

## **NOISE ORDINANCE MAY 2021**

### Chapter 30 – ENVIRONMENT [1]

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#### ARTICLE V. - NOISE<sup>[8]</sup>

Footnotes:

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**Charter reference**— Authority to regulate noise, § C-1403.

**State Law reference**— Noise, Ann. Code of Md., Environment article, § 3-101 et seq.

#### DIVISION 1. - GENERALLY

Sec. 30-251.- Policy.

In order to control unreasonable, unnecessary and excessive noise in the Town of Ocean City, it is hereby declared to be the policy of the Town to prohibit such noise as specified in this Article as it has been determined that certain noise levels are detrimental to public health, safety, and welfare and contrary to public interest. Therefore, the Town of Ocean City does declare that creating, maintaining, causing or allowing to be created, maintained, or caused, any noise in a manner prohibited by, or not in conformity with the provisions of this Article, is prohibited.

Sec. 30-252.- Definitions.

The following terms, wherever used herein, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:

*Abutting properties.* Any public or private property touching the eastern or western edge of the Boardwalk which has an entrance on the Boardwalk, decks, porches or balconies that view the Boardwalk, or open space that has visibility to the Boardwalk. Abutting properties include the Inlet parking lot.

*Ambient noise.* The composite of all noise from sources near and far, excluding the alleged intrusive noise source, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

*ANSI.* The American National Standards Institute or its successor bodies.

*Boardwalk.* The Boardwalk is a manmade promenade that runs parallel to the beach and is designated or referred to as "Atlantic Avenue" or the "Boardwalk." The Boardwalk runs from South Second Street and terminates at 27th Street. The Boardwalk encompasses the area from the eastern edge of the concrete tram lane and the sea wall to the lot line of private property on the western edge, and includes any wooden railings, the street ends, ramps extending westward and eastward from the Boardwalk, and decks extending westward and eastward from the Boardwalk.

*Boardwalk enforcement area.* The area includes the Boardwalk and abutting properties.

*Daytime hours.* 7:00 a.m. to 10:00 p.m. on weekdays, 7:00 a.m. to 12:00 a.m. on weekends, Eastern Standard Time.

*dB(A).* The abbreviation for the sound level in decibels determined by the A-weighting network of a sound level meter or by calculation from octave band or one-third (1/3) octave band data.

*dB(C).* The abbreviation for the sound level in decibels determined by the C-weighting network of a sound level meter or by calculation from octave band or one-third (1/3) octave band data.

*Dangerous noise.* A noise measured at any distance that meets or exceeds 110 dB(A).

*Decibel (dB).* A unit of measure, on a logarithmic scale, or the ratio of a particular sound pressure squared to a standard reference pressure squared. For the purpose of this Article, twenty (20) micropascals shall be the standard reference pressure.

*Department.* The Town of Ocean City, Maryland, Police Department.

*Impulsive noise.* Noise of a short duration with less than a one (1) second peak and of high intensity, with an abrupt onset and rapid decay.

*Leq.* The equivalent steady-state sound level for a ten (10) second period that contains the same acoustic energy as the time-varying sound level.

*Lmax.* The highest time averaged sound level measured during a given time period.

*Low frequency noise.* Noise that includes, but is not limited to humming, vibration, and bass rumble.

*Nighttime hours.* 10:00 p.m. to 7:00 a.m. on weekdays, 12:00 a.m. to 7:00 a.m. on weekends, Eastern Standard Time.

*Noise.* The intensity, frequency, duration and character of sound, including sound and vibration of subaudible frequencies.

*Noise level limit.* The maximum noise level acceptable under this Article.

*Noise pollution.* The presence of noise of sufficient loudness and character, from a single source or from multiple sources, which is, or may be predicted with reasonable certainty to be injurious to health, or which unreasonably interferes with the proper enjoyment of property or with any lawful business or activity. Noise/sound pressure levels exceeding those permitted in this Article or exceeding those permitted in any district constitute "noise pollution."

*Person.* Any individual, group of individuals, lessee, lessor, guest, licensee, firm, partnership, business, voluntary association, private or public corporation (excluding the Town of Ocean City) or other entity responsible for the use of property.

*Sound level.* In decibels, the weighted sound pressure level measured by the use of a sound level meter satisfying the requirements of ANSI S1.4, 1971, Specifications for Sound Level Meters, or the most recent revision thereof. "Sound level" and "noise level" are synonymous.

*Sound level meter.* An instrument for the measurement of sound levels which satisfies the requirement for sound level meters in the American National Standards Institute specifications for sound level meters, S1.4-1971, or the most recent revision thereof.

*Sound pressure.* Minute fluctuations in atmospheric pressure which accompany the passage of a sound wave.

*Sound pressure level.* In decibels, twenty (20) times the logarithm to the base ten (10) of the ratio of a sound pressure to the reference sound pressure of twenty (20) micropascals (20 micronewtons per square meter). In the absence of any modifier, the level is to be that of a root-mean-square pressure.

*Source.* Any person or property, real or personal, or business, contributing to noise.

*Zoning district.* The land use category defined according to Chapter 110, Zoning, of the Code of Ocean City, Maryland, and as indicated on the zoning district map of the Town of Ocean City, Maryland.

#### Sec. 30-253. – Noise measurement.

Sound level measurements shall be made with a properly calibrated sound level meter that conforms to the American National Standards Institute and Testing Procedures (ANSI) S1.4 Standard for Type 1 or Type 2 meters. The sound level meter shall have the following capabilities, including but not limited to, the ability to record, integrate, measure and display Leq, measure A weighted decibels, measure slow root mean square response, and provide for in field calibration. Measurements shall be completed by employees of the Department properly trained in the operation of the sound level meter.

