

Blue - new items to the list.

Red - latest changes.

## Mayor &amp; Council Action Report

Ref. #	Meeting Date	Staff/ Dep	Response Method	Direction to Staff / Action Taken / Status	Estimated Completion date
MC-2011-103	9-19-11	Police	TWTW	<p><b>Traffic Issues on Darnestown Road</b> Rejuvenate past efforts by finding a new mechanism to address unresolved traffic issues on Darnestown Road in between MD28 and Shady Grove Road that will yield a positive result from Montgomery County</p> <p><b>Status: An attorney in the County Attorney's Office was assigned to preparing an MOU between the City and County Police Departments for traffic enforcement on Darnestown Road. A draft MOU will be prepared as soon as possible. The County Attorney's office is maintaining contact with providing updates to the Rockville Police and the interested community members.</b></p>	TBD
MC-2012-52	9/10/12	CPDS	TWTW	<p><b>HDC Technical Guide #7</b> Review and revise the HDC Technical Guide #7 and coordinate with Anne Goodman and other interested parties for their assistance.</p> <p><b>Status: Anne Goodman and Jim Farrelly provided a revised Guide to the Mayor and Council on 3/11/13. The HDC will review and make a recommendation on the revised Guide on July 18.</b></p>	8/5/13
MC-2012-61	9/24/12	Legal/Clerk	Agenda Item	<p><b>Draft Ethics Ordinance</b> Share copy of draft Ethics Ordinance with the Boards and Commission and staff, and invite them to comment at the next public hearing.</p> <p><b>Status: On June 17, the Mayor and Council voted to adopt the ordinance with three amendments. The adopted Ordinance will be forwarded to the State Ethics Commission for review and approval of the three amendments.</b></p>	TBD
MC-2012-74	11/19/12	Finance / Legal / CMO	Memo and/or Future Agenda	<p><b>Biennial Budgeting</b></p> <ul style="list-style-type: none"> <li>Examine a timeline and what would be involved in changing to the Classic Biennial option, including code changes, Charter changes, process and steps to make the transition in the Finance Dept. including a timeline.</li> <li>Inform the public that the Mayor and Council are discussing this topic through a Rockville Reports Article.</li> </ul>	Fall 2013
MC-2013-01	1/28/13			<p><b>Town Square Merchants Meeting</b></p> <ul style="list-style-type: none"> <li>Ask the Montgomery County Dept of General Services about creating short-term parking spaces on the EOB/Circuit Court circle for Regal Row customer pick up.</li> </ul> <p><b>Status: Montgomery County is preparing streetscape improvements for the Executive Office Building circle. Based on the Mayor and Council's inquiry, they will consider including short term parking in the design for the improvements. They indicated that security issues for the Court may prohibit parking but agree to consider it as they prepare a design. We received an update from the County indicating that the design work for the circle will take place in August rather than June.</b></p>	9/1/13

Ref. #	Meeting Date	Staff/ Dep	Response Method	Direction to Staff / Action Taken / Status	Estimated Completion date
MC-2013-15	3/18/13	R&P	M&C Meeting	<b>Volunteer Appreciation Party</b> Examine options for the date and time of the upcoming volunteer appreciation party. <b>Status: This item is on the Mayor and Council's July 15 agenda.</b>	<b>7/15/13</b>
MC-2013-16	5/6/13	DPW	TWTW	<b>Right of Way Ownership</b> Examine ownership of the space between Metro/CXS tracks, Viers Mill Road and St. Mary's property. <b>Status: Information was provided to the Mayor and Council in The Week That Was of May 24, 2013. On the Veirs Mill Road side of the railroad tracks (St Mary's side), part of the area is controlled by the Maryland State Highway Administration as a right-of-way; and part of the area is owned by WMATA. Staff initiated dialogue about what process may allow Rockville to make some type of improvement in this area. Staff will let Mayor and Council know when a response is received but it may take months to get a response. Additionally, concern has been raised about the accessibility of this area, which may lead to issues with safety, vandalism, graffiti, and loitering in this area.</b>	<b>Awaiting response from SHA</b>
MC-2013-17	5/6/13	R&P / Finance	Future agenda	<b>King Farm Farmstead</b> Look into a feasibility study on the King Farm Farmstead and formation of a Task Force <b>Status: Staff is compiling relevant background information about the Farmstead for the Mayor and Council, including previous feasibility studies.</b>	<b>7/18/13</b>
MC-2013-18	5/20/13	DPW	TWTW	<b>East Rockville Civic Association</b> Explore the use of light shields to direct light down from streetlights. <b>Status: Staff reached out to Pepco (owner of the light causing concern for the resident) and is discussing options to resolve the problem.</b>	<b>8/2/13</b>
MC-2013-21	6/10/13	CPDS	TWTW	<b>Communications Task Force and Citizen's Implementation Committee Recommendations</b> Provide a memo that summarizes the completed actions taken to implement each of the recommendations.	<b>8/2/13</b>
MC-2013-22	6/17/13	CMO	TWTW	<b>Noise Ordinance</b> Clarify the County role in the noise ordinance and enforcement of ordinance. <b>Status: A memo providing information about the County role in the noise ordinance and enforcement is provided in Attachment B.</b>	<b>7/9/13</b>
MC-2013-24	6/17/13	CMO	TWTW	<b>REDI FY2014 Budget</b> Send copy of the REDI budget to the Mayor and Council. <b>Status: A copy of the REDI FY 2014 budget was shared with the Mayor and Council by email and is available in Attachment C.</b>	<b>6/28/13</b>
MC-2013-25	6/17/13	R&P	TWTW and email	<b>Deer Management Annual Report</b> Send copy of report to Mayor and Council and email report to Margaret Cho.	<b>7/12/13</b>

