

**Town of Chevy Chase
Noise Control Ordinance**

Resolution No.: ~~09-10~~ ¹⁰⁻⁰¹
Introduced: December 9, 2009
Amended: January 13, 2010
Adopted: February 18, 2010
Effective Date: March 20, 2010

WHEREAS, Section 2(a) of Article 23A of the Maryland Code grants to the legislative body of every incorporated municipality in Maryland, including the Town of Chevy Chase, general power to pass such ordinances not contrary to the Constitution of Maryland or public general law as they may deem necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort, and convenience of the citizens of the municipality; and

WHEREAS, Section 301(a) of the Charter of the Town of Chevy Chase authorizes the Town Council to pass ordinances as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and for such other police or health matters as it may deem necessary; and

WHEREAS, due to the frequency of noise complaints from Town residents, the Town Council, at recent meetings, has been discussing the impact of noise from construction activities, motor vehicles and outdoor power equipment, such as lawn mowers, chainsaws, leaf blowers and other motorized equipment and devices, on the public health, safety and welfare of residents; and

WHEREAS, Chapter 31B of the Montgomery County Code (2004), as amended, regulates outdoor ambient noise levels; and

WHEREAS, pursuant to Section 1-7 of the Town Code, the Noise Control Ordinance of Montgomery County, Maryland (Chapter 31B of the Montgomery County Code), and all regulations adopted pursuant thereto, are applicable within the Town; and

WHEREAS, the Town's Environment Committee examined day-to-day noise in the Town and identified construction noise and lawn service equipment, especially leaf blowers, as significant noise problems in the Town that are not adequately controlled by Montgomery County; and

WHEREAS, the Town Council provided residents and other interested parties with opportunities to provide input to the Council regarding amending the Town Code with respect to noise; and

WHEREAS, at the request of the Town Council, the Town Manager presented a proposal for a noise control ordinance at the September 2009 Council meeting; and

WHEREAS, after proper notice to the public, the Town Council held a public hearing and considered the ordinance proposed by the Town Manager in an open meeting conducted on the 13th day of January, 2010; and

WHEREAS, as a result of public comments received on and before January 13, 2010, the Town Council found that certain amendments to the ordinance proposed by the Town Manager would be in the public interest; and

WHEREAS, an amended ordinance was prepared and submitted to the public for comment; and

WHEREAS, after proper notice to the public, the Town Council held a public hearing and considered the amended ordinance in an open meeting conducted on the 18th day of February, 2010; and

WHEREAS, upon consideration of the Environment Committee's and Town Manager's findings and recommendations, as well as the input received from the public in writing and in open meetings and public hearings held by the Town Council, the Town Council finds that construction activities and other sources of noise, such as the operation of power equipment such as a lawnmower, chainsaw, leaf blower or other motorized equipment or device at certain times, unnecessarily disturb the serenity, comfort and repose of Town residents, interfere with the peaceful use and enjoyment of property in the Town and constitute an auditory nuisance; and

WHEREAS, the Town Council finds that the ordinance as hereinafter set forth is necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the Town; and

NOW, THEREFORE, the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Article 23A of the Maryland Code and Section 301 of the Town Charter, does hereby adopt the following ordinance:

AN ORDINANCE TO ENACT A NEW CHAPTER 16 OF THE TOWN OF CHEVY CHASE MUNICIPAL CODE TO PROVIDE FOR THE REGULATION OF NOISE WITHIN THE TOWN OF CHEVY CHASE; TO RESTRICT THE HOURS OF CONSTRUCTION ACTIVITIES AND ESTABLISH SPECIAL NOISE LIMITS; TO AUTHORIZE ENFORCEMENT OF THIS ORDINANCE WITHIN THE TOWN OF CHEVY CHASE BY MONTGOMERY COUNTY, MARYLAND; AND TO RE-

NUMBER EXISTING CHAPTER 16 TITLED "NUISANCES"
AS CHAPTER 17.

