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3 Effective Date: February 24, 2016  
4

5 **CITY OF TAKOMA PARK, MARYLAND**

6  
7 **ORDINANCE 2016-4**

8 **(Amending the Noise Control Ordinance to Provide for Increased Measures of Enforcement**  
9 **of Excessive Noise Levels and Noise Disturbances Violations.)**

10 **WHEREAS**, the Council finds that the residents of the City of Takoma Park have a right to  
11 an environment that is free from noise levels that may jeopardize their health and enjoyment of  
12 property; and

13 **WHEREAS**, loud noise can be a serious environmental and health hazard; and

14 **WHEREAS**, the purpose of Chapter 14.12, Noise Control, of the *Takoma Park Code* is to  
15 establish the lawful and unlawful limits of noise within the City and the enforcement procedures and  
16 requirements pertaining thereto, and to control noise sources to protect public health and allow the peaceful  
17 enjoyment of property; and

18 **WHEREAS**, the City Council wishes amend the City's Noise Control Ordinance in order to  
19 provide for increased enforcement of excessive noise levels and of noise disturbances violations,  
20 including allowing the police to issue event shut-down orders and for violation notices and citations  
21 to be issued to the property owner or to the person responsible for the management, occupancy, or  
22 supervision of premises where the noise violation is occurring.

23 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA**  
24 **PARK, MARYLAND.**

25 **SECTION 1.** Title 14, Health and Safety, Chapter 14.12, Noise Control, of the *Takoma Park Code*  
26 is amended as follows:

27 **Chapter 14.12 - NOISE CONTROL**

28 Sections:

- 29 14.12.010 Declaration of policy.  
30 14.12.020 Exemption from County Noise Control Ordinance.  
31 14.12.030 Definitions.  
32 14.12.040 Regulations.  
33 14.12.050 Noise level and noise disturbance violations.  
34 14.12.060 Noise level and noise disturbance standards for construction.  
35 14.12.070 Measurement of sound.  
36 14.12.080 Leaf blowers and other power lawn tools.  
37 14.12.090 Animals.  
38 14.12.100 Burglar and vehicle alarms.  
39 14.12.110 Exemptions.

- 40 14.12.120 Waivers.
- 41 14.12.130 Enforcement and penalties.
- 42 14.12.140 Noise Control Board.

43 **14.12.010 Declaration of policy.**

44 The Council of the City finds that excessive noise harms public health and welfare and impairs  
45 enjoyment of property. The intent of this noise control ordinance is to control noise sources to  
46 protect public health and to allow the peaceful enjoyment of property. This noise control ordinance  
47 shall be liberally construed to carry out this intent.

48 **14.12.020 Exemption from County Noise Control Ordinance.**

49 Pursuant to the authority conferred by ~~Article 23A, Section 2B~~ **SECTION 4-111(b) OF THE**  
50 **LOCAL GOVERNMENT ARTICLE** of the Annotated Code of Maryland and by Section 1-203  
51 of the Montgomery County Code, the City exempts itself from the provisions of Chapter 31B, Noise  
52 Control, of the Montgomery County Code, except as expressly set forth in this chapter.

53 **14.12.030 Definitions.**

54 “Ambient noise” means the total noise associated with a given environment, being usually a  
55 composite of normal or existing sounds from all sources near and far, excluding the noise source at  
56 issue.

57 “Board” means the City of Takoma Park Noise Control Board.

58 “City Manager” means the City Manager of the City of Takoma Park and includes the City  
59 Manager’s designee.

60 “City Clerk” means the City Clerk of the City of Takoma Park and includes the City Clerk’s  
61 designee.

62 “Construction” means temporary activities directly associated with site preparation, assembly,  
63 erection, repair, alteration, or demolition of structures or roadways.

64 “dBA” means decibels of sound, as determined by the A-weighting network of a sound level meter  
65 or by calculation from octave band or 1/3 octave band data.

66 “Daytime” means the hours from 7:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 10:00 p.m.  
67 on weekends and holidays.

68 “Decibel” means a unit of measure equal to 10 times the logarithm to the base 10 of the ratio of a  
69 particular sound pressure squared to the standard reference pressure squared. For this noise control  
70 ordinance, the standard reference pressure is 20 micropascals.

71 “Enforcement officer” means a City police officer or City code enforcement officer.

72 “Intermittent noise” means a noise which goes on and off but which is steady while it is on.

73 “Leaf blower” means any portable, hand held or backpack, ~~engine-powered~~ device with a nozzle  
74 that creates a directable airstream which is capable of and intended for moving leaves **OR ANY**  
75 **OTHER TYPE OF UNATTACHED DEBRIS OR** ~~and light~~ materials. **LEAFBLOWER**  
76 **INCLUDES DEVICES OR MACHINES THAT ACCEPT VACUUM ATTACHMENTS.**

77 “Nighttime” means the hours from 8:00 p.m. to 7:00 a.m. on weekdays and 10:00 p.m. to 9:00 a.m.  
78 on weekends and holidays.