## FUTURE AGENDA ITEMS

Ref. #	Meeting Date	Staff/ Dep	Response Method	Direction to Staff / Action Taken / Status	Estimated Agenda Item date	Complete
FA-2013-2	4/8/13	CPDS	Future agendas	Zoning Ordinance and Master Plan Discussion Mansionization Discussion	7/29/13 8/5/13	
FA-2013-3	3/18/13 4/15/13	DPW / Police DPW	Agenda item	Pedestrian Safety and Speeding at Great Falls Road and MD Avenue Involve the Traffic and Transportation Commission and SHA.  <b>Status: Staff checked in with SHA again the week of July 8 to request an update on the status of the SHA analysis of pedestrian safety at the intersection. Staff also installed a second speed indicator sign on Maryland Avenue between I-270 and New Mark Esplanade (north bound) to increase awareness of speed and adjust driver behavior.</b>	TBD	
FA-2013-5	4/15/13	R&P	Future agendas	RedGate Update Schedule an update on the status of operations at the RedGate Golf Course.	7/29/13	
FA-2013-7	4/22/13	R&P / CPDS / CMO	Agenda item	Town Center Parking Update Discuss a report and data from FRIT that described the management of the parking garages (monthly parkers, Choice employee parking, retail parking). Address future public parking needs and availability in Town Center, including North of Beall Avenue.	TBD	
FA-2013-9	5/6/13	Finance	Agenda item	Discussion of Supplemental Employee Contributions <b>Status:</b> The FY2013 actuarial valuation report will be available in November 2013. That report will include updated supplemental employee contribution data and projections for discussion with the Mayor and Council.	Nov/Dec 2013	
FA-2013-10	6/10/13	CPDS	Agenda item	Discuss the City's Zoning Ordinance and its treatment of bed and breakfast inns and three car garages.	TBD	
FA-2013-11	6/10/13	R&P	Agenda item	Discuss the City's Forest and Tree Preservation Ordinance	TBD	

## THE FOLLOWING ITEMS HAVE BEEN COMPLETED / CLOSED OUT

MC-2013-26	6/17/13	CPDS	TWTW and email	Fireside Questions Obtain information from Rockville Housing Enterprises regarding questions raised by Margaret Cho during Citizens Forum <b>Status: Ruth O'Sullivan responded to questions from Margaret Cho which were provided to the Mayor and Council via email and in The Week That Was of June 28, 2013.</b>	7/1/13	Complete
MC-2013-19	5/20/13	CMO /	TWTW	Mayor and Council Operating Guidelines	6/21/13	Complete

