

Chapter 216

NOISE

[HISTORY: Adopted by The Commissioners of St. Michaels 3-23-2005 by Ord. No. 314; amended in its entirety 8-23-2006 by Ord. No. 342. Subsequent amendments noted where applicable.]

§ 216-1. Short title.

This chapter shall be known and may be cited as the "Noise Control Ordinance."

§ 216-2. Findings.

This chapter was passed by The Commissioners of St. Michaels in recognition that the people, business owners, and visitors of the Town have a right to an environment that is free from excessive noise, which jeopardizes their health, general welfare, or property, or otherwise degrades the quality of their lives in the Town.

§ 216-3. Definitions and word usage.

For the purposes of this chapter, the following words, terms, phrases, and their derivations shall have the meaning given herein. **See 340-10. When not inconsistent with the context, words used in the present tense include the future tense, words used in the plural number include the singular number, words used in the singular number include the plural number, and the pronoun of any gender shall include all other genders. The word "shall" is always mandatory and not merely directory.**

AGENT — A person who has been expressly authorized, or placed in a position, by another person (called the "principal") to act for the principal. An agent shall include an employee acting within the actual or apparent scope of his employment for his employer; an officer of a corporation or other legal entity acting within the scope of his actual or apparent authority; and a person who is expressly placed in a position of, or allowed to act in, temporary control of property by a person who has the legal right to control or occupy that property.

COMMERCIAL CONTRACTOR — Persons **who are licensed by the State of Maryland,** who, for a fee, use tools and machinery in the construction, drilling, repair, alteration, renovation, maintenance, dredging, pile driving, or demolition of structures and property.[Added 3-14-2018 by Ord. No. 488]

COMMERCIAL LAWN CARE CONTRACTOR — Persons who, for a fee, use mowers and tractors for the purpose of cutting grass, and provide other miscellaneous services associated with lawn maintenance.[Added 12-10-2014 by Ord. No. 454]

COMMISSIONERS — The governing body of the Town of St. Michaels, Maryland.

dba — **The abbreviation for the sound level in decibels by the A-weighting network of a sound level meter or by calculation from octave band or one-third octave band.**[Added 12-10-2014 by Ord. No. 454]

DECIBEL (dB) — **A unit of measure equal to 10 times the logarithm to the base 10 of the ratio of the square of the sound pressure to the square of a standard reference pressure. For the purpose of this chapter, 20 micro pascals shall be the standard**

reference pressure. [Added 10-8-2014 by Ord. No. 455]

NOISE — The intensity, frequency, duration, and character of sound, including sound and vibration of subaudible frequencies.

NOISE POLLUTION

A. ~~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; or~~

B. ~~Sound in such intensity, frequency, duration and/or character as to fit the description of noise pollution in § 216-5 of this chapter.~~

PERSON — Any natural person or legal entity.

PLAINLY AUDIBLE – Any sound that can be detected by a person using his or her unaided hearing facilities. As an example, if the source under investigation is a sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or artist performing a song. The detection of the base component of music is sufficient to constitute a plainly audible sound.

PUBLIC EVENT — Any event to which the public is invited. [Added 12-10-2014 by Ord. No. 454]

PUBLIC GATHERING AREA — Any outdoor area, whether publicly or privately owned, regularly open to congregations of the public in numbers of 10 or more persons.

SOURCE — A person or thing that is actively producing noise or noise pollution.

UNREASONABLE NOISE – Noise that disturbs the peace, quiet and comfort of any reasonable person or persons in the vicinity or is otherwise specified as unreasonable noise in this ordinance.

~~TOWN — That Maryland municipal corporation known as "The Commissioners of St. Michaels."~~

VEHICLE – Includes watercraft on Town waters, whether or not underway.

VENUE — Any location where an activity or event occurs which is specifically associated with an event. [Added 12-10-2014 by Ord. No. 454]

§ 216-4. Prohibited acts.