79 “Noise” means sound created or controlled by human activity, from one or more sources, or sound  
80 from an animal source, heard by an individual.

81 “Noise disturbance” means any steady-state or impulsive noise occurring on either a continuous or  
82 intermittent basis that is:

- 83 1. Unpleasant, annoying, offensive, loud, or obnoxious; **OR**
- 84 2. ~~Unusual for the time of day or location where it is produced or heard, or~~
- 85 3. Detrimental to the health, comfort, or safety of any individual or to the reasonable  
86 enjoyment of property or the lawful conduct of business because of the loudness, duration, or  
87 character of the noise.
- 88 **3. A SOUND LEVEL METER MEASUREMENT IS NOT REQUIRED TO**  
89 **ESTABLISH A NOISE DISTURBANCE.**

90 “Noise suppression plan” means a written plan to use the most effective noise-suppression  
91 equipment, materials, and methods appropriate and reasonable available for a particular type of  
92 construction.

93 “Person” means an individual, group of individuals, corporation, limited liability company,  
94 partnership, or voluntary association; or a department or agency of the City, County, or any other  
95 government to the extent allowed by law.

96 “Power lawn tool” means any mechanically powered lawn or garden tool, lawn mower, or powered  
97 snow removal equipment, or other similar device commonly used outdoors.

98 “Property line” means the real or imaginary line along the ground surface and its vertical extension  
99 which separates real property owned or controlled by one person from contiguous real property  
100 owned or controlled by another person or from any public right-of-way or from any public space.

101 “Receiving property” or “receiving noise area” means any real property where people live or work  
102 and where noise is heard.

103 “Sound” means an auditory sensation evoked by the oscillation of air pressure.

104 “Source” means any person, installation, device, or animal causing or contributing to noise.

#### 105 **14.12.040 Regulations.**

106 A. In accordance with Chapter 2.12, the City Manager may establish noise control regulations and  
107 standards as necessary to accomplish the purposes and intent of this noise control ordinance and  
108 also may set fees by regulation to offset the costs of any City reviews or other actions required or  
109 authorized by this chapter.

110 B. If no City regulations have been adopted specifying the procedures and methodology for  
111 measurement of noise levels, then the provisions of ~~COMCAR~~ **COMCAR – CODE OF**  
112 **MONTGOMERY COUNTY REGULATIONS, CHAPTER 31B, NOISE CONTROL**  
113 **REGULATIONS**, ~~Montgomery County Regulation Number 29-86, Procedures Governing the~~  
114 ~~Measurement of Noise Levels in Montgomery County, Maryland,~~ or any amended or successor  
115 County regulations **ON NOISE CONTROL** setting procedures for the measurement of noise  
116 levels, are adopted by reference.

117 **14.12.050 Noise level and noise disturbance violations.**

118 A. Maximum Allowable Noise Levels.

119 1. Except as otherwise expressly provided in this noise control ordinance or applicable  
120 regulations, a person must not cause or permit noise levels that exceed the following levels:

**Maximum allowable noise level  
(dBA) for receiving noise area  
(outdoor noise level measurements):**

Daytime: 65 dBA

Nighttime: ~~60~~55 dBA

121 2. In the event the measured ambient noise level exceeds the maximum allowable noise level  
122 (dBA) set forth in subsection (A)(1) of this section, the noise level standard (the standard  
123 against which violations are measured) shall be adjusted so as to equal the ambient noise level  
124 plus 3 dBA.

125 B. Noise Disturbance. A person must not cause or permit a noise that creates a noise disturbance.

126 **14.12.060 Noise level and noise disturbance standards for construction.**

127 **A. MAXIMUM ALLOWABLE NOISE LEVELS FOR CONSTRUCTION.**

128 **1. A PERSON MUST NOT CAUSE OR PERMIT NOISE LEVELS FROM**  
129 **CONSTRUCTION ACTIVITY THAT EXCEED THE FOLLOWING LEVELS:**

130 **(A) FROM 7:00 A.M. TO 5:00 P.M. WEEKDAYS:**

131 **(I) 75 DBA IF THE CITY OR MONTGOMERY COUNTY DEPARTMENT**  
132 **OF ENVIRONMENTAL PROTECTION HAS NOT APPROVED A NOISE-**  
133 **SUPPRESSION PLAN FOR THE ACTIVITY; OR**