		<b>Clerk</b>		Confirm the accuracy of the Mayor and Council Operating Guidelines that were attached to the Citizen's Forum agenda item from May 20, 2013.		
<b>MC-2013-20</b>	<b>6/10/13</b>	<b>DPW</b>	<b>TWTW</b>	<b>SHA Modifications at Maryland Avenue (NB) and Great Falls Road</b> Contact SHA and request the following: <ul style="list-style-type: none"> <li>• SHA mark the delineators placed in the far left lane with a bright color at the intersection of Maryland Avenue (NB) and Great Falls Road.</li> <li>• Notify SHA that too many delineators at this intersection are causing difficulties for drivers who exit NB I-270, travel to the far left turn lane on Maryland Avenue (NB), and want to turn left onto Great Falls Road.</li> <li>• Great Falls and Maryland Avenue bollards and pavement markings. Inform Margaret Cho that the City has heard concerns and they were passed along to SHA. Let Ms. Cho know when a response is received from SHA.</li> </ul> <b>Status: Staff is in communication with SHA on the items raised by the Mayor and Council and residents. We will provide regular updates to the Mayor and Council by email.</b>	<b>TBD</b>	<b>Complete</b>
	<b>6/17/13</b>	<b>CMO</b>	email			
<b>MC-2013-23</b>	<b>6/17/13</b>	<b>CMO</b>	<b>TWTW</b>	<b>Nighttime Economy Task Force</b> Staff requested Rockville be included as an ex-officio member of the Task Force and is awaiting approval from the County. Staff will attend next Task Force meeting on 7/15/13. <a href="http://www.montgomerycountymd.gov/nighttimeeconomy/index.html">http://www.montgomerycountymd.gov/nighttimeeconomy/index.html</a> .	<b>6/24/13</b>	<b>Complete</b>



City of Rockville

## MEMORANDUM

July 9, 2013

To: Mayor and Council

From: Louise Atkins, Council Support **Speciali @**

Via: Jenny Kimball, Assistant City Manager

Subject: Noise Ordinance

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This memorandum responds to Action Report Item MC-2013-22. A question was raised by the Mayor and Council on June 17 as to the County Noise Ordinance and how it is enforced in the City.

Chapter 1, Section 1-8, (b) (19) of the City Code states that Chapter 31B (noise control) of the County Code applies to the City of Rockville, with the exception of refuse collection performed by the City. Chapter 31B establishes maximum allowable noise levels during the daytime and nighttime in residential and non-residential areas. It includes specific requirements for noise generated by construction and outdoor arts and entertainment activities. The County provides temporary and general waivers to the Noise Ordinance when it benefits the public or to avoid undue hardship. Chapter 31B also describes enforcement and penalties associated with the ordinance.

Consistent noise problems reported to the City of Rockville are forwarded to the Montgomery County Department of the Environment ("DEP"), which is the department that enforces the Montgomery County Noise Control Ordinance. Individuals can also report noise complaints directly to Montgomery County. DEP attempts to resolve concerns through education and communication. For recurring noise problems, DEP will perform drop in inspections and measure the sound to determine if it is in excess of the limits permitted under the Noise Ordinance. DEP works with all parties to find ways to address the noise concerns, including proper reporting and warnings. Violations and fines are issued for non-compliance. If appropriate, a court date is set to request an abatement order.

Chapter 13, Article 111 of the Rockville City Code also includes provisions relating to disturbing the peace, disorderly conduct and noise complaints.

**Sec. 13-54. - Noise.**

**{a) A person may not willfully disturb any neighborhood within the corporate limits of the City by loud and unseemly noises.**

**{b) A person may not willfully act in a disorderly manner by making loud and unseemly noises. {Laws of Rockville, Ch. 12, § 12-1.00}**

**Editor's note- The County noise ordinance applies in the City.**

The Rockville Police Department responds to all types of noise/disturbing the peace complaints that may not rise to the level of County Code Chapter 31B. The test of reasonableness is used when responding to a loud party, or a loud band at a restaurant, loud music coming from an apartment, people gathering outside after the bars close, excessive car/motorcycle noise (someone working on a vehicle and constantly revving the engine) etc. The test of reasonableness takes into account the noise level, the time of day and the day of week.

The Police frequently receive complaints about lawn mowers, refuse trucks, chainsaws and leaf blowers. The norm followed by the police is that there should not be unreasonable noise before 7 a.m. weekdays and 9 a.m. on weekends.

Appropriate enforcement action is taken as necessary, and depends on the specific situation. This may include a warning, a letter, a citation or physical arrest.

In the matter of construction noise, if a DEP noise waiver applies (for after-hours work) the City Police advises the citizen that a waiver has been granted. If the County did not issue a waiver, the City Police will advise the crew to keep the noise level down to the level allowed by County law or they will be shut down.