#### Sec. 30-254.- Exemptions.

(a) The following noises are exempt from compliance with this Article:

- (1) Operations by Town of Ocean City departments, including the cleaning or preservation of the beach;
- (2) Authorized emergency vehicles when responding to an emergency;
- (3) Beach erosion control activities, including moving sand equipment operations;
- (4) Safety signals and alarm devices, storm warning sirens or horns, and the authorized testing of such equipment used to alert persons of an emergency;

- (5) Motor vehicles on public roads; however this subsection shall not be construed to interfere with any other regulations of said motor vehicles under other Town of Ocean City, state or federal law or regulations, including this Article;
- (6) Sound emanating from duly permitted and/or authorized athletic contests, parades, events and concerts;
- (7) Sound emanating from duly permitted and/or authorized municipal or municipally sponsored public celebrations, parades, events and concerts;
- (8) Operations by, or sanctioned by government authorities for the protection of persons or property where imminent physical trauma or property damage demands immediate action;
- (9) Household tools and portable appliances in normal usage;
- (10) Lawn care equipment in normal daytime usage if used and maintained in accordance with the manufacturer's specifications;
- (11) Aircraft;
- (12) Boats;
- (13) Emergency utility operations; and
- (14) Any activity causing noise if a variance for such activity and the noise resulting therefrom has been obtained from the appropriate State of Maryland department, or is being processed pursuant to the rules and regulations of that department. This exemption shall apply only to the extent of any such variance so granted or being processed.

(b) The following noises are exempt from compliance with Division 7:

- (1) Amusement parks and amusement arcades, existing on the original date of the enactment of division 7 on June 6, 1977, on noise pollution control in residential districts, are exempted, except from 11:59 p.m. until 10:00 a.m. the following day. This division shall apply to amusement parks and amusement arcades between 11:59 p.m. and 10:00 a.m. of the next day.

Sec. 30-255. – Violations, Penalties and Civil Relief.

(1) *Violations.* Any violation of a provision of this Article shall be a misdemeanor subject to Section 1-8 of this Code, unless otherwise classified in Section 1-8 or this Article, and on conviction thereof, a misdemeanor shall be subject to imprisonment for up to ninety (90) days and/or a fine up to one thousand dollars (\$1,000.00), and any municipal infraction shall be subject to the penalties set forth in Section 1-8 of this Code.

(2) *Injunction.* In addition to the penalties herein and in Section 1-8 of this Code, if any person violates any provision of this Article, and/or commits noise pollution and/or causes or allows noise pollution to emanate from source property under his ownership or control, the Mayor and City Council of Ocean City, Maryland may seek injunctive relief against such person to prohibit or prevent such violations.

(3) *Licensing restraints on business and other type property.*

a. The owner of any property which is the source of noise pollution resulting in the Department responding to three incidents, each of which result in the issuance of a citation and/or arrest under this Article, in one license year, shall be notified of such fact by the City Manager, at the address as shown on the tax rolls of the Town of Ocean City, and said notice shall state that the City Manager intends to have a hearing on whether or not to issue the property a rental license and/or business license for the next license year. The owner shall be notified of the hearing in said letter, by personal service or by certified mail (return receipt requested), which shall occur no earlier than fifteen (15) days after the mailing of the notification and no later than thirty (30) days after mailing such notification. At said hearing, the owner of the premises, tenants thereof, neighbors, officers of the Department, and any other members of the general public shall be given an opportunity to be heard. Formal rules of evidence do not apply.

b. At the hearing, if the City Manager determines upon a preponderance of evidence, that the owner did not take serious and effective steps to control noise pollution in the license year of said citations and/or arrests and that no serious or effective steps for noise pollution control are proposed for the subsequent license year, or that said steps will not be implemented throughout said subsequent license year, the City Manager may order that no rental license and/or business license be issued for the licensed premises for the subsequent license year. In the event that the City Manager orders that no rental license and/or business license be issued for the subsequent license year, the owner shall have the right to appeal within ten (10) days of the decision, to the Mayor and City Council of Ocean City. The City Manager shall send the owner written notice, by certified mail (return receipt requested), of the decision and inform the owner of the right to appeal. The filing of the appeal does not stay the decision of the City Manager.

c. If the owner appeals the decision of the City Manager, the owner shall be notified of a hearing to be held by the Mayor and City Council, which shall occur no earlier than fifteen (15) days after the mailing of the notification and no later than thirty (30) days after mailing such notification. Such hearing shall be advertised for at least two (2) consecutive weeks prior to said hearing in at least one (1) newspaper published in Ocean City. At such hearing, the owner of the premises, tenants thereof, neighbors, officers of the Department, and any other members of the general public shall be given an opportunity to be heard. The Mayor and City Council shall hear the testimony and evidence offered to determine, based on a preponderance of evidence, whether the City Manager properly ordered that the rental license and/or business license not be issued for the licensed premises for the subsequent license year. The formal rules of evidence do not apply. If the owner fails to appear, the decision of the City Manager shall become final. The Mayor and City Council shall affirm or overturn the City

Manager's decision by a majority vote. Failure to reach a majority vote will result in the decision of the City Manager being affirmed. The decision of the Mayor and City Council is final. If the Mayor and City Council affirms the order to not issue the rental license and/or business license for the subsequent year, the owner may not apply for said rental license and/or business license until twelve (12) months have elapsed since the date of the Mayor and City Council's action.

Sec. 30-256. – Severability.