134 **(II) 85 DBA IF THE CITY OR MONTGOMERY COUNTY DEPARTMENT**  
135 **OF ENVIRONMENTAL PROTECTION HAS APPROVED A NOISE-**  
136 **SUPPRESSION PLAN FOR THE ACTIVITY.**

137 **(B) THE LEVEL SPECIFIED IN SECTION 14.12.050 AT ALL OTHER TIMES.**

138 **2. CONSTRUCTION NOISE LEVELS MUST BE MEASURED AT THE LOCATION,**  
139 **AT LEAST 50 FEET FROM THE SOURCE, ON A RECEIVING PROPERTY WHERE**  
140 **NOISE FROM THE SOURCE IS GREATEST.**

141 **3. THE CITY OR MONTGOMERY COUNTY DEPARTMENT OF**  
142 **ENVIRONMENTAL PROTECTION MUST BY REGULATION ESTABLISH**  
143 **REQUIREMENTS FOR NOISE-SUPPRESSION PLANS AND ADOPT PROCEDURES**  
144 **FOR EVALUATING AND APPROVING PLANS. THE REGULATIONS MUST**  
145 **PROVIDE THAT, AT LEAST 10 DAYS BEFORE APPROVING A NOISE-**  
146 **SUPPRESSION PLAN, THE CITY OR MONTGOMERY COUNTY DEPARTMENT**  
147 **OF ENVIRONMENTAL PROTECTION MUST PROVIDE PUBLIC NOTICE**  
148 **REASONABLY CALCULATED TO REACH AT LEAST A MAJORITY OF**  
149 **HOUSEHOLDS THAT MIGHT BE AFFECTED BY THE CONSTRUCTION**  
150 **ACTIVITY NOISE LEVELS ABOVE 75 DBA.**

151 **B. CONSTRUCTION NOISE DISTURBANCE. THE PROHIBITION ON NOISE**  
152 **DISTURBANCE IN SECTION 14.12.050.B APPLIES TO CONSTRUCTION ACTIVITIES,**  
153 **NOTWITHSTANDING ~~SUB~~SECTION 14.12.060.A.**

154 **C. EXAMPLES. THE FOLLOWING EXAMPLES ILLUSTRATE COMMON**  
155 **CONSTRUCTION NOISE-PRODUCING ACTS THAT VIOLATE THIS SECTION IF**  
156 **THEY EXCEED THE NOISE LEVEL STANDARDS SET IN SUBSECTION A OR**  
157 **CREATE A NOISE DISTURBANCE. THE EXAMPLES ARE ILLUSTRATIVE ONLY AND**  
158 **DO NOT LIMIT OR EXPAND THE CONSTRUCTION NOISE LEVEL OR NOISE**  
159 **DISTURBANCE STANDARDS OF THIS SECTION:**

160 **1. DELIVERING MATERIALS OR EQUIPMENT, OR LOADING OR UNLOADING**  
161 **DURING NIGHTTIME HOURS IN A RESIDENTIAL AREA.**

162 **2. OPERATING CONSTRUCTION EQUIPMENT WITH AUDIBLE BACK-UP**  
163 **WARNING DEVICES DURING NIGHTTIME HOURS.**

164 ~~A. D. The provisions of Section 31B-6, Noise level and noise disturbance standards for~~  
165 ~~construction, of Chapter 31B of the Montgomery County Code, as amended from time to time, and~~  
166 ~~any applicable regulations, are adopted by reference. The Montgomery County Department of~~  
167 ~~Environmental Protection is given concurrent authority, along with City enforcement officers, to~~  
168 ~~enforce the noise levels for construction and to evaluate and approve noise-suppression plans for~~  
169 ~~construction activity in the City.~~

170 ~~B. The prohibition on noise disturbance in Section 14.12.050 applies to construction activities.~~

171 **14.12.070 Measurement of sound.**

172 A. Noise levels shall be measured with a sound level meter meeting the standards of the American  
173 National Standards Institute (ANSI) S.1.4—"Specifications for Sound Level Meters" or its  
174 successor. This instrument shall be set to the appropriate weight response scales and the meter to the  
175 slow response.

176 B. Noise levels shall be measured at **ANY** ~~the nearest receiving property line, at any point along~~  
177 ~~the curb in front of the property line upon which the noise is being generated, or at any other~~  
178 ~~location on the receiving property or receiving noise area, unless this noise control ordinance~~  
179 ~~specifies a different measurement location~~ **OR A SPECIFIC DISTANCE.**

180 **14.12.080 Leaf blowers and other power lawn tools.**

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

185 B. The City may inspect, and upon request, a person must produce, any leaf blower that is sold,  
186 offered for sale, or used in the City, in order to determine whether the leaf blower complies with  
187 this section. A person who relies in good faith on a manufacturer's written representation of the  
188 sound level of a leaf blower that has not been modified is not subject to a penalty for violating this  
189 section.