DEP Home : [Community Concerns](#) : Montgomery County Noise Control Ordinance



## Montgomery County Noise Control Ordinance

The Montgomery County Noise Control Ordinance is Chapter 31B of the [County Code](#).

### 31B-I. Declaration of policy

(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 control **noise** sources to protect public health and welfare and to allow the peaceful enjoyment of property. This Chapter must be liberally construed to carry out this intent.

(b) The Department of Environmental Protection administers this Chapter.

(1) The **Department** must coordinate **noise** abatement programs of all County agencies, municipalities, and regional agencies.

(2) A County agency, municipality in which this Chapter applies, or regional authority subject to County law must not adopt a standard or regulation that is less stringent than this Chapter or any regulation adopted under this Chapter.

(3) The **Director** may form an Interagency Coordinating Committee to assist the **Director** in coordinating noise control policy. If the Director forms the committee, the Director must designate an individual to chair the committee. The members of the committee should be designated by County, local, and regional agencies that the Director invites to participate.

(4) The Department must establish procedures to identify and reduce noise sources when the County plans and issues permits, variances, exemptions, or approvals.

### Quick Links

#### On this page

[Declaration of Policy](#)  
[Definitions](#)  
[Regulations](#)  
[Noise Control Advisory Board Violations](#)  
[Standards for Construction](#)  
[Leafblowers](#)  
[Exemptions](#)  
[Waivers](#)  
[Enforcement and Penalties](#)

#### Noise Sources and Issues

[Noise Control: Overview](#)  
[Noise Control in Montgomery County](#)  
[Construction and Noise](#)  
[Landscaping and Yard Care](#)  
[Trash Collection](#)  
[Music/PA Systems](#)  
[Leaf Blower Law](#)  
[Electric Generator Guidelines](#)

### Get Help

[File a Citizen's Two-Party Noise Complaint \(on-line form\)](#)

**Noise Disturbances/Violations:**  
311

**Animal Noise Disturbances:**  
311

**Trash Collection Noise (during quiet hours):**  
311

**Police Non-emergency Line (for disturbances outside regular business hours):**  
301.279.8000

(5) The Department should make recommendations to the County Executive, County Council, and Planning Board regarding noise control policy, regulations, enforcement, and noise sensitive areas.

[Return to Top](#)

### **31B-2. Definitions.**

In this Chapter, the following words and phrases have the following meanings:

(a) Construction means temporary activities directly associated with site preparation, assembly, erection, repair, alteration, or demolition of structures or roadways.

(b) dBA means decibels of sound, as determined by the A-weighting network of a sound level meter or by calculation from octave band or one-third octave band data.

(c) Daytime means the hours from 7 a.m. to 9 p.m. on weekdays and 9 a.m. to 9 p.m. on weekends and holidays.

(d) Decibel means a unit of measure equal to 10 times the logarithm to the base 10 of the ratio of a particular sound pressure squared to the standard reference pressure squared. For this Chapter, the standard reference pressure is 20 micropascals.

(e) Department means the Department of Environmental Protection.

(f) Director means the Director of the Department of Environmental Protection or the Director's authorized designee.

(g) Enforcement officer means:

(1) for a noise originating from any source:

(A) an employee or agent of the Department designated by the Director to enforce this Chapter;

(B) a police officer; or

(C) a person authorized under Section 31B-12(a) to enforce this Chapter;

(D) a person authorized by a municipality to enforce this Chapter; or

(2) for a noise originating from an animal source, the Director of the Division of Animal Control and Humane Treatment in the Police Department or the Director's authorized designee.

(h) Impulsive noise means short bursts of a acoustical energy, measured at a receiving property line, characterized by a rapid rise to a maximum pressure followed by a somewhat slower decay, having a duration not greater than one second and a field crest factor of 10 dBA or more. Impulsive noise may include, for example, noise from weapons fire, pile drivers, or punch presses.

## Attachment B

(i) Leaf blower means any portable device designed or intended to blow, vacuum, or move leaves or any other type of unattached debris or material by generating a concentrated stream of air. Leaf blower includes devices or machines that accept vacuum attachments.

(j) Nighttime means the hours from 9 p.m. to 7 a.m. weekdays and 9 p.m. to 9 a.m. weekends and holidays.