A. A person shall not: [Amended 3-28-2012 by Ord. No. 431]

- (1) Be a source of ~~noise pollution~~ **unreasonable noise**;
- (2) Cause or permit a source of ~~noise pollution~~ **unreasonable noise** to exist on property owned, leased, rented, or otherwise controlled by him or his agent.

B. In the Central Commercial Zone, Gateway Commercial Zone, Historic Redevelopment Zone, or the Maritime Commercial Zone, a person shall not: [Amended 3-28-2012 by Ord. No. 431; 12-10-2014 by Ord. No. 454]

- (1) Cause or permit an audio speaker to be located outside of a fully enclosed structure, or located in any structure that is not fully enclosed or located so that it is exposed directly to the outdoors ~~unless an annual permit has been issued~~

by the Town as noted in § 216-5C of this chapter;

- (2) Cause or permit an audio speaker that is located within a structure to be directed toward an open window, door, or other opening in the structure.
- C. A commercial establishment offering indoor live amplified music or other live amplified entertainment shall not leave its exterior doors open during performances.
- D. The following acts, among others, are declared to ~~be noise pollution~~ **produce unreasonable noise** prohibited by this chapter: [Amended 3-28-2012 by Ord. No. 431; 12-10-2014 by Ord. No. 454]

- (1) ~~Between the hours of 10:00 p.m. and 7:00 a.m.,~~ the playing of, using of, operating of, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of ~~sound (hereafter in this subsection "the source")~~ in such a manner as to be at a level that exceeds the limits set forth in Table 1 below, when measured as set forth in § 216-5B, **in such a manner as to be plainly audible at a distance of 50 feet from the public street, public area, building, structure, or vehicle from which the noise emanates.**
- (2) ~~Between the hours of 10:00 p.m. and 7:00 a.m.,~~ vocal disturbances (e.g., shouting, whistling or singing) in the public streets or public areas or from private property in such a manner as to be plainly audible at a distance of 50 feet from the public street, public area, building, structure, or vehicle from which the noise emanates.
- (3) ~~Between the hours of 10:00 p.m. and 7:00 a.m.,~~ human conversation from a public gathering area at a volume audible inside a closed residence located 75 feet or more from the public gathering area. The actual words of the conversation need not be intelligible; audibility of the sound of conversation, under the conditions described, is sufficient to constitute ~~noise pollution~~ **unreasonable noise.**
- (4) **The use of any sound production device for advertising purposes or for the purpose of attracting attention to any performance, show, services, sale or display of merchandise in connection with any commercial business enterprise, outside or in front of any building, place or premises abutting any street, park, Town waters or public place.**

§ 216-5. Maximum allowable noise levels.

A. ~~With the exception of those specific acts and circumstances described in § 216-6 of this chapter, any sound produced, reproduced, or amplified to a level that exceeds the limits of Table 1 below is hereby declared to be noise pollution.~~

Table 1

Maximum Allowable Noise Level (dBA) for Receiving Land Use Categories

	Industrial	Commercial	Residential
Day	75	67	65
Night	75	62	55

B. ~~In Table 1, "Day" means 7:00 a.m. to 10:00 p.m.; "Night" means 10:00 p.m. to 7:00 a.m. Measurements to determine compliance with the limits in Table 1 shall:~~ **[Amended 12-10-2014 by Ord. No. 454]**

- (1) ~~Employ equipment and techniques recommended by the Maryland Department of the Environment.~~
- (2) ~~Employ sound level meters set to the A weighting network for all measurements.~~

~~(3) Be taken on the property line of the receiving property.~~

~~C. In the Central Commercial, Maritime Commercial and Historic Redevelopment Zones, outdoor music accessory to a business, whose primary use is the offering of food and beverages to the general public, may apply for a permit, subject to the following conditions: [Added 12-10-2014 by Ord. No. 454]~~