190 C. No person shall use a leaf blower or other power lawn tool outdoors during the daytime for  
191 more than 2 hours of accumulated time during any 24-hour period on any individual lot or parcel of  
192 property and no leaf blower or other power lawn tool shall be used outdoors during the nighttime.  
193 (Ord. 2002-35 § 1(8), 2002/Ord. 2000-22 § 1(8), 2000)

194 **14.12.090 Animals.**

195 No person shall allow a dog, bird, or other animal in his or her possession or control to persistently,  
196 habitually, or continuously bark, howl, yelp, or make other loud noise ~~common to its species,~~ and  
197 cause a noise disturbance to any person or to the neighborhood **REGARDLESS OF THE**  
198 **DECIBEL LEVEL.**

199 **14.12.100 Burglar and vehicle alarms.**

200 A. Audible burglar alarms for structures or motor vehicles are prohibited unless the operation of  
201 such alarm can be terminated within **15** ~~30~~ minutes of being activated.

202 B. Notwithstanding the requirements of subsection (A) of this section, any member of the Takoma  
203 Park Police Department shall have the right to take such steps as may be reasonable and necessary  
204 to disconnect any such alarm installed in any building, dwelling, or motor vehicle at any time  
205 during the period of its activation.

206 C. The Takoma Park Police Department, or any authorized designee of the City, may tow or  
207 impound any motor vehicle in which an alarm has sounded continuously for more than **15** ~~30~~  
208 minutes.

209 1. Whenever a vehicle is removed pursuant to this subsection and the officer or agent knows  
210 or is able to ascertain from the registration records in the vehicle or the records of the State  
211 Motor Vehicle Administration the name and address of the vehicle owner, such officer or agent  
212 shall promptly give or cause to be given notice in writing to such vehicle owner of the fact of  
213 the vehicle removal and the reasons therefor, and the method by which release of the vehicle  
214 can be secured.

215 2. No person shall remove or permit the removal of a motor vehicle which has been towed or  
216 impounded pursuant to this subsection from the custody of the City or from the place in which  
217 the vehicle is being held without first obtaining authorization from the City, a court order, or

218 paying any citation issued for violation of this noise control ordinance and all fines, penalties,  
219 costs and other charges associated with the towing or impoundment of the vehicle.

220 **14.12.110 Exemptions.**

221 This noise control ordinance does not apply to:

222 A. Emergency operations by fire and rescue services, police agencies, or public utilities and their  
223 contractors;

224 **B. SOUND CREATED BY AIR MEDICAL SERVICES; THAT IS, THE USE OF AIR**  
225 **TRANSPORTATION, AIRPLANE OR HELICOPTER, TO MOVE PATIENTS TO AND**  
226 **FROM HEALTHCARE FACILITIES AND ACCIDENT SCENES.**

227 ~~B.~~ **C.** Sound created by snow removal, street sweeping, and leaf collection activities by the City;

228 ~~C.~~ **D.** Sound created by garbage, trash, solid waste, and recycling collection activities by the City  
229 provided that such activities shall not begin prior to 6:30 a.m. If the National Weather Service  
230 forecast for the day is for a high temperature of 90 degrees or higher or a heat or air quality advisory  
231 has been issued for the Washington, D.C. metropolitan area, then garbage, trash, solid waste, and  
232 recycling collection activities by the City may commence at 5:30 a.m.;

233 ~~D.~~ **E.** Sound created between 9:00 a.m. and 10:00 p.m. by sports, amusements, or entertainment  
234 events or other public gatherings operated according to the requirements of the appropriate permit  
235 or licensing authority. This includes athletic events, carnivals, festivals, parades, band and orchestra  
236 activities, and public celebrations;

237 ~~E.~~ **F.** Sound created by City-sanctioned or City-sponsored activities provided the activity is being  
238 operated in accordance with the requirements of any permit and City rules for the event. This  
239 includes, but is not limited to, the Takoma Park Farmer's Market and 4th of July events (parade,  
240 concert, and fireworks).

241 **14.12.120 Waivers.**

242 A. Temporary Waiver.

243 1. The City Manager may waive any part of this noise control ordinance for a temporary event  
244 if, in the sole judgment and discretion of the City Manager, the noise the event will create or  
245 cause in excess of the noise level limits established under this noise control ordinance is offset  
246 by the benefits of the event to the participants or the public and the noise of the event will not  
247 cause undue hardship or disturbance to the surrounding area. The City Manager may impose  
248 terms and conditions appropriate to reduce the impact of the noise level exception on the grant  
249 of a temporary waiver.

