

*Mayor and Town Council
Town of Friendsville*

*P.O. Box 9
Friendsville, MD 21531*

Founded 1756

**ORDINANCE NO. 2018-1
NOISE**

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF FRIENDSVILLE REGULATING THE LEVELS OF NOISE WITHIN THE TOWN OF FRIENDSVILLE; REPEALING ALL OTHER ORDINANCES AND RESOLUTIONS REGULATING NOISE; MAKING THE VIOLATION OF THIS ORDINANCE A MUNICIPAL INFRACTION.

WHEREAS, the Mayor and Town Council of Friendsville is authorized by Article 23 A of the Maryland Annotated Code and by the Friendsville Town Charter to enact ordinances to protect the health, safety and welfare of residents and visitors to the Town of Friendsville;

WHEREAS, the Mayor and Town Council of Friendsville has received complaints about excessive noise within the Town of Friendsville and finds that excessive noise can be a hazard to the health, safety and welfare of the residents and visitors to the Town of Friendsville;

NOW, THEREFORE, THE MAYOR AND TOWN COUNCIL OF FRIENDSVILLE, DOES ORDAIN AND RESOLVE THE FOLLOWING:

ARTICLE ONE

REPEAL OF PRIOR ORDINANCES AND RESOLUTIONS

Any and all other ordinances and resolutions enacted and adopted by the Mayor and Town Council of Friendsville regulating noise, prior to the enactment of this ordinance, are hereby repealed.

ARTICLE TWO

DEFINITIONS

Section 1. "Construction" shall mean any legitimate construction project, such as the construction of a building, a public works project, utilities and the like. It shall not include cutting firewood with chainsaws, or operating other equipment or power tools for the purposes other than construction. It shall include any and all activities incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads, or appurtenances thereto, including land clearing, grading, excavating and filling.

Section 2. "Daytime hours" shall mean those hours between 7:00 A.M. and 9:00 P.M. local time.

Section 3. "Emergency work" shall mean work made necessary to restore property to a safe condition following a public calamity, severe weather event, natural disaster or work required to protect persons or property from an eminent exposure to danger.

Section 4. "Night time hours" shall mean those hours between 9:00 P.M. and 7:00 A.M. local time.

ARTICLE THREE

NOISE PROHIBITIONS

Section One

a. The provisions of this Ordinance shall apply to all areas within the Town of Friendsville pursuant to the authority granted to the Town by Section 2 (23) of Article 23 A of the Annotated Code of Maryland, 2001 Replacement Volume, unless such authority interferes with the exercise of its municipal power by some other municipal corporation.

b. Excessive noise, as defined in Article Four hereof is hereby prohibited within the Town of Friendsville, except as may be specifically exempted herein. No person shall make, emit, create, or otherwise cause excessive noise within the Town of Friendsville.

Section Two

a. Inasmuch as the State of Maryland, pursuant to Section 3-102 of the Environmental Article, has found that the people of this State have the right to an environment that is free from any noise that may jeopardize their health, general welfare or property or degrades the quality of their lives; and the State has also determined that there is a substantial body of knowledge about the adverse effects of excessive noise on the public health, general welfare and property and that this knowledge should be used to develop rules and regulations to control excessive noise, the Town of Friendsville hereby declares excessive noise within the Town limits to be a public nuisance.

b. No property owner or manager shall allow excessive noise to be created, emitted, or otherwise caused on the premises owned and/or managed by him or her, but shall take reasonable steps to abate such noise after having been given notice of violation hereof.

c. Where an offending noise is located within a building or other structure or situated so that an enforcing police officer or code enforcement officer cannot readily see the source of said noise, the owner, occupant, resident, manager or other person in charge of the premises shall, if present, be presumed to have created or allowed the noise in the absence of evidence to the contrary.

Section Three

a. It shall be unlawful for any person to make, continue or cause to be made or continued, any loud, unnecessary or unusual noise or any noise which endangers the health, safety or welfare of the community or which the noise disturbs, injures or endangers the comfort, health, peace or safety of others within the Town of Friendsville.

ARTICLE FOUR

UNLAWFUL ACTS

The following acts, among others, are declared to be violations of Article Three, Section Three hereof, and are declared to be loud, unnecessary, disturbing and a danger to health, safety and welfare of the community and its people in violation of Article Three, Section Three. The enumeration herein shall not be deemed to be exclusive.

a. Using, operating or permitting to be played, used or operated any radio, television, hi-fi, stereo, phonograph or other machine or device for the producing or reproducing of sound in a manner as to disturb the peace, quiet and comfort of any persons in the vicinity. The operation of any such machine or device in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, device or vehicle in which it is located shall be prima facie evidence of a violation of this Section. Any person who causes the production of said sound through the operation of the machines or devices enumerated herein may be deemed a violator of this Ordinance.

b. Yelling, shouting, hooting, whistling or singing or the making of loud and disturbing noises by the use of clappers, bells, horns, musical instruments or similar devices at any time or place so as to unreasonably annoy or disturb the quiet, comfort or rest of any person in any residence, hospital, school, place of business, street or public place.

c. Racing any motorcycle, go-carts, race car or any other vehicle where the sound thereof can be heard at any time, night or day, more than 150 feet beyond the property line of the premises on which such racing is conducted. For the purposes of this paragraph, racing shall include racing against other vehicles, timed racing, racing against the clock or any other form of competition involving any of the vehicles mentioned herein.

d. The keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort or repose of any person in the vicinity.

e. The use of any automobile, motorcycle, truck or vehicle so out of repair or loaded, or operated in such a manner, as to create loud and unnecessary grating, grinding, rattling or other noise.