(k) Noise means sound, created or controlled by human activity, from one or more sources, heard by an individual.

(l) Noise area means a residential or non-residential noise area:

(1) Residential noise area means land in a zone established under Section 59-C-1.1, Section 59-C-2.1, Division 59-C-3, Section 59-C-6.1, Section 59-C-7.0, Section 59-C-8.1, Section 59-C-9.1 for which the owner has not transferred the development rights, or Section 59-C-10.1, or land within similar zones established in the future or by a political subdivision where Chapter 59 does not apply.

(2) Non-residential noise area means land within a zone established under Section 59-C-4.1, Section 59-C-5.1, Section 59-C-9.1 for which the owner has transferred the development rights, or Division 59-C-12, or land in similar zones established in the future or by a political subdivision where Chapter 59 does not apply.

(m) Noise disturbance means any noise that is:

(1) unpleasant, annoying, offensive, loud, or obnoxious;

(2) unusual for the time of day or location where it is produced or heard; or

(3) detrimental to the health, comfort, or safety of any individual or to the reasonable enjoyment of property or the lawful conduct of business because of the loudness, duration, or character of the noise.

(n) Noise sensitive area means land designated by the County Executive as a noise sensitive area under Section 31B-8.

(o) Noise-suppression plan means a written plan to use the most effective noise-suppression equipment, materials, and methods appropriate and reasonably available for a particular type of construction.

(p) Person means an individual, group of individuals, corporation, firm, partnership, or voluntary association; or a department, bureau, agency, or instrument of the County or any municipality, or of any other government to the extent allowed by law.

(q) Prominent discrete tone means a sound, often perceived as a whine or hum, that can be heard distinctly as a single pitch or a set of pitches. A prominent discrete tone exists if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound pressure levels of

## Attachment B

the 2 contiguous one-third octave bands by:

- (1) 5 dB for center frequencies of 500 Hz and above;
- (2) 8 dB for center frequencies between 160 and 400 Hz; or (3)
- 15 dB for center frequencies less than or equal to 125 Hz. (r)

Qualifying performing arts facility means the outdoor area of a building, outdoor seasonal, temporary, or permanent stage, or other clearly defined outdoor area or space, which is:

- (1) used for an outdoor arts and entertainment activity; and
  - (2) owned or operated by the County; and
  - (3) so designed by the County Executive in an Executive Order published in the County Register. The Executive may revoke a designation at any time by publishing an Executive Order revoking the designation in the County Register.
- (s) Receiving property means any real property where people live or work and where noise is heard, including an apartment, condominium unit, or cooperative building unit.
- (t) Sound means an auditory sensation evoked by the oscillation of air pressure.
- (u) Source means any person, installation, device, or animal causing or contributing to noise.

[Return to Top](#)

### **31B-3. Regulations.**

The County Executive may establish noise control regulations and standards as necessary to accomplish the purposes and intent of this Chapter. Any regulation must be at least as stringent as this Chapter. The Executive by regulation may set fees that are sufficient to offset the costs of Department reviews or other actions required or authorized by this Chapter.

[Return to Top](#)

### **31B-4. Noise Control Advisory Board.**

- (a) A Noise Control Advisory Board must advise the County Executive, Director, County Council, and Planning Board on noise control issues, including administration and enforcement of this Chapter.
- (b) The Board consists of seven members appointed by the Executive and confirmed by the Council.
- (c) The Board must elect one member as Chair and another member as Vice-Chair to serve at the pleasure of the Board. The Board must meet at the call of the chairperson as required to perform its duties, but not less than once each quarter. A majority of the members of the Board constitutes a quorum for transacting business. The Board may act by a majority vote of those present.

(d) At least every third year, the Board must evaluate the effectiveness of the County's noise control program and recommend any improvements to the Director, County Executive, County Council, and Planning Board.

(e) No later than March 1 each year, the Chair of the Board must report to the Director, County Executive, County Council, and Planning Board on activities and actions the Noise Control Advisory Board took during the previous calendar year.

[Return to Top](#)

### **31B-5. Noise Level and Noise Disturbance Violations.**

(a) Maximum allowable noise levels.