250 2. An application for a temporary waiver shall be filed with the City Clerk, or such other  
251 office as the City Manager shall designate. The applicant shall certify that notice of such  
252 temporary waiver application has been provided to all properties contiguous to the property  
253 where the event will occur, and to all properties opposite said property measured at right angle  
254 to the intervening street or streets, and to the president or other designated representative, as

255 shown by the City’s records, of the local neighborhood association. The application for a  
256 temporary waiver shall not be approved less than 10 days after the notice required under this  
257 subsection has been given. No person or household may receive more than one temporary  
258 waiver in any calendar year.

259 B. General Waiver.

260 1. The City Council may waive any part of this noise control ordinance if the City Council  
261 determines that compliance in a particular case is not practical and would impose undue  
262 hardship.

263 2. An application for a general waiver shall be filed with the City Clerk, or such other office  
264 as the City Manager shall designate. The City Clerk or the City Manager shall notify the City  
265 Council of the receipt of an application for a general waiver and the City Council shall schedule  
266 a public hearing on the application within 60 days of such notification.

267 3. At least 30 days before the public hearing, the applicant shall advertise the hearing by:

268 a. Publishing a notice in **THE TAKOMA PARK NEWSLETTER AND POSTING A**  
269 **HEARING NOTICE ON THE CITY’S WEB SITE** ~~a newspaper of general circulation~~  
270 ~~in Montgomery County, Maryland;~~

271 b. Posting a sign on the property which is the location of the noise source; and

272 c. Mailing, **EMAILING** or delivering notice of such general waiver application to all  
273 properties contiguous to the property which is the location of the noise source, and to all  
274 properties opposite the property measured at right angle to the intervening street or streets,  
275 and to the president or other designated representative, as shown by the City’s records, of  
276 the local neighborhood association.

277 4. Based on the evidence presented at the public hearing, and on any City staff report or other  
278 reliable information, the City Council may grant a waiver for up to 3 years, upon such terms  
279 and conditions as the City Council deems appropriate to reduce the impact of the noise level  
280 exception.

281 C. Violation of Waiver. The City Manager may suspend, modify, or revoke a temporary waiver or  
282 a general waiver if the City Manager determines that a person has violated the terms or conditions  
283 of the waiver.

284 **14.12.130 Enforcement and penalties.**

285 A. Unless a different penalty is stated (*see, e.g., Section 14.12.130.G and Section 14.12.140.F*), a  
286 violation of this noise control ordinance is a Class C municipal infraction. **A SECOND**  
287 **VIOLATION OF THIS NOISE CONTROL ORDINANCE IS A REPEAT OFFENSE. A**  
288 **THIRD AND SUBSEQUENT VIOLATIONS OF THIS NOISE CONTROL ORDINANCE,**  
289 **WITHIN 6 MONTHS OF A PREVIOUS VIOLATION, IS A CLASS A MUNICIPAL**  
290 **INFRACTION.**



291 B. If an enforcement officer finds that a person has violated this noise control ordinance, the  
292 enforcement officer may issue a notice of violation and correction order to the person. The notice  
293 shall include the following information:

- 294 1. The section of this noise control ordinance that the person violated;
- 295 2. The date, nature, and extent of the violation; **AND**
- 296 3. The action required to correct the violation.

297 ~~4. If the enforcement officer requires a compliance plan, the deadline for submitting the plan;~~  
298 ~~and~~

299 ~~5. The deadline for compliance.~~

300 ~~C. The compliance plan referred to in subsection (B)(4) of this section must establish a schedule~~  
301 ~~for achieving compliance with this noise control ordinance, as specified in the correction order. A~~  
302 ~~compliance plan, and any amendments to a plan, are not effective until the enforcement officer~~  
303 ~~approves the plan or amendment. An action allowed under an approved compliance plan does not~~  
304 ~~violate this noise control ordinance.~~

305 **C.D.** A notice of violation and correction order under subsection (B) of this section is not required  
306 before a municipal infraction citation for violation of this noise control ordinance may be issued. An  
307 enforcement officer may issue a municipal infraction citation for a violation of this noise control  
308 ordinance if the enforcement officer:

309 ~~1. Witnesses the violation; and/or~~

310 **12.** Determines that the noise level being generated exceeds the maximum allowable noise  
311 level set forth in Section 14.12.050 of this noise control ordinance; **OR**

