTENANCE DURING DAYTIME HOURS AND WHEN USED AND
39 MAINTAINED IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS;

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¶

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41 (3) LAWN CARE AND SNOW REMOVAL EQUIPMENT WHEN USED AND MAINTAINED
42 IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS DURING DAYTIME
43 HOURS;

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44
45 (4) AGRICULTURAL FIELD MACHINERY WHEN USED AND MAINTAINED IN
46 ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS;

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47
48 (5) BLASTING OPERATIONS FOR PERMITTED DEMOLITION, CONSTRUCTION, AND
49 MINING OR QUARRYING DURING DAYTIME HOURS;

1 (6) MOTOR VEHICLES ON PUBLIC ROADS, WHEN USED IN A MANNER CONSISTENT
2 WITH THE TRANSPORTATION ARTICLE OF THE STATE CODE;

3
4 (7) AIRCRAFT AND RELATED AIRPORT OPERATIONS AT AIRPORTS LICENSED BY
5 THE MARYLAND AVIATION ADMINISTRATION;

6
7 (8) BOATS ON STATE WATERS OR MOTOR VEHICLES ON STATE LANDS UNDER THE
8 JURISDICTION OF THE MARYLAND DEPARTMENT OF NATURAL RESOURCES;

9
10 (9) EMERGENCY OPERATIONS, ~~INCLUDING SNOW REMOVAL OPERATIONS;~~

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11 (10) PILE DRIVING EQUIPMENT DURING THE HOURS OF 8 A.M. TO 5 P.M.;

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12
13
14 (11) SOUND, EXCEPT THOSE SOUNDS THAT ARE ELECTRONICALLY AMPLIFIED,
15 BETWEEN 7 A.M. AND MIDNIGHT, CREATED BY SPORTING EVENTS, ENTERTAINMENT
16 EVENTS, OR OTHER PUBLIC GATHERINGS OPERATING UNDER PERMIT OR PERMISSION OF
17 THE APPROPRIATE LICENSING AUTHORITY, ~~INCLUDING ATHLETIC CONTESTS,~~
18 AMUSEMENT PARKS, CARNIVALS, FAIRS AT FAIRGROUNDS, SANCTIONED AUTO RACING
19 FACILITIES, PARADES, BAND AND ORCHESTRA ACTIVITIES, AND PUBLIC CELEBRATIONS;

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20
21 (12) RAPID RAIL TRANSIT VEHICLES AND RAILROADS;

22
23 (13) CONSTRUCTION AND REPAIR WORK ON PUBLIC PROPERTY;

24
25 (14) AIR CONDITIONING OR HEAT PUMP EQUIPMENT USED TO COOL OR HEAT
26 HOUSING ON RESIDENTIAL PROPERTY SO THAT NOISE LEVELS AT THE PROPERTY
27 AFFECTED BY THE NOISE LEVEL DO NOT EXCEED 70 DBA FOR AIR CONDITIONING
28 EQUIPMENT AND 75 DBA FOR HEAT PUMP EQUIPMENT;

29
30 (15) HOUSEHOLD PETS ON RESIDENTIAL PROPERTY THAT ARE MAINTAINED IN
31 ACCORDANCE WITH THE REQUIREMENTS SET FORTH IN ARTICLE 12, TITLE 4 AND
32 ARTICLE 18 OF THIS CODE;

33
34 (16) TRASH COLLECTION OPERATIONS DURING DAYTIME HOURS;

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35
36 (17) ANY NOISE SPECIFICALLY ALLOWED ELSEWHERE IN THIS CODE OR AS A
37 CONDITION OF A LAWFULLY GRANTED SPECIAL EXCEPTION, VARIANCE, CONDITIONAL
38 USE, LICENSE, OR PERMIT;

39
40 (18) A CONDITION THAT IS CAUSED BY A CIVIL EMERGENCY AS DEFINED IN § 1-6-
41 101 OF THIS CODE, OR A CAUSE OVER WHICH AN ALLEGED VIOLATOR HAS NO CONTROL;

42
43 (19) ACTIVITIES OR EVENTS CONDUCTED OR SPONSORED BY THE COUNTY OR
44 ANOTHER GOVERNMENT ENTITY, ~~INCLUDING CONCERTS, PARADES, FIREWORKS, AND~~
45 THE LIKE;

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46
47 (20) ERECTION, EXCAVATION, DEMOLITION, ALTERATION, OR REPAIR OF ANY
48 BUILDING OR STRUCTURE WHERE IT IS NECESSARY FOR THE PUBLIC HEALTH AND
49 SAFETY TO ALLOW SUCH ACTIVITY; AND

50
51 (21) A SOURCE OR CONDITION EXPRESSLY SUBJECT TO ANY STATE OR FEDERAL
52 NOISE CONTROL LAW OR REGULATION THAT IS MORE STRINGENT ~~THAN THIS TITLE.~~

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54 **12-5-105. Measurement.**

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56 (A) **Equipment and techniques.** THE EQUIPMENT AND TECHNIQUES EMPLOYED IN
57 THE MEASUREMENT OF NOISE LEVELS MAY BE THOSE RECOMMENDED BY THE
58 DEPARTMENT, ~~OR THE MARYLAND DEPARTMENT OF THE ENVIRONMENT, THAT~~ MAY, BUT