(1) Except as otherwise provided in Sections 31B-6(a) and 31B-8, a person must not cause or permit noise levels that exceed the following levels:

#### **Maximum Allowable Noise Levels (dBA) for Receiving Noise Areas**

	<b>Daytime</b>	<b>Nighttime</b>
Non-residential noise area	67	62
Residential noise area	65	55

(2) A person must not cause or permit the emission of a prominent discrete tone or impulsive noise that exceeds a level, at the location on a receiving property where noise from the source is greatest, that is 5 dBA lower than the level set in paragraph (1) for the applicable noise area and time.

(3) Sound that crosses between residential and non-residential noise areas must not exceed the levels set in paragraph (1) for residential noise areas.

(b) Noise disturbance.

A person must not cause or permit noise that creates a noise disturbance.

(c) Examples.

The following examples illustrate common noise-producing acts that violate this Section if they exceed the noise level standards set in subsection (a) or create a noise disturbance. The examples are illustrative only and do not limit or expand the noise level or noise disturbance standards of this Section:

(1) Sounding a horn or other signaling device on any motor vehicle on private property except :

(A) in an emergency; or

(B) as a danger warning signal during daytime hours if the device complies with noise level limits.

## Attachment B

(2) Operating a sound-producing device on public streets for commercial advertising or to attract public attention.

(3) Selling anything by outcry.

(4) Loading, unloading, opening, closing or otherwise handling containers, building materials, construction equipment, or similar objects.

(5) Operating a device that produces, reproduces, or amplifies sound.

(6) Allowing an animal to create a noise disturbance.

(7) Operating power equipment mounted on a motor vehicle or operating other devices powered by a generator or a motor vehicle.

[Return to Top](#)

### **31B-6. Noise Level and Noise Disturbance Standards for Construction.**

(a) Maximum allowable noise levels for construction.

(1) A person must not cause or permit noise levels from construction activity that exceed the following levels:

(A) From 7 a.m. to 5 p.m. weekdays:

(i) 75 dBA if the Department has not approved a noise-suppression plan for the activity; or

(ii) 85 dBA if the Department has approved a noise-suppression plan for the activity.

(B) The level specified in Section 31B-5 at all other times.

(2) Construction noise levels must be measured at the location, at least 50 feet from the source, on a receiving property where noise from the source is greatest.

(3) The Department must by regulation establish requirements for noise-suppression plans and adopt procedures for evaluating and approving plans. The regulations must provide that, at least 10 days before approving a noise-suppression plan, the Director must provide public notice reasonably calculated to reach at least a majority of households that might be affected by the construction activity noise levels above 75 dBA.

(b) Construction noise disturbance.

The prohibition on noise disturbance in Section 31B-5(b) applies to construction activities, notwithstanding subsection (a).

(c) Examples.

The following examples illustrate common construction noise-producing acts that violate this Section if they exceed the noise level standards set in subsection (a) or create a noise

disturbance. The examples are illustrative only and do not limit or expand the construction noise level or noise disturbance standards of this Section:

- (1) Delivering materials or equipment, or loading or unloading during nighttime hours in a residential noise area.
- (2) Operating construction equipment with audible back-up warning devices during nighttime hours .

[Return to Top](#)

### **31B-6A. Seasonal noise level standard for qualifying outdoor arts and entertainment activities.**

(a) Each outdoor arts and entertainment activity held at a qualifying performing arts facility must not exceed the following noise decibel limits:

- (1) from 11 a.m. to 11 p.m. during April 1 through October 31, 75 dBA, as measured on the receiving property; and
- (2) at all other times, the maximum allowable noise level set in Section 31B-5.

(b) A qualifying performing arts facility which has complied with this Section must not cause or permit noise levels from an outdoor arts and entertainment activity to exceed the standards in subsection (a).

(c) Any outdoor arts and entertainment activity conducted at a qualifying performing arts facility which has complied with this Section must not be cited as causing a noise disturbance.

(d) The Department must annually advise the Executive and Council, and the operator of each qualifying performing arts facility, whether the noise levels specified in this Section remain appropriate for that facility and the extent of compliance with those levels. (2011 L.M.C., ch. 7, § 1)

[Return to Top](#)

### **31B-7. Measurement of Sound**

(a) The Department must issue regulations establishing the equipment and techniques it will use to measure sound levels. The Department may rely on currently accepted standards of recognized organizations, including the American National Standards Institute (ANSI), American Society for Testing and Materials (ASTM), and the United States Environmental Protection Agency.

(b) For multiple sources of sound, the Department may measure sound levels at any point to determine the source of a noise.