312 **2. DETERMINES THAT A PERSON HAS CAUSED OR PERMITTED A NOISE**  
313 **DISTURBANCE.**

314 **D. E. IN THE EVENT OF A NOISE DISTURBANCE OR OTHER VIOLATION OF THIS**  
315 **NOISE CONTROL ORDINANCE CREATED BY THE USE OR RENTAL OF PREMISES**  
316 **FOR A MUSIC, ENTERTAINMENT, CELEBRATION OR PERFORMANCE EVENT**  
317 **(WHETHER OR NOT ADMISSION IS CHARGED), BY CONSTRUCTION WORK, OR BY**  
318 **COMMERCIAL ACTIVITY, THE ENFORCEMENT OFFICER MAY ISSUE A**  
319 **MUNICIPAL INFRACTION CITATION TO THE PERSON WHO VIOLATES THE NOISE**  
320 **CONTROL ORDINANCE AND/OR TO THE PROPERTY OWNER OR PERSON**  
321 **RESPONSIBLE FOR THE MANAGEMENT, OCCUPANCY OR SUPERVISION OF THE**  
322 **PREMISES, BUILDING, CONSTRUCTION SITE, PROPERTY OR ACTIVITY FROM**  
323 **WHICH THE NOISE SOURCE ORIGINATES.**

324

- 325 E. Noise Disturbance Complaints - **REFERRAL TO NOISE CONTROL BOARD.**
- 326 1. Signed, written complaints of a noise disturbance may be submitted by two or more City  
 327 residents *who reside at separate addresses* (see definition of “noise disturbance” in Section  
 328 14.12.030 ~~of this noise control ordinance~~).
- 329 2. Noise disturbance complaints shall be filed with the City Clerk, on the City’s 2-party noise  
 330 disturbance complaint form, within 10 days of the occurrence of the alleged noise disturbance.  
 331 Any complaint which is received by the City Clerk more than 10 days after the date of the  
 332 alleged noise disturbance shall be rejected. The City Clerk shall **RECORD THE DATE** ~~date~~  
 333 ~~stamp~~ the noise disturbance complaint ~~on the day the complaint~~ is received, assign the  
 334 complaint a number, and forward the complaint, along with any supporting documentation, to  
 335 the Noise Control Board (see Section 14.12.140 ~~of this noise control ordinance~~).
- 336 F. The City may seek injunctive or other appropriate judicial relief to stop or prevent continuing  
 337 violations of this noise control ordinance.
- 338 G. In addition to any other penalty or enforcement action under this noise control ordinance, an  
 339 enforcement officer may **SHUT DOWN AN EVENT OR ACTIVITY THAT IS CAUSING A**  
 340 **NOISE DISTURBANCE OR CREATING NOISE THAT EXCEEDS THE MAXIMUM**  
 341 **ALLOWABLE NOISE LEVELS (“EVENT SHUT DOWN ORDER”)** OR issue a stop work  
 342 order or an order to cease the violation to any person who violates any provision of this noise  
 343 control order. *In determining whether to issue an Event Shut Down Order, an enforcement*  
 344 *officer shall consider such factors as (1) the loudness and duration of the sound from the event*  
 345 *or activity, (2) previous complaints of noise at the same venue and/or the particular event or*  
 346 *activity, (3) whether the violator cooperates with requests to keep the noise level down and takes*  
 347 *action to prevent or mitigate the noise from the event or activity, and (4) the extent to which the*  
 348 *noise being made or generated on the premises causes unreasonable annoyance or disturbance to*  
 349 *others living or located nearby. Neither the nature of any communicative content of the noise nor*  
 350 *the purpose of the event or gathering shall be considered in the issuance of an event shut down*  
 351 *order.* ~~**AN EVENT SHUT DOWN ORDER,** stop work order or an order to cease the violation~~  
 352 ~~also may be issued on the basis of signed, written complaints from at least 2 reliable witnesses~~  
 353 ~~setting forth the facts of the alleged violation.~~
- 354 1. **IF AN EVENT OR ACTIVITY IS SHUT DOWN, THE ENFORCEMENT OFFICER**  
 355 **MAY ORDER ANY OR ALL PERSONS, except the property owner or tenant-occupant**  
 356 **of the premises, TO LEAVE THE PREMISES WHERE THE EVENT OR ACTIVITY IS**  
 357 **OCCURRING.**
- 358 2. Any person who receives such a **N EVENT SHUT DOWN ORDER,** stop work order or  
 359 order to cease the violation shall immediately cease the activity which constitutes the violation.  
 360 The person shall comply with all terms and conditions imposed by the enforcement officer  
 361 before the activity may resume.
- 362 3. 2. Violation of **AN EVENT SHUT DOWN ORDER,** a stop work order or order to cease  
 363 the violation shall be **IS** a Class **B misdemeanor offense** ~~**A municipal infraction.**~~

364 H. In the event of **A RENTAL OF PREMISES FOR A MUSIC, ENTERTAINMENT,**  
365 **CELEBRATION OR PERFORMANCE EVENT (WHETHER OR NOT ADMISSION IS**  
366 **CHARGED)**, construction work, commercial activity, or other work for hire, the person who  
367 violates this noise control ordinance and/OR the **PROPERTY OWNER OR** person responsible for  
368 the management or supervision of the **PREMISES, BUILDING,** construction site, area, property  
369 or activity from which the noise source originates are jointly and severally responsible for violations  
370 of this chapter and shall abide by any **EVENT SHUT DOWN ORDER,** stop work order or order  
371 to cease the violation.