If any phrase, sentence, paragraph, subsection or section, or any part of a section of this Article is held invalid by a court of competent jurisdiction, this holding shall not affect the remainder of this Article or the context in which such section or part of a section so held invalid appears, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of a section to which such holding shall directly apply. It is expressly hereby stated by the Mayor and City Council of Ocean City, Maryland, that it is the desire and intention of this body that all portions of this Article be severable from every other portion.

Secs. 30-257—30-270.- Reserved.

## DIVISION 2. - NOISE GENERALLY

Sec. 30-271. - Prohibited.

It shall be unlawful for any person to make, produce, maintain, continue or cause to be made or continued any unreasonably loud noise or any noise which disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the corporate limits of the Town of Ocean City.

The following acts, among others, are hereby declared to be unreasonably loud noises in violation of this Article:

- (1) The sounding of any horn, siren or signaling device on any automobile, motorcycle or other vehicle on any street, way, avenue or alley or other public place, except for the purpose of vehicle, driver or pedestrian safety; the sounding of a horn to create any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary or unreasonable length of time; the use of any signaling device, except one operated by hand or electricity; the use of any horn, siren, whistle or other device operated by engine exhaust; the use of any such signaling device when traffic is for any reason held up; the use of the engine of an automobile, motorcycle or other vehicle to produce an unreasonably loud, raucous, or disturbing noise; and the grinding of the gears of an automobile, motorcycle or other vehicle, or the backfiring of the engine of the automobile or other vehicle to cause unreasonable noise.
- (2) Use of radios, phonographs, and musical instruments, generally.
  - a. The using of, operating of, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, sound amplification device or

system or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto.

- b. The using of, operating of, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, sound amplification device or system or other machine or device for the producing or reproducing of sound on or directed toward a public beach, public park, alley or street, at any time in such a manner as to be plainly audible at a distance of thirty (30) feet from the source of such sound which is deemed to be unreasonably loud so as to disturb the peace, quiet, and comfort of other persons or at a louder volume than is necessary for the convenient hearing of the individual using or carrying the instrument, machine or device or those individuals immediately adjacent thereto and who are voluntary listeners thereto.
- c. The using of, operating of, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, sound amplification device or system, or other machine or device for the producing or reproducing of sound between the hours of 12:00 a.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located.

(3) Yelling, shouting, hooting, whistling and singing.

- a. Yelling, shouting, hooting, whistling or singing on the public streets or public areas or from private property or place so as to disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence or any persons in the vicinity, between the hours of 7:00 a.m. and 12:00 a.m., after having been warned to quiet or cease such noisemaking.
- b. Yelling, shouting, hooting, whistling or singing on the public streets or public areas or from private property in such a manner as to be plainly audible at a distance of fifty (50) feet from the public street, public area, building, structure or vehicle from which the noise emanates, between the hours of 12:00 a.m. and 7:00 a.m.

(4) The operation of any boat or other water vessel with an outboard motor or with an inboard motor, unless equipped with an adequately muffled exhaust system; or the use of any siren or other noise-producing or noise-amplifying instrument or mechanical device on a boat in such a manner that the peace and good order of the neighborhood is disturbed; provided, however, that nothing in this division shall be construed to prohibit the use of whistles, bells or horns as signals as required by the United States Motor Boat Act or other state or federal laws for the safe navigation of motor boats or vessels.

(5) Dangerous noise.

(Code 1972, § 67-2; Ord. No. 2012-2, 2-6-2012)

Sec. 30-272. - Responsibility of owner of premises.

It shall be unlawful for any person to knowingly permit the making, creation or maintenance of unreasonably loud noises in Section 30-271, or noise pollution upon any premises owned or possessed by him or under his control.

(Code 1972, § 67-3)

DIVISION 3. - BOARDWALK NOISE

Sec. 30-273. - Policy.

It is hereby declared to be the policy of the Mayor and City Council of Ocean City, Maryland, to prohibit and prevent noise pollution on the Boardwalk. The Boardwalk is a limited space geographically and constitutes a major tourist attraction in the Town of Ocean City, hosting approximately 8,000,000 visitors annually. During the peak months for tourists, the Boardwalk becomes highly congested with pedestrians walking along the Boardwalk visiting the shops, eateries, and attractions which the Boardwalk has to offer. Additionally, the Boardwalk is bordered by a variety of zoning uses which include commercial and residential districts. These competing interests require the Town of Ocean City to maintain appropriate noise levels. In an effort to address the issue of excessive noise on the Boardwalk that affects businesses and residences, it is necessary to establish restrictions on noise pollution on the Boardwalk. The ambient noise level on the Boardwalk is unique to the Town of Ocean City and to the State due to its distinctive historical, geographical, and physical characteristics, thus the Boardwalk requires its own set of rules and regulations different from other areas of the Town of Ocean City or the State. Noise pollution on the Boardwalk is detrimental to public health, safety and welfare and is contrary to the public interest, harms residents, the commercial life of the Boardwalk and the historic character of the Boardwalk and diminishes the quality of life for those who visit, live or work on or near the Boardwalk.

Sec. 30-274. – Prohibited.

(a) The following acts are hereby declared to be noise pollution in violation of this Article:

- (1) The using of, operating of or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, sound amplification device or system or other machine or device for the producing or reproducing of sound on or directed toward the Boardwalk and abutting properties in such a manner to exceed the ambient noise level by more than eleven (11) decibels as measured from fifteen (15) feet from the source, with said measurement being taken for ten (10) seconds, is deemed to be noise pollution disturbing the peace, quiet and comfort of other persons. The ambient noise level for the Boardwalk North of 12<sup>th</sup> Street is 59 dB(A). The ambient noise level for the Boardwalk South of 12<sup>th</sup> Street is 64 dB(A). Thus, no person shall cause the creation of any noise or allow the creation of any noise source from a radio receiving set, musical instrument, phonograph, sound amplification device or system or other machine or device to exceed the limits set forth as follows:

- a. Daytime Hours.



i. The Boardwalk Enforcement Area South of 12th Street; a noise level limit of 75 dB(A) Leq(10-sec).

ii. The Boardwalk Enforcement Area North of 12th Street; a noise level limit of 70 dB(A) Leq(10-sec).

b. Nighttime Hours.

i. Boardwalk Enforcement Area South of 12th Street; a noise level limit of 65 dB(A) Leq(10-sec).

ii. Boardwalk Enforcement Area North of 12th Street; a noise level limit of 60 dB(A) Leq(10-sec).