f. The creation of loud and excessive noises in connection with the loading or unloading of any vehicle or the operating and distraction of bales, crates and containers.

g. The operation or use of any power lawnmower, chainsaw, fencepost driller or the like between the night time hours of 9:00 P.M. and 7:00 A.M., where the sound thereof is audible 150 feet from the property line of the premises on which such activity is conducted.

h. Any of the following activities when occurring in close proximity to residences between 9:00 P.M. and 7:00 A.M.; the warming up or idling of buses, trucks or tractors and the unnecessary or unreasonable or repeated idling, acceleration and deceleration or starting and stopping of automobiles and motorcycles.

i. Using, operating or permitting to be played, used or operated, any receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, tape recorder or other machine or device for the producing or reproducing of sound which is left upon the public streets for the purposes of commercial advertising or for any other purpose except as authorized by the government or in public emergencies, provided that such devices may be employed in connection with nonprofit charitable, educational, civic, religious or recreational activities in accordance with permits first obtained thereof from the Town Office pursuant to Article Five hereof.

J. Outdoor concerts, except in accordance with permits first obtained therefore from the Town Office pursuant to Article Five hereof.

k. The construction, excavation, grading, paving, erection, demolition, alteration or repair of any premises, street, building or structure at any time on Sundays or other than between the hours of 7:00 A.M. and 6:00 P.M. on Saturdays or between the daytime hours of 7:00 A.M. and 9:00 P.M. on all other days, except in case of urgent necessity in the interest of public health and safety when emergency work is essential and, if the nature of the emergency will admit to prior procurement of a permit, then only in accordance with a permit first obtained from the Mayor and Town Council of Friendsville. Such a permit may be granted for a period not to exceed three (3) days or less while the emergency continues. Notwithstanding the foregoing, if the Mayor and Town Council shall determine that the public health and safety will not be impaired by such work within the prohibited hours and that loss or inconvenience would result to any party in interest, they may grant permission for such work to be done within the prohibited hours upon application being made at the time the permit for work is issued or during the progress of the work. The provisions of this subsection shall not apply to interior or exterior repairs or to interior alterations, the work for which is actually performed by a homeowner or occupant personally, between the hours of 7:00 A.M. and 9:00 P.M., upon residential premises that are owned by such occupant, provided that the work shall be done without undue noise or disturbance of peace and quiet of the neighborhood.

l. The creation of any excessive noise on any street or property adjacent to any school, institution of learning, church or court while the same is in use.

m. Public school activities are exempt from this Ordinance except between the hours of 11:00 P.M. and 8:00 A.M.

ARTICLE FIVE

PERMITS

The Mayor and Town Council may issue a permit exempting any public function or other activity from the provisions of this Ordinance when, in the judgement of the Mayor and Town Council, it is in the public interest to do so.

a. Permits shall be applied for at the Town Hall no less than forty-eight (48) hours prior to the event which is to be exempted.

b. The mayor and Town Council shall not be empowered hereunder to issue any permit containing an exemption from the provision of this Ordinance for any hours between 10:00 P.M. and 8:00 A.M. Any permit issued hereunder shall state clearly on the face thereof the details of the exemption, the limitations thereon, and any special conditions imposed. In the event that any limitations are violated or any special conditions are not met, the exemption shall be null and void, and the activity for which the permit is issued shall be subject to the provisions of this Ordinance.

ARTICLE SIX

ENFORCEMENT OF PENALTIES

Section One **Enforcement**

This Ordinance shall be enforced by any police officer or code enforcement officer having jurisdiction within the corporate limits of the Town of Friendsville.

Section Two **Warnings**

Any police officer or code enforcement officer enforcing this Ordinance, if he or she has probable cause to believe the prima facie violation hereof has been committed in his or her presence, view or hearing, may warn the apparent perpetrator or perpetrators to cease such noise as violates this Ordinance. In the event the violation persists after such warning, the police officer or code enforcement officer shall issue a citation as hereunder provided.

Section Three **Municipal Infraction**

Any person violating provisions of this Ordinance shall be guilty of a Municipal Infraction.

Section Four
Penalties

The following penalties shall apply to any violation of this Ordinance:

- a.) For the First Offense: A fine of \$50.
- b.) For the Second Offense: A fine of \$250
- c.) For the Third Offense: A fine of \$500

Section Five
Continuing Offenses

Each hour any violation of any provision of this Ordinance shall continue after citation for said offense shall constitute a separate offense hereof.

ARTICLE SEVEN

ENACTMENT

IT IS HEREBY ORDAINED AND RESOLVED, this ordinance shall be in full force and in effect after introduction, advertising, public hearing and approval as provided by law.

BE IT FURTHER RESOLVED, this ordinance shall be duly advertised in accordance with the policy for the Adoption of Ordinances by the Mayor and Town Council of Friendsville, and a public hearing on this Ordinance shall be held on (April 16, 2018), at the Town Hall located at 313 Chestnut Street in Friendsville, Maryland 21531.

INTRODUCED this 2nd day of April, 2018.

SECOND READING AND ADOPTION this 16th day of April, 2018.

AND BE IT FURTHER RESOLVED, this ordinance shall be effective upon adoption.

THIS ORDINANCE IS SUBJECT TO REFERENDUM AS OUTLINED IN ARTICLE 23A, SECTIONS 11 THROUGH 17.

ATTEST:

MAYOR and TOWN COUNCIL OF FRIENDSVILLE

Karen S. Benedict, Clerk Treasurer

Spencer R. Schlosnagle, Mayor

Pamela S. Humberson, Council President

Edward B. Kelley, Council Member

Sheryl A. MacLane, Council Member

Julia V. Sines, Council Member

Robert H. Sines, Council Member

Jess Whittemore, Council Member