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1 NEED NOT, REFER TO CURRENTLY ACCEPTED STANDARDS OF RECOGNIZED
2 ORGANIZATIONS, INCLUDING ~~THE AMERICAN NATIONAL STANDARDS INSTITUTE,~~
3 ~~AMERICAN SOCIETY FOR TESTING AND MATERIALS, SOCIETY OF AUTOMOTIVE~~
4 ~~ENGINEERS, INTERNATIONAL ELECTROTECHNICAL COMMISSION, AND THE UNITED~~
5 ~~STATES ENVIRONMENTAL PROTECTION AGENCY.~~

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7 (B) **Where conducted.** THE MEASUREMENT OF NOISE LEVELS SHALL BE CONDUCTED
8 AT POINTS ON OR WITHIN THE PROPERTY LINE OF THE PROPERTY AFFECTED BY THE
9 NOISE OR VIBRATION LEVEL OR THE BOUNDARY OF A ZONING DISTRICT, AND MAY BE
10 CONDUCTED AT ANY POINT FOR THE DETERMINATION OF IDENTITY IN MULTIPLE
11 SOURCE SITUATIONS.

13 **12-5-106. Variance procedure.**

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15 (A) **General.** ~~A PERSON WHO BELIEVES THAT MEETING THE REQUIREMENTS OF § 12-5-~~
16 ~~103 IS NOT PRACTICAL MAY REQUEST A VARIANCE TO ITS REQUIREMENTS.~~

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18 (B) **Request for variance.** A REQUEST FOR A VARIANCE SHALL BE SUBMITTED TO
19 THE DEPARTMENT IN WRITING AND SHALL INCLUDE EVIDENCE TO SHOW THAT
20 COMPLIANCE WITH § 12-5-103 IS NOT PRACTICAL.

22 (C) **Hearing scheduled.** ~~ON RECEIPT OF A REQUEST FOR A VARIANCE, THE~~
23 ~~DEPARTMENT SHALL SCHEDULE A HEARING TO BE HELD WITHIN 60 DAYS.~~

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25 (D) **Advertisement.** ~~AT LEAST 30 DAYS BEFORE THE HEARING DATE, THE APPLICANT~~
26 ~~FOR THE VARIANCE SHALL ADVERTISE THE HEARING BY PLACING A NOTICE IN A~~
27 ~~NEWSPAPER OF GENERAL CIRCULATION IN THE SUBDIVISION IN WHICH THE FACILITY OR~~
28 ~~SOURCE FOR WHICH THE VARIANCE IS SOUGHT IS LOCATED. THE NOTICE SHALL~~
29 ~~INCLUDE THE NAME OF THE FACILITY OR SOURCE AND SUCH ADDITIONAL INFORMATION~~
30 ~~AS THE DEPARTMENT MAY REQUIRE.~~

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32 (E) **Decision.** BASED UPON EVIDENCE PRESENTED AT THE HEARING, THE CHIEF OF
33 POLICE OR THE DESIGNEE OF THE CHIEF OF POLICE MAY GRANT A VARIANCE ON A
34 FINDING THAT MEETING THE REQUIREMENTS OF § 12-5-103 IS NOT PRACTICAL AND
35 UNDER ANY TERMS AND CONDITIONS APPROPRIATE TO REDUCE THE IMPACT OF THE
36 VARIANCE.

38 (F) **Term and Renewal.** ~~ANY VARIANCE GRANTED IS VALID FOR A PERIOD NOT TO~~
39 ~~EXCEED FIVE YEARS AND IS RENEWABLE UPON RECEIPT BY THE DEPARTMENT OF~~
40 ~~EVIDENCE THAT CONDITIONS UNDER WHICH THE VARIANCE WAS ORIGINALLY GRANTED~~
41 ~~HAVE NOT CHANGED SIGNIFICANTLY.~~

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43 (G) **Hearing costs.** ~~AN APPLICANT IS RESPONSIBLE FOR PUBLIC HEARING COSTS, AS~~
44 ~~DIRECTED BY THE DEPARTMENT.~~

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46 **12-5-107. Enforcement and penalties.**

48 (A) **Civil fine.** A PERSON WHO VIOLATES § 12-5-103 IS SUBJECT TO A CIVIL FINE AS
49 PROVIDED IN § 9-2-101 OF THIS CODE.

51 ~~(B) **Criminal penalties.** A PERSON WHO HAS BEEN ORDERED BY A POLICE OFFICER~~
52 ~~TO CEASE ANY VIOLATION OF § 12-5-103 AND WHO REFUSES OR FAILS TO COMPLY WITH~~
53 ~~THE ORDER IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE~~
54 ~~NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 30 DAYS OR BOTH.~~

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1 | **(C) Injunctive or other relief.** THE DEPARTMENT MAY ENFORCE THE PROVISIONS OF
2 THIS TITLE THROUGH INJUNCTIVE PROCEEDINGS OR ANY OTHER APPROPRIATE
3 PROCEEDINGS. A COURT OF COMPETENT JURISDICTION MAY ISSUE A TEMPORARY
4 RESTRAINING ORDER, OR PRELIMINARY OR FINAL INJUNCTION, OR OTHER FORM OF
5 RELIEF TO RESTRAIN OR CORRECT VIOLATIONS OF THIS TITLE.

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7 SECTION 3. *And be it further enacted,* That this Ordinance shall take effect 45 days
8 from the date it becomes law.