(2) Yelling, shouting, hooting, whistling or singing on the Boardwalk and abutting properties in such a manner to exceed the ambient noise level by more than eleven (11) decibels as measured from fifteen (15) feet from the source, with said measurement being taken for ten (10) seconds, is deemed to be noise pollution disturbing the peace, quiet and comfort of other persons. No person shall cause the creation of any noise or allow the creation of any noise source to exceed the limits set forth as follows:

a. Daytime Hours.

i. For the Boardwalk Enforcement Area South of 12th Street; a noise level limit of 75 dB(A) Leq(10-sec).

ii. For the Boardwalk Enforcement Area North of 12th Street; a noise level limit of 70 dB(A) Leq(10-sec).

b. Nighttime Hours.

i. For the Boardwalk Enforcement Area South of 12th Street; a noise level limit of 65 dB(A) Leq(10-sec).

ii. For the Boardwalk Enforcement Area North of 12th Street; a noise level limit of 60 dB(A) Leq(10-sec).

(3) Impulsive noise and low frequency noise on the Boardwalk and abutting properties.

a. No person shall cause any impulsive noise or allow the creation of any impulsive noise to exceed the limits set forth below:

i. Daytime Hours.

1. For the Boardwalk Enforcement Area South of 12th Street; a noise level limit of 85 dB(A) Lmax.

2. For the Boardwalk Enforcement Area North of 12th Street; a noise level limit of 80 dB(A) Lmax.

ii. Nighttime Hours.

1. For the Boardwalk Enforcement Area South of 12th Street; a noise level limit of 75 dB(A) Lmax,
2. For the Boardwalk Enforcement Area North of 12th Street; a noise level limit of 70 dB(A) Lmax.

- b. No person shall cause any low frequency noise or allow the creation of any low frequency noise to exceed the limits set forth below:

i. Daytime Hours.

1. For the Boardwalk Enforcement Area South of 12th Street; a noise level limit of 80 dB(C) Leq (10-sec).
2. For the Boardwalk Enforcement Area North of 12th Street; a noise level limit of 75 dB(C) Leq (10-sec).

ii. Nighttime Hours.

1. For the Boardwalk Enforcement Area South of 12th Street; a noise level limit of 70 dB(C) Leq (10-sec).
2. For the Boardwalk Enforcement Area North of 12th Street; a noise level limit of 65 dB(C) Leq (10-sec).

- c. Impulsive noise and low frequency noise in the Boardwalk Enforcement Area shall be measured at fifteen (15) feet from the noise source. Measurements that exceed the levels in this subsection are deemed to be noise pollution disturbing the peace, quiet and comfort of other persons.

(b) Alternate measurement distance. If circumstances require any of the above noise level limits to be measured at thirty (30) feet, the noise level limits in subsection (a) shall each be reduced by 6 dB(A) to determine if a noise level limit is being violated.

Secs. 30-275—30-300. - Reserved.

#### DIVISION 4. - DANCEHALLS AND NIGHTCLUBS

Sec. 30-301. - Soundproofing required.

It shall be unlawful for any person or persons, firm or corporation to operate, maintain or carry on as a business any dancehall or nightclub or any other business as a part of which or incidental to which dancing and entertainers are or any of them is offered for the entertainment of the patrons of such establishment, except in a room or rooms that has or have been so

soundproofed or have been so located or constructed that no noise emanates from such establishment which is in excess of 65 dB(A) in the daytime hours and 55 dB(A) in the nighttime hours at the adjoining property line or is plainly audible at a distance of fifty (50) feet from the establishment; and each day any such dancehall, nightclub or other business, as aforesaid, shall be operated, maintained or carried on in violation of this division shall constitute a separate offense.

(Code 1972, § 67-5)

Secs. 30-302—30-320. - Reserved.

## DIVISION 5. - MECHANICAL AND CONSTRUCTION NOISE<sup>[9]</sup>

Footnotes:

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**Cross reference**— Buildings and building regulations, ch. 10.

Sec. 30-321. - Policy.

It is hereby declared to be the policy of the Mayor and City Council of Ocean City, Maryland, to prohibit and prevent any unreasonable, loud, disturbing and unnecessary mechanical and construction noise for the purpose of securing and promoting public health, safety and welfare.

(Code 1972, § 67-7)

Sec. 30-322. - Definitions.

The following terms, whenever used herein, shall be used as follows unless a different meaning clearly appears from the context:

*Excavating machinery.* Any power-driven machinery used to excavate or dig into the ground or used to level or grade any ground site.

*Jackhammer.* Any power-driven device which is used to break up concrete or macadam, or which causes any metal object to strike any other metal object for the purpose of riveting, bolting or fastening together any two or more objects.

*Non-powered hand-operated tools.* Non-powered hand-operated tools such as hammers, shovels, hand saws, etc.

*Pile driver.* Any mechanism that is used to hammer, drive, or auger any type of piling into the ground.

*Powered mechanical tools.* Mechanical objects used in construction, drilling, repair, alteration, renovation, maintenance dredging, demolition and related practices.