SECTION 1. BE IT ORDAINED AND ORDERED, this 18th day of February 2010, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Article 23A of the Maryland Code and Section 301 of the Town Charter, that a new Chapter 16 entitled "Noise Control" is enacted as follows:

Chapter 16

NOISE CONTROL

Sec. 16-1 Noise Restrictions

Sec. 16-2 Authorization to Administer and Enforce

Sec. 16-3 Other Ordinances

Sec. 16-1 Noise Restrictions

The following provisions shall apply in the Town of Chevy Chase in addition to the provisions of Chapter 31B of the Montgomery County Code:

- (a) No construction activities shall commence prior to 7:00 a.m. on weekdays, and 9:00 a.m. on weekends and all federal holidays. Construction activities shall end no later than 7:00 p.m. on all days. As used herein, "construction activities" means temporary activities directly associated with site preparation, assembly, erection, repair, alteration, renovation, construction, or demolition of improvements, or other similar activities, including but not limited to, moving heavy equipment, delivering materials, loading or unloading, operating equipment with audible "back-up" warning devices, and allowing engines to idle.
- (b) Special Noise Limits: It shall be unlawful for any person to engage in, or permit another to engage in, the following conduct:
 - 1. Except in an emergency, operate more than one piece of outdoor landscaping power equipment on a property between the hours of 7:00 p.m. and 8:00 p.m. on weekdays; and

2. Except in an emergency, operate outdoor landscaping power equipment after 8:00 p.m. or before 8:00 a.m. on weekdays or after 7:00 p.m. or before 9:00 a.m. on weekends and all federal holidays.

3. As used herein, "outdoor landscaping power equipment" means motorized equipment such as a lawn mower, chainsaw, leaf blower or other similar equipment. "Outdoor landscaping power equipment" does not include motor vehicles or fixtures such as air conditioners, heat pumps, back- up generators and similar equipment attached to a building.

(c) Penalties. Violation of any provision of this chapter shall be a municipal infraction. Any person or persons guilty of a municipal infraction shall be subject to a fine in the amount specified below:

(1) First violation \$ 200.00

(2) Second violation \$ 400.00

(3) Third violation \$1,000.00

(4) Any person who violates this chapter or directs or allows another to commit an act that violates this chapter, the person's employer if the person acted in the course of his or her employment, and any property owner who allows a violation of this chapter on his or her property shall be guilty of a violation and shall be jointly and severally subject to the penalties provided in paragraphs (1) through (3). If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation.

(d) An enforcement officer may issue a municipal infraction citation for any violation of this Chapter if the enforcement officer:

(1) witnesses the violation; or

(2) receives written complaints from at least 2 witnesses, who are not residents at the same address, of a noise disturbance. Complaints by 2 witnesses are required to issue a citation under this paragraph, but are not required to prove that a person violated this Chapter. The complainants must be willing to testify in court, if required.

Sec. 16-2 Authorization to Administer and Enforce

Montgomery County, Maryland, is hereby requested and authorized to administer and enforce the Town Noise Control Code within the incorporated limits of the Town as

fully and to the same extent as the Montgomery County Noise Control Code is administered and enforced in Montgomery County, Maryland.

Sec. 16-3 Other Ordinances

Nothing herein contained shall in any way be construed as exempting compliance with any other applicable Town ordinance now or hereafter enacted.

SECTION 2. BE IT FURTHERED ORDAINED AND ORDERED, this 18th day of February, 2010, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Article 23A of the Maryland Code and Section 301 of the Town Charter, that Chapter 16 titled "Nuisances" be renumbered as follows:

Chapter [16] 17 NUISANCES*

* * *

Sec. [16-1] 17-1. Rubbish accumulation prohibited.

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Sec. [16-2] 17-2. Dangerous buildings.

* * *

SECTION 3. AND BE IT FURTHER ORDAINED AND ORDERED, this 18th day of February, 2010, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Article 23A of the Maryland Code and the Town Charter, that:

- (1) Pursuant to Section 209 of the Town Charter, the Town Manager is directed to distribute this ordinance or a fair summary of this ordinance to each household within the Town; and
- (2) If any part or provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and
- (3) This ordinance shall take effect on the 20th day of March, 2010.

ATTEST:

TOWN OF CHEVY CHASE



Patricia Burda, Secretary



Kathy Strom, Mayor
Town of Chevy Chase

Bold and Underline indicates new material
[] indicates material deleted
* * * indicates material unchanged