#### 372 **14.12.140 Noise Control Board.**

##### 373 A. Establishment and Membership.

374 1. A City Noise Control Board is established to assist and advise the City on noise control  
375 issues, including administration and enforcement of this noise control ordinance, and to  
376 adjudicate noise disturbance complaints.

377 2. The Board shall consist of 5 to 7 active members appointed by the Council. All members  
378 shall be residents of the City. Board members shall be appointed for a term of 3 years, except  
379 that 3 of the initial appointees shall serve 2-year terms. Terms shall begin on April 1st and end  
380 on March 31st.

381 3. The term of a Board member who is appointed to replace a member who cannot complete  
382 his or her term shall be for the remainder of the term of the Board member being replaced.

383 4. A Board member who resigns, who is removed, whose term expires or who ceases to reside  
384 in the City is ineligible to continue to serve on the Board except that, at the discretion of the  
385 Chairperson, he or she may continue as an inactive member of the Board to complete work on  
386 cases in which he or she participated as an active member of the Board. This participation may  
387 include the approval and signing of Board decisions on noise disturbance complaints.

388 5. The Council may, by resolution, remove a Board member before the Board member's term  
389 has expired if the Council determines that the Board member has become incapacitated or has  
390 failed to reasonably perform his or her duties as a Board member.

391 6. The Board shall elect one member as Chairperson and another member as Vice  
392 Chairperson to serve at the pleasure of the Board. The Board shall meet at the call of the  
393 Chairperson as required to perform its duties, but not less often than semi-annually. A majority  
394 of the active members of the Board constitute a quorum for transacting business. The Board  
395 may act by a majority vote of those present.

396 7. The Board may adopt rules of procedure which further regulate its operations and the  
397 conduct of hearings.

##### 398 B. Hearings on Noise Disturbance Complaints.

399 1. When a noise disturbance complaint under Section 14.12.130.E is received, the Board shall  
400 schedule a hearing on the complaint and give reasonable advance notice of the date, time, and  
401 place of the hearing before the Board to the persons who filed the noise disturbance complaint

402 (“the complainant”) and the alleged violator. The alleged violator also shall be served with a  
403 copy of the noise disturbance complaint.

404 2. The hearing notice and noise disturbance complaint shall be deemed to be properly served  
405 on the alleged violator if the notice and complaint is:

406 a. Delivered to the alleged violator personally;

407 b. Sent by certified mail and the return receipt is returned indicating that the certified mail  
408 was received by the alleged violator;

409 c. Left at the alleged violator’s residence or place of business with a person of suitable  
410 age and discretion; or

411 d. Mailed by first-class mail to the last-known address of the alleged violator **OR**  
412 **EMAILED TO THE ALLEGED VIOLATOR** and posted in a conspicuous location on  
413 the property where the noise disturbance violation is alleged to have occurred.

414 C. Hearing Process.

415 1. The Chairperson of the Board is authorized to designate 3 active members of the Board to  
416 sit as a panel to conduct a hearing on any noise disturbance complaint. The Chairperson of the  
417 Board shall endeavor to rotate panel membership from time to time among the active members  
418 of the Board. If the parties agree, a hearing may proceed before 2 members of the Board.

419 2. The hearing shall be open to the public. At the hearing, the complainant and the alleged  
420 violator may present testimony and evidence to substantiate any material point. All testimony  
421 shall be given under oath or affirmation. Each party shall have the right to cross-examine  
422 opposing witnesses, to submit rebuttal evidence, and to present summation and argument. The  
423 Board panel also may ask questions of witnesses and enter its own evidence.

424 3. The Board panel may admit and consider evidence which would be commonly accepted by  
425 reasonable and prudent people as having a causal relationship to the matter before the Board  
426 panel. The Board panel may exclude from evidence irrelevant and repetitious testimony and  
427 documents.

428 4. The burden of proof of establishing a violation of the noise control ordinance shall be on  
429 the party who filed the noise disturbance complaint and shall be met by a preponderance of the  
430 evidence.

431 5. An audio **OR VIDEO** record of the hearing shall be made. The record of the case shall  
432 consist of the ~~audio~~ recording and any written documentation accepted into the case file. The  
433 record of the case shall be open to inspection by any person. Upon request, the Board shall  
434 furnish copy of the record of the case to any person at the cost of supplying the same.