Sec. 30-323. - Maximum noise level.

The operation of any tools used in construction, drilling, repair, alteration, renovation, maintenance, dredging, demolition and all related practices, except those specified in division 8 of this Article, creating noise in excess of 89 decibels at the adjoining property line is hereby prohibited.

(Code 1972, § 67-8)

Sec. 30-324. - Noise from powered mechanical tools.

Except as otherwise provided in section 30-326, the operation of powered mechanical tools is regulated as follows:

- (1) Between May 1 and September 30, the operation of mechanical tools is permitted only between 9:00 a.m. and 5:30 p.m.
- (2) Between October 1 and April 30, the operation of mechanical tools is permitted only between 7:00 a.m. and 5:30 p.m.
- (3) In no instance may the noise level from mechanical tools be in excess of 79 decibels at any adjoining property line.

Sec. 30-325. - Noise from non-powered hand-operated tools.

The operation of hand tools is regulated as follows:

- (1) Between May 1 and September 30, the operation of hand tools creating noise audible from an adjacent property is permitted only between 8:00 a.m. and 6:30 p.m.
- (2) Between October 1 and April 30, the operation of hand tools creating noise audible from an adjacent property is permitted only between 6:00 a.m. and 6:30 p.m.
- (3) In no instance may the noise level from hand tools be in excess of 79 decibels at any adjoining property.

Sec. 30-326. - Noise from pile drivers, excavating machines and jackhammers.

- (a) Between May 1 and September 30, persons, groups of persons, firms, companies, corporations or any other legal entities may operate, use or allow the operation of any pile driver, excavating machinery or jackhammer only between 10:00 a.m. and 2:00 p.m., Monday through Friday, and at no time on Saturdays, Sundays and holidays. The Mayor and City Council may grant a permit to operate such machinery during the ordinarily prohibited time if it determines that the project site is sufficiently distant from inhabited or occupied property and that such activity would not disturb the property occupants.
- (b) Between October 1 and April 30, the operation of pile drivers, excavating machinery and jackhammers shall be subject to the time limitations set forth in section 30-324(2), except on weekends. On Saturdays, Sundays and holidays operation is allowed only between 10:00 a.m. and 2:00 p.m.
- (c) In no event shall the operation of this machinery at any time create noise in excess of 89 decibels at the next inhabited or occupied property line.

Sec. 30-327. - Exceptions and applicability.

- (a) The requirements of this division shall not be construed to prevent the operation of properly muffled motor vehicles licensed for operation on the highways of this state.
- (b) The Mayor and City Council, by appropriate resolution, shall have the right to waive any and/or all of the requirements herein in cases of emergency where the welfare of persons or property may be jeopardized by their strict enforcement.
- (c) Nothing in this division shall be construed to create a prohibition against any use of Ocean City machinery, etc., or the noises emitting therefrom. The operation of municipal machinery and the noises emitting therefrom are hereby expressly exempted from the provisions of this division.

(Code 1972, § 67-12)

Secs. 30-328—30-340. - Reserved.

#### DIVISION 6. - SOUND AMPLIFIERS

Sec. 30-341. - Reserved.

(Code 1972, § 67-16)

Sec. 30-342. - Permit.

- (a) It shall be unlawful for any person or persons, firm or corporation to use or permit to be used for business purposes upon any public street, sidewalk, alley or way within the corporate limits of Ocean City any mechanical device for magnifying the human voice or music or other sounds without first having received a permit therefor from the Mayor and City Council of Ocean City.
- (b) Each application for such permit shall be addressed to the Mayor and City Council of Ocean City, accompanied by a fee of \$25.00, and shall set forth the date and the hours between which such use is to be made, the nature of the mechanical device to be employed for such purpose and the person to be in charge of the operation thereof.

(Code 1972, §§ 67-14, 67-15)

Secs. 30-343—30-360. - Reserved.

#### DIVISION 7. – RESIDENTIAL NOISE POLLUTION CONTROL

Sec. 30-361. - Policy.

It is hereby declared to be the policy of the Mayor and City Council of Ocean City, Maryland, to prohibit and prevent noise pollution for the purpose of securing and promoting public health, comfort, convenience, safety, welfare, peace and quiet in residentially zoned districts.

(Code 1972, § 67-17)

(Code 1972, § 67-24)

(Code 1972, § 67-23)

Sec. 30-362. - Measurement of noise levels in residential districts.

- (a) The measurement of noise levels shall be conducted at points on the property line of the source if the source is in a residential zoning district, or farther away, or on the boundary of a zoning district if the source emanates from property in a nonresidential zoning district into the residential zoning district, or farther away, or may be made on the premises of any property in a residentially zoned district reached by the sound waves from the noise emanating from the source.
- (b) If a residential zoning district overlaps the Boardwalk Enforcement Area, the Division 3 Boardwalk noise level limits control.

(Code 1972, § 67-20)

Sec. 30-363. - Maximum noise levels in residential districts.

The following sound/noise levels represent the maximum permissible levels in residential zoning districts. Levels exceeding said permissible levels are prohibited.

(1) *Noise prohibitions.*

- a. The creation or allowance of such creation within residential zoning districts R-1, R-2, R-2A, R-3, R-3A, MH and planned overlay districts of noise/sound levels in excess of 65 dB(A) during the daytime hours and 55 dB(A) during the nighttime hours is hereby prohibited.
- b. In situations where noise levels are measured at an interface or boundary line between a residential district and a nonresidential zoning district or where noise levels measured in a residential zoning district emanate from a source in another zoning district, the applicable permissible noise level at the point of measurement shall be the noise level permitted in the residential zoning district.
- c. It is prohibited for any person to cause, permit or allow any noise emanated by him/her or from property owned by him/her in any nonresidential zoning district to reach any residential zoning district at noise levels exceeding those as set forth in subsection (1)a above.