[Return to Top](#)

### **31B-8. Noise sensitive areas.**

(a) The County Executive may designate by regulation land

within any geographical area as a noise sensitive area to protect public health, safety, and welfare. The regulation may prohibit certain noise producing activities in the noise sensitive area.

(b) A regulation under subsection (a) must:

(1) describe the area by reference to named streets or other geographic features;

(2) explain the reasons for the designation;

(3) establish specific noise limits or requirements that apply in the noise sensitive area; and

(4) describe by example or enumeration activities or sources that violate the limits or requirements.

(c) A regulation under subsection (a) may establish limits or requirements for a noise sensitive area that are more stringent than those that otherwise would apply to the area under this Chapter.

[Return to Top](#)

### **31B-9. Leafblowers**

(a) Except as provided in this Section, a person must not sell, buy, offer for sale, or use a leaf blower at any time that has an average sound level exceeding 70 dBA at a distance of 50 feet. This requirement is in addition to any other noise level or noise disturbance standard that applies under this Chapter.

(b) An individual who owns or occupies a residence in a residential noise area may use at the individual's residence a leaf blower bought or manufactured before July 1, 1990, until July 1, 1998, even if it exceeds the standard in subsection (a). After July 1, 1998, a person must not use any leaf blower that violates the standard in subsection (a).

(c) The Department must apply the standard in subsection (a) in accordance with the most current leaf-blower testing standard of the American National Standards Institute (ANSI).

(d) The Department may inspect, and on its request a person must produce, any leaf blower that is sold, offered for sale, or used in the County, to determine whether the leaf blower complies with this Section. A person who relies in good faith on a manufacturer's written representation of the sound level of a leaf blower that has not been modified is not subject to a penalty for violating this Section.

[Return to Top](#)

### **31B-10. Exemptions**

(a) This Chapter does not apply to:

(1) agricultural field machinery used and maintained in accordance with the manufacturer's specifications;

(2) emergency operations by fire and rescue services, police

agencies, or public utilities and their contractors;

(3) a source or condition expressly subject to any State or federal noise-control law or regulation that is more stringent than this Chapter;

(4) sound, not electronically amplified, created between 7 a.m. and 11 p.m. by sports, amusement, or entertainment events or other public gatherings operating according to the requirements of the appropriate permit or licensing authority. This includes athletic contests, carnivals, fairgrounds, parades, band and orchestra activities, and public celebrations.

(b) The County Executive may issue regulations exempting from Section 31B-5 sources associated with routine residential living during daytime hours, such as home workshops, power tools, and power lawn and garden equipment, when used in accordance with manufacturer specifications. This exception does not apply to repairs or maintenance on a motor vehicle that is not registered for use on public roads.

[Return to Top](#)

### **31B-11. Waivers**

(a) Temporary Waiver.

(1) The Director may waive any part of this Chapter for a temporary event if the noise the event will create or cause in excess of the limits established under this Chapter is offset by the benefits of the event to the public.

(2) When the Director receives an application under this subsection, the Director must provide public notice of the application reasonably calculated to reach at least a majority of households that might be affected by noise levels anticipated for the event. The Director must not approve an application under this subsection less than 10 days after the public notice.

(b) General Waiver.

(1) The Director may waive any part of this Chapter if the Director determines that compliance in a particular case is not practical and would impose undue hardship.

(2) When the Director receives an application under this subsection, the Director must schedule a hearing on the application within 60 days.

(3) At least 30 days before the hearing, the applicant must advertise the hearing by:

(A) placing a display advertisement in a newspaper of general circulation in the community where the source that is the subject of the application is located; and

(B) posting a sign at the location of the source.

(4) Based on evidence presented at the hearing, the Director may grant a waiver for up to 3 years, under terms and conditions

appropriate to reduce the impact of the exception.

(5) The Director may renew a waiver granted under this subsection if the applicant shows that the circumstances supporting the original waiver have not changed.

(c) Violation of Waiver. The Director may suspend, modify, or revoke a waiver granted under this Section if a person violates the terms or conditions of the waiver.

(d) Regulations and fees.

The County Executive must issue regulations implementing this Section that:

(1) set the procedures and fees to apply for a waiver under subsections (a) or (b);

(2) require the applicant to use the best technology and strategy reasonably available to mitigate noise, as determined by the Director;

(3) allow temporary waivers under subsection (a) of no more than 30 days, renewable at the discretion of the Director no more than twice; and

(4) specify the requirements for the hearing advertisement and sign required under subsection (b)(3).

