

Bill No. 6-10
Concerning: Noise Control – Arts and Entertainment Activities
Revised: 2-25-10 Draft No. 1
Introduced: March 2, 2010
Expires: September 2, 2011
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Elrich and Council President Floreen

AN ACT to:

- (1) set different noise level standards for certain arts and entertainment activities;
- (2) exempt certain noise levels created by certain arts and entertainment activities from being treated as a noise disturbance;
- (3) require certain notices to be given to certain potential homebuyers near certain arts and entertainment activities; and
- (4) generally amend the County noise control law.

By amending

Montgomery County Code
Chapter 31B, Noise Control
Sections 31B-2 and 31B-5

By adding

Chapter 31B, Noise Control
Section 31B-6A
Chapter 40, Real Property
Section 40-12D

| | |
|------------------------------|--|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law by original bill.</i> |
| [Single boldface brackets] | <i>Deleted from existing law by original bill.</i> |
| <u>Double underlining</u> | <i>Added by amendment.</i> |
| [[Double boldface brackets]] | <i>Deleted from existing law or the bill by amendment.</i> |
| * * * | <i>Existing law unaffected by bill.</i> |

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 31B-2 and 31B-5 are amended, and Section 31B-6A is**
2 **added, as follows:**

3 **31B-2. Definitions.**

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

6 **Arts and entertainment activity** means a performance of artistic or creative
7 work, such as a play, film, music, or dance.

8 [(a)] * * *

9 [(b)] * * *

10 [(c)] * * *

11 [(d)] * * *

12 [(e)] * * *

13 [(f)] * * *

14 [(g)] * * *

15 [(i)] * * *

16 [(j)] * * *

17 [(k)] * * *

18 [(l)] * * *

19 [(m)] * * *

20 **Noise mitigation plan** means a document that identifies noise mitigation
21 equipment, materials, and methods which are sufficient to comply with applicable
22 standards for an outdoor **arts and entertainment activity**.

23 [(n)] * * *

24 [(o)] * * *

25 **Performing arts facility** means a building, outdoor seasonal, temporary, or
26 permanent stage, or other clearly defined area or space, which is located at a venue
27 that primarily presents live theatrical, musical, or dance performances.

55 (b) If the owner or manager of a **performing arts facility** submits a
 56 completed **noise-mitigation plan** to the Department and conducts at
 57 least 5 outdoor **arts and entertainment activities** each year in
 58 accordance with that **plan**, each outdoor **arts and entertainment**
 59 **activity** held at the **facility** must not exceed the following noise decibel
 60 limits:

61 (1) from 11 a.m. to 11 p.m. during April 1 through October 31, 75
 62 dBa, as measured on the receiving property; and

63 (2) at all other times, the maximum allowable noise level set in
 64 Section 31B-5.

65 (c) A person must not cause or permit noise levels from an outdoor **arts**
 66 **and entertainment activity** which is subject to this Section to exceed
 67 the standards in subsection (b).

68 (d) Any outdoor **arts and entertainment activity** subject to this Section
 69 which meets the standards in subsection (b) must not be cited as causing
 70 a noise disturbance.

71 (e) For a **performing arts facility** to remain in compliance with this
 72 Section, its owner or manager must update its **noise mitigation plan** as
 73 necessary to reflect significant changes in programming and noise
 74 control technology, and must file an updated **plan** with the Department
 75 not later than March 15 each year.

76 **Sec. 2. Section 40-12D is added as follows:**

77 **40-12D. Disclosure of noise from certain arts and entertainment activities.**

78 (a) If any residential real property is located within 300 yards of a
 79 **performing arts facility** where 5 or more outdoor **arts and**
 80 **entertainment activities** which are subject to special noise level
 81 standards under Section 31B-6A have been conducted during the

82 previous 12 months or are scheduled to be conducted in the next 12
83 months, any seller of that property must disclose to each prospective
84 buyer, before the buyer signs a contract to buy the property, that certain
85 seasonal outdoor **arts and entertainment activities** conducted at that
86 **facility** are subject to special noise level standards which may exceed
87 otherwise applicable noise limits.

88 (b) A prospective buyer must indicate, by signing an addendum to the
89 contract or a separate section of the contract printed in boldface type in
90 a clearly demarcated box, that:

91 (1) the seller has provided the information required by subsection (a);
92 and

93 (2) the buyer understands that:

94 (A) nearby property may be a source of periodic noise from
95 seasonal outdoor **arts and entertainment activities**; and

96 (B) the buyer may obtain more information about noise limits
97 on these activities from the County Department of
98 Environmental Protection.

99 *Approved:*

100

Nancy Floreen, President, County Council

Date

101 *Approved:*

102

Isiah Leggett, County Executive

Date

103 *This is a correct copy of Council action.*

104

Linda M. Lauer, Clerk of the Council

Date