(2) *Exemptions.* This section shall not apply to the exemptions listed in section 30-254.

(Code 1972, § 67-19)

Secs. 30-364 — 30-380. - Reserved.

DIVISION 8. - RESIDENCES PROVIDING SHELTER TO TRANSIENT OR TEMPORARY POPULATION

Subdivision I. - In General

Sec. 30-381. - Legislative findings.

- (a) Acting pursuant to the powers granted in Article XI-E of the Constitution of Maryland, Ann. Code of Md., Local Government Article Section 5-201, et seq. and sections C-414 and C-1403 of the Charter (1972 edition, as amended), the Mayor and City Council of Ocean City ("Ocean City") has determined to regulate and control excessive noise within the corporate limits of Ocean City by establishing a permit procedure to ensure that owners of real property situated within the corporate limits of Ocean City and used to provide temporary shelter to Ocean City's transient and temporary population exercise due diligence in controlling noise on or emanating from their property and, in support thereof, adopts by reference the legislative findings and declarations of the general assembly of Maryland as set forth in Ann. Code of Md., Environment Article, § 3-102, and makes additional legislative findings as follows:
- (1) The health, comfort and well-being of the citizens of Ocean City have been severely and adversely affected for a substantial period of time by excessive noise within the corporate limits of Ocean City.
  - (2) The primary cause of this excessive noise is the transient population and temporary residents of Ocean City.
  - (3) Each owner of real property situated within the corporate limits of Ocean City and used to provide shelter on a temporary basis to this transient and temporary population has the obligation to control noise on or emanating from that property so that the community will not be injured by the use of that property.
  - (4) Any owner who is unwilling or unable to meet this obligation to control noise on or emanating from his property will hereafter not be permitted to use that property to provide shelter on a temporary basis to the transient and temporary population.
- (b) It is hereby declared that the provisions of this division constitute a reasonable, necessary and lawful means of eliminating the public nuisance described in subsection (a) of this section.

(Code 1972, § 67-26)

Sec. 30-382. - Applicability.

The provisions of this division shall apply to any person who owns a fee simple interest or a leasehold interest redeemable pursuant to the provisions of Ann. Code of Md., Real Property Article, § 8-110, in real property situated within the corporate limits of the Town of Ocean City, provided that such real property is used for the purpose of providing shelter on a temporary basis. Without in any manner limiting the generality of the foregoing, the provisions of this division shall apply to any person who owns such a fee simple or leasehold interest (herein referred to as the "owner" or "property owner") in any hotel, motel, motor hotel, apartment,

house, rooming house, boarding house or like facility, to the extent that such facility is used to provide shelter on a temporary basis. For purposes of this division, "person" shall include any individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity, and "real property" shall be deemed to be used for the purpose of providing shelter on a temporary basis if there exists with respect to such property any lease, contract, agreement or understanding, written or oral, that gives an individual or group of individuals the right or privilege to occupy the property, for any period between May 1 and September 30 of any given year, for the purpose of using the property as a temporary residence, dwelling, refuge or shelter, but not the entire period from May 1 to September 30 of the following year.

(Code 1972, § 67-27)

Sec. 30-383. - Notification to owners and tenants of noise level standards.

Notice of the provisions of this division shall be given in the following manner:

- (1) All real estate sales contracts applying to property situated within the corporate limits of Ocean City shall contain the following provision: "All persons who own property in Ocean City, if such property is used to provide houses, apartments or rooms to tenants or guests for periods of one year or less, must obtain a permit from the Town of Ocean City, Maryland. Failure to take prompt action to control excessive noise caused by tenants or guests may result in permit denial."
- (2) All written leases, contracts, and agreements that give individuals or groups of individuals the right or privilege to occupy real property for a period of one year or less for the purpose of using such property as a temporary residence, dwelling, refuge or shelter shall contain the following provisions: "Ocean City has adopted a noise control ordinance that makes it unlawful to cause or permit noise levels which exceed those established by the Department of the Environment of the State of Maryland (COMAR 26.02.03.02) or are in violation of Chapter 30, Article V of the Town Code. It shall be a violation of this agreement and grounds for eviction under Maryland law if these noise levels are exceeded as a result of activity on this property. Ocean City has other noise ordinances, which are criminal offenses if violated."
- (3) All hotels, motels, motor hotels and other facilities that let rooms by the day shall advise their guests in writing prior to registration that:
  - a. Ocean City has adopted a noise control ordinance that makes it unlawful to cause or permit noise levels which exceed those established by the Department of the Environment of the State of Maryland (COMAR 26.02.03.02), or are in violation of Chapter 30, Article V of the Town Code.
  - b. Any guest causing or permitting these noise levels to be exceeded shall be subject to immediate removal or eviction, pursuant to Maryland law.
- (4) All real estate agents shall advise prospective lessees of short term rental property in writing that Ocean City has adopted a noise control ordinance that makes it unlawful to cause or permit noise levels which exceed those established by the Department of the Environment of the State of Maryland (COMAR 26.02.03.02) or are in violation of



Chapter 30, Article V of the Town Code, and that it shall be a violation of the rental agreement and grounds for eviction under Maryland law if these noise levels are exceeded as a result of activity on this property; and further, that Ocean City has other noise ordinances, which are criminal offenses if violated.

(Code 1972, § 67-34; Ord. No. 2008-5, 3-3-2008)

Sec. 30-384. - Maximum noise levels; responsibilities of property owner; procedure upon determination of excessive noise level.