435 D. Decision of the Board on a Noise Disturbance Complaint.

436 1. After due consideration of the evidence and testimony presented at the hearing, the Board  
437 shall issue its decision on the noise disturbance complaint and give notice of its decision to all

438 parties to the case. The Board’s decision may be announced orally, following the hearing, or the  
439 Board may take the case under advisement and issue a written decision on the noise disturbance  
440 complaint within a reasonable time following the hearing.

441 2. In the event that the Board finds that in favor of the complainant on the noise disturbance  
442 complaint, the Board may order the violator ~~to~~ to cease and desist from the conduct or activity  
443 which created the noise disturbance **AND**/or to take other corrective action in order to abate or  
444 correct the violation of this noise control ordinance. ~~;~~ ~~and/or~~

445 ~~b. To pay a fine to the City of up to \$200.00 for each violation. If there is more than one~~  
446 ~~violation or if the Board has found more than one noise disturbance violation, then the fine~~  
447 ~~may be imposed on each violator. If the Board finds that this a repeat violation, i.e., the~~  
448 ~~violation has been found to have created a noise disturbance within a one-year period~~  
449 ~~immediately preceding the occurrence of the instant noise disturbance violation, then the~~  
450 ~~Board may order the violator to pay a fine to the City of up to \$400.00 for each violation.~~

451 ~~3. In determining the amount of the fine to impose on a violator, pursuant to subsection~~  
452 ~~(D)(2)(b) of this section, the Board shall consider whether the evidence presented at the hearing~~  
453 ~~on the noise disturbance complaints indicates that significant mitigating factors warranting a~~  
454 ~~reduction in the maximum amount of the fine to be imposed are present:~~

455 ~~a. Whether the violator has previously been found to have violated this noise control~~  
456 ~~ordinance;~~

457 ~~b. Whether the violator has taken action reasonably calculated under the circumstances to~~  
458 ~~prevent or mitigate future violations of this noise control ordinance; and~~

459 ~~c. Whether the violation was not so egregious or lengthy in duration that a reasonable~~  
460 ~~person would view the violation as reprehensible.~~

461 E. **APPEALS FROM A BOARD DECISION ON A NOISE DISTURBANCE COMPLAINT.**  
462 **WITHIN 30 DAYS OF THE ISSUANCE OF A DECISION ON A NOISE DISTURBANCE**  
463 **COMPLAINT, A PERSON WHO WAS A PARTY TO THE PROCEEDINGS BEFORE THE**  
464 **BOARD AND WHO IS AGGRIEVED BY THE DECISION MAY FILE A PETITION FOR**  
465 **JUDICIAL REVIEW IN ACCORDANCE WITH TITLE 7, CHAPTER 200, JUDICIAL**  
466 **REVIEW OF ADMINISTRATIVE AGENCY DECISIONS, OF THE MARYLAND RULES**  
467 **OF PROCEDURE, AS AMENDED.**

468 **F.** Enforcement of Board Decision on a Noise Disturbance Complaint.

469 1. A violator who fails to comply with a Board decision on a noise disturbance complaint may  
470 be issued a municipal infraction citation for a Class A offense.

471 2. In addition to any penalty provided herein, compliance with a Board decision may be  
472 enforced by any appropriate action, at law or equity, in any court of competent jurisdiction.

473

474 **SECTION 3.** This Ordinance shall be effective immediately upon adoption.

475

476 **ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND, THIS**  
477 **24TH DAY OF FEBRUARY, 2016, BY ROLL-CALL VOTE AS FOLLOWS:**

478

479 **AYE:** Stewart, Kovar, Qureshi, Smith, Schultz

480 **NAY:** Male, Seamens

481 **ABSENT:** None

482 **ABSTAIN:** None

483

484

**EXPLANATORY NOTE**

485

486 Additions to the existing language of the *Takoma Park Code* are shown **IN BOLD RED CAPITAL**  
487 **LETTERS.**

488

489 Deletions to the existing language of the *Takoma Park Code* are shown by ~~striketrough~~.

490

491 Additions to the existing language of the *Takoma Park Code* made after the Council Worksession  
492 on December 7, 2015, are shown **IN BOLD RED CAPITAL LETTERS AND UNDERLINED.**

493

494 Deletions to the existing language of the *Takoma Park Code* made after the Council Worksession  
495 on December 7, 2015, are shown by ~~double striketrough~~.

496

497 Additions to the existing language of the *Takoma Park Code* made after First Reading on February  
498 10, 2016, are shown **in lower case red italics and underlined.**

499

500 Deletions to the existing language of the *Takoma Park Code* made after First Reading on February  
501 10, 2016, are shown by ~~**bold and underlined double striketrough.**~~