[Return to Top](#)

### **31B-12. Enforcement and Penalties**

(a) The Department must enforce this Chapter. The County Executive may delegate in writing the authority to enforce parts of this Chapter to the Police Department or any other Executive agency.

(b) A violation of this Chapter is a Class A violation. Each day a violation continues is a separate offense. A violation of Section 31B-6 is a separate offense in addition to any other violation of this Chapter arising from the same act or occurrence.

(c) The Department may seek injunctive or other appropriate judicial relief to stop or prevent continuing violations of this Chapter.

(d) If the Director finds that a person has violated this Chapter, the Director may issue a notice of violation and corrective order to the person. The notice must contain the following information:

(1) the Section of this Chapter that the person violated;

(2) the date, nature, and extent of the violation;

(3) the action required to correct the violation;

(4) if the Director requires a compliance plan, the deadline for submitting the plan to the Director; and

(5) the deadline for compliance.

## Attachment B

(e) The compliance plan referred to in subsection (d)(4) must establish a schedule for achieving compliance with this Chapter, as specified in the corrective order. A compliance plan, and amendments to a plan, are not effective until the Director approves the plan or amendment. An action allowed under an approved compliance plan does not violate this Chapter.

(f) An enforcement officer may issue a civil citation for any violation of this Chapter if the enforcement officer:

- (1) witnesses the violation; or
- (2) receives complaints from at least two witnesses of a noise disturbance.

Complaints by two witnesses are required to issue a citation under paragraph (2), but are not required to prove that a person violated this Chapter.

(g) The Director of the Division of Animal Control and Humane Treatment may initiate administrative action before the Animal Matters Hearing Board instead of an enforcement officer issuing a citation under subsection (f) for a violation of this Chapter originating from an animal source.

(h) A person aggrieved by any action or order of the Director under Sections 31B-9 and 31B-11 may seek reconsideration within 10 days after the date of the action or order. A request for reconsideration must be in writing to the Director, and must specify the date and nature of the action or order, the injury sustained, the remedy requested, and the legal basis for the remedy. If the Director finds that there are material facts in dispute, the Director may refer the matter to a hearing officer under the procedures specified in Chapter 2A. If the Director finds that there are no material facts in dispute, the Director must make a final decision on the request for reconsideration in writing within 45 days after receiving the request. The aggrieved person may appeal from the Director's final decision within 30 days after the Director issues the decision, as provided in Section 2A-11.

(i) (1) A person responsible for a violation of Section 31B-6 and the person responsible for the management or supervision of the construction site where the source of the violation is located are jointly and severally liable for the violation.

(2) For recurring violations of Section 31B-6 on the same construction site, in addition to any other penalty under this Chapter, the Director may issue a stop work order, as provided in Section 8-20, for up to:

- (A) 3 consecutive working days for a second violation within 30 days after the first violation;
- (B) 5 consecutive working days for a third violation within 60 days after the first violation; and
- (C) 7 working days per offense for the fourth and subsequent

violations within a 120-day period.

(3) This Chapter does not limit the Director's authority under Chapter 8 to revoke a permit or approval issued under that Chapter.

(j) Any person aggrieved by a violation of this Chapter may file a civil action in any court with jurisdiction against a person responsible for the alleged violation. The aggrieved person must notify the alleged violator and the Director of the alleged violation at least 60 days before filing the action. A person must not file an action under this subsection if the County Attorney has filed a civil action against the same alleged violator regarding the same violation.

[Return to Top](#)

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## Budget 2013-14

### Income

Rockville City Funding (per contract)	\$554,845	
Interest Income	\$200	
		<u>\$555,045</u>

*Total Income*

### Expense

Economic Development	\$60,060	
Marketing	\$23,988	
Insurance	\$3,730	
Meeting Expense	\$5,190	
Office Expense	\$15,568	
Rent	\$99,670	Estimated rent/CAM increase of 3%
Communication - Phone/Wireless	\$4,260	
Parking, Employee	\$2,700	
Professional Services	\$5,500	Accounting and Payroll
Salaries	\$258,591	
Benefits	\$49,817	
Taxes	\$25,971	
		<u>\$555,045</u>

*Total Expense*