- (a) The maximum allowable noise levels established by regulation of the Department of the Environment of the State of Maryland as set forth in COMAR 26.02.03.02 or other noise level limits or standards set forth in this Article are hereby adopted as the noise limitations applicable for purposes of this division. Each person to whom this division applies shall exercise due diligence to ensure that these noise levels are not exceeded with respect to any property in which the person owns a fee simple interest or a leasehold interest as described in section 30-382 of this division.
- (b) Whenever it is determined by a police officer that noise on or emanating from any real property situated within the corporate limits of Ocean City exceeds the limitations established in subsection (a) of this section and that such property is subject to the permit requirement established by section 30-401 of this division, and the police officer issues a warning, a citation or makes an arrest, the Department shall notify the owner or his resident agent, by certified mail return receipt requested, as soon as may be practical, of the incident. The letter shall state the date and time of measurement or hearing and the names, if ascertainable of those present on the property at the time the noise level was measured or heard and determined to be excessive. If the police officer issued a citation or arrested any person on the property, the Noise Control Board shall request the property owner to attend a meeting with the Noise Control Board. The Noise Control Board shall send notice of the meeting to the property owner at his last known address and said notice shall be by certified mail, return receipt requested, at least seven (7) days prior to the meeting.
- (c) Any determination that a noise level limit has been exceeded or Article V has been violated shall be based exclusively on measurements made by a police officer of the Department in accordance with the procedures established by the Department of the Environment of the State of Maryland in COMAR 26.02.03, standards set forth in this Article or by hearing same by an Ocean City police officer.

(Code 1972, § 67-33; Ord. No. 2008-5, 3-3-2008)

Secs. 30-385—30-400. - Reserved.

Subdivision II. - Permit

Sec. 30-401. - Required.

- (1) No real property situated within the corporate limits of the Town of Ocean City shall be used to provide shelter on a temporary basis unless a permit for such use shall have been

issued by the Town and the permit control number shall be conspicuously displayed either on the front door or on a window adjacent to the front door which is clearly visible to a person standing at the front door of said real property, in a manner prescribed and provided by the Town.

- (2) In a multiple-family dwelling with an entrance to a common lobby area serving each dwelling unit, which has on site personnel 24 hours each day, the permit posting requirement of subsection 30-401(1) hereof can be satisfied by maintaining a book of all rental dwellings, which contains the permit control number for each dwelling unit, and which is available for inspection by enforcement personnel, in a manner prescribed and provided by the Town.

(Code 1972, § 67-28; Ord. No. 2012-7, 2-21-2012; Ord. No. 2012-21, 6-4-2012)

Sec. 30-402. - Required information; issuance.

- (a) On or before May 1 for residential rentals or on or before June 1 for business rentals, of each year, there shall be filed with the Town with respect to any real property situated within the corporate limits of Ocean City and used for the purpose of providing shelter on a temporary basis the following information, together with a fee established by the Mayor and City Council to cover administrative costs:
  - (1) Name, permanent address and telephone number of the owner or owners.
  - (2) Location and general description of the property.
  - (3) If required as part of an approved plan for compliance pursuant to subsection 30-403(b), hereof, the name, address and telephone number of a resident agent, who must reside in the State of Maryland within thirty (30) miles of Ocean City (if there is no owner who maintains a permanent residence in Ocean City). If a resident agent is required but is not provided, any notices provided for hereunder shall be mailed (certified mail, return receipt requested) to the last known address of the property owner.
- (b) On or before May 1 for residential rentals or on or before June 1 for business rentals, the Town shall issue a new permit authorizing any new property with respect to which the information required by subsection (a) of this section shall have been timely submitted to be used for the purpose of providing shelter on a temporary basis.

(Code 1972, § 67-29; Ord. No. 2002-5, 4-1-2002; Ord. No. 2013-1, 2-4-2013; Ord. No. 2013-7, 4-15-2013)

Sec. 30-403. - Term; renewal; grounds for denial or nonrenewal.

- (a) A permit issued pursuant to section 30-402 of this division shall be valid until April 30 for residential rentals or May 31 for business rentals of the succeeding year and, upon receipt of the fee established by the Mayor and City Council to cover administrative costs, shall be renewed for successive one-year periods if the following conditions are met to the satisfaction of the Noise Control Board:

- (1) The information specified in section 30-402 shall have been revised as necessary and kept current.
  - (2) The Noise Control Board shall have determined that the owner of the property with respect to which the permit is issued has exercised due diligence during the preceding permit year in controlling the noise on or emanating from the property.
- (b) If, during the preceding permit year, the owner of any property for which there must be a permit pursuant to section 30-401 of this division has received two or more notices letters from the Noise Control Board related to the noise level limits set forth in section 30-384 of this division and has failed to take prompt action to control the noise on or emanating from the property following receipt of the notice letters of any such violation (including, without limitation, evicting or removing violators), or has allowed the property to be occupied by an individual or group of individuals known to the owner from past experience to have violated the noise level limits set forth in section 30-384 of this division, or has willfully or negligently violated any term or condition of a plan for compliance approved by the Noise Control Board pursuant to section 30-404 of this division, the Noise Control Board may conclude that due diligence has not been exercised. If the Noise Control Board has reason to believe that the owner has failed to exercise due diligence in controlling noise on or emanating from the property, the Noise Control Board shall notify the owner in writing and shall provide him with the opportunity to appear before the Noise Control Board to show cause why the Noise Control Board should not recommend to the Town that their permit shall not be renewed. Notifications of hearings shall be mailed, certified mail, return receipt requested to the resident agent or the property owner, at his last known address, on or before February 1, and any hearings conducted thereon shall be held on or before April 1. Following an administrative hearing conducted in accordance with applicable provisions of the State Administrative Procedure Act, Ann. Code of Md., State Government Article, tit. 10, subtit. 1—4 (Ann. Code of Md., State Government Article, § 10-101 et seq.), the Noise Control Board may either recommend renewal of the permit with such conditions as the Noise Control Board deems reasonable and necessary to effect the purposes of this division or recommend denial of the permit renewal.

(Code 1972, § 67-30; Ord. No. 1996-10, 5-20-1996; Ord. No. 2002-5, 4-1-2002)

Sec. 30-404. - Submission of plan for compliance; violation of plan for compliance.

- (a) Any person to whom this division applies may at any time apply for and shall be granted a permit in accordance with section 30-402 of this division; provided, however, that if the person so applying has been refused a permit by the Town within the preceding 12 months for failure to exercise due diligence in controlling noise on or emanating from any property in which the person at the time of refusal owned a fee simple interest or a leasehold interest as described in section 30-382 of this division, the Town shall not grant a permit pursuant to section 30-402 of this division until such time as the person applying for the permit has submitted and the Noise Control Board has approved a plan for compliance to ensure that due diligence in controlling noise on or emanating from the property for which the permit is to be granted will be exercised as required by section 30-384(a) of this division. The Noise Control Board may also require that a plan for compliance be submitted and approved as a precondition to the Town granting a permit pursuant to section 30-402 of this division if,

with respect to the property for which the permit is to be granted, the Town has refused a permit within the preceding 12 months because due diligence in controlling noise pollution on or emanating from the property has not been exercised as required by section 30-384(a) of this division. Any plan for compliance submitted to the Noise Control Board under the provisions of this subsection shall be approved or disapproved by the Noise Control Board within thirty (30) days following the date of submission. Any person whose plan for compliance is disapproved by the Noise Control Board may request within thirty (30) days and, upon request, shall be granted within thirty (30) days of the date of request an administrative hearing conducted in accordance with the applicable provisions of the State Administrative Procedure Act, Ann. Code of Md., State Government Article, tit. 10, subtit. 1—4 (Ann. Code of Md., State Government Article, § 10-101 et seq.).

- (b) Notwithstanding any other provision of this division, the Town may decline to grant a permit to any person who has willfully or negligently violated any term or condition of a plan for compliance approved by the Noise Control Board or to any successor, assignee or principal shareholder of or to any business entity related to a person who has willfully or negligently violated any term or condition of a plan of compliance approved by the board.

(Code 1972, § 67-31)

#### Sec. 30-405. - Violations.

- (1) It shall be a municipal infraction, in accordance with section 1-8 of this Code, for the owner of any property for which there must be a permit issued by the Town pursuant to section 30-401 of this division to fail to exercise due diligence, within the meaning of section 30-403, in controlling noise on or emanating from his property, and said infraction shall be punishable by a fine not to exceed \$1,000.00. Each day an offense continues is a separate offense.
- (2) If the Noise Control Board determines that the owner of any such property has failed to exercise due diligence, the Noise Control Board may, in addition to any actions it may take under section 30-403 direct the police officer to issue a citation to the property owner, citing the facts supporting the Noise Control Board's conclusion. The citation shall contain the information required by section 1-8 of this Code. The citation is payable within fifteen (15) calendar days of receipt of the citation. A person receiving the citation may elect to stand trial for the offense by notifying Ocean City of his intention of standing trial. The notice shall be given at least five (5) days prior to the date of payment of as set forth in the citation. Upon receipt of the notice of the intention to stand trial, Ocean City shall forward to the District Court a copy of the citation and the notice from the person who received the citation indicating his intention to stand trial. Upon receipt of the citation, the District Court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties or forfeitures collected by the District Court for violations of municipal infractions shall be remitted to the Town.
- (3) If a second or greater incident occurs where the property owner fails to exercise due diligence, within the meaning of section 30-403, in controlling noise pollution on or emanating from his property, the property owner is required to appear before the Noise Control Board. The Noise Control Board shall send notice of the hearing to the property

owner at his last known address and said notice shall be by certified mail, return receipt requested, at least seven (7) days prior to the hearing. If the property owner is unable to attend the scheduled Noise Control Board meeting, the property owner must contact the Noise Control Board and reschedule. If the property owner fails to appear or reschedule, then the second or greater incident shall be cited by the Department and shall be punishable by a fine of one thousand dollars (\$1,000.00) and processed in accordance with section 1-8 of this Code. The property owner shall reschedule within ten (10) days of receipt of formal notice. If the property owner does so and appears before the Noise Control Board, then this citation will be rescinded.

- (4) In addition to other remedies provided in this division, the Mayor and City Council of Ocean City may institute an action for injunctive relief in the Circuit Court for Worcester County against any person to whom this division applies for the purpose of enforcing the provisions of this division. Any person required to obtain the aforesaid permit who does not obtain and display same shall not be entitled to obtain a rental license and/or business license under Chapter 14, Article II of this Code.

(Code 1972, § 67-30.1; Ord. No. 2012-32, 12-17-2012)

**State Law reference**— Penalties for ordinance violations, Ann. Code of Md. Local Government Article §6-102, et seq.

Sec. 30-406. - Appeals; issuance of temporary permit.

Any person aggrieved by a final decision of the Town or Noise Control Board may appeal that decision in accordance with section C-1403.D of the Charter. If an appeal is taken from a refusal to grant or to renew a permit, the Town shall grant a temporary permit to use the subject property to provide shelter on a temporary basis until such time as a final decision is rendered with respect to that appeal.

(Code 1972, § 67-32)

Secs. 30-407—30-500. - Reserved.