~~(1) The permit shall be requested annually.~~

~~(2) The purpose of the music is for the pleasure of the customers of the primary~~

~~structure in their outdoor dining area.~~

~~(3) Music shall stop by 9:00 p.m. on Sunday through Thursday and 10:00 p.m. on Friday and Saturday.~~

~~(4) Maximum dBA levels as set forth in § 216-5 shall be in effect.~~

~~(5) The issuance of three citations within any calendar year shall result in the nullification of the permit with no reissuance thereof for a period of six months. Additionally, multiple written notices of violations and the issuance of multiple citations may result in the denial of future permits.~~

~~(6) All written warnings and citations shall be issued to the permit holder with notification of such violation to the property owner. Fines associated with the foregoing violations must be paid in full prior to the reissuance of a new permit.~~

§ 216-6. Exemptions. [Amended 3-28-2012 by Ord. No. 431]

Each of the following activities is hereby exempt from the prohibitions of this chapter to the extent noted below:

- A. Sound produced by the operation or testing of authorized emergency equipment.
- B. Sound produced by the operation of tools and machinery, or the loading or unloading of supplies, used in construction, drilling, repair, alteration, renovation, maintenance, dredging, pile driving, or demolition during normal daytime business hours, or such similar activities as may be required during other times under emergency conditions may not exceed 90 dBA, A-weighted. For the purposes of this Subsection B, normal daytime business hours are Monday through Friday 7:00 a.m. to 5:30 p.m. and Saturday 9:00 a.m. to 4:30 p.m., excluding federal holidays. For homeowners working on their own property, the Saturday hours apply also to Sundays and federal holidays. Commercial contractors may not work on Sundays or federal holidays unless there is an emergency and the building is open to the elements. [Amended 3-14-2018 by Ord. No. 488]
- C. The use and maintenance of lawn maintenance equipment by the property owner, where such use and maintenance is in accordance with the manufacturer's specifications. This exemption applies only from 8:00 a.m. to 8:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. Saturday and Sunday. The use of lawn maintenance equipment by a commercial lawn care contractor. This exemption applies from 8:00 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 4:30 p.m. on Saturdays unless weather conditions have prohibited normal lawn maintenance. The use of lawn maintenance equipment by a commercial lawn care contractor is prohibited on Sundays and federal holidays. [Amended 12-10-2014 by Ord. No. 454]
- ~~D. Motor vehicles on public roads and boats on state waters.~~
- E. Air-conditioning and heat-pump equipment used to cool or heat housing on residential property may not exceed ~~70 decibels~~ **60 dBA** for air-conditioning units and ~~75 decibels for~~ heat pumps.

- F. Emergency operations.
- G. Agricultural field machinery when used in and maintained in accordance with manufacturer's specifications.
- H. Sound not electronically amplified created by sporting, amusement, and entertainment events and other public gatherings operating according to laws of St. Michaels **is excepted**. This exception includes but is not limited to athletic contests, carnivals, parades, and public celebrations.
- I. Outdoor speakers aboard tour boats, used during tours to announce the sights to passengers.
- J. Church bells.
- K. The Commissioners of St. Michaels may, in their sole discretion, as a part of a public event permit, allow the use of audio speakers out-of-doors in the Central Commercial, Historic Redevelopment and Maritime Commercial Zones. The noise level associated with these permits shall not exceed 65 dBA, measured as set forth in § 216-4B. [Amended 12-10-2014 by Ord. No. 454]
- L. The grant of a public event permit authorizing the use of audio speakers out-of-doors shall be conditioned on the applicant meeting all of the following conditions: [Amended 12-10-2014 by Ord. No. 454]
 - (1) All events involving the use of audio speakers which are conducted on Sundays shall begin no earlier than 1:00 p.m. and shall end no later than 6:00 p.m. Such events held on Monday through Friday shall end no later than 6:00 p.m., and venues held on Saturday shall end no later 7:00 p.m., with the exception of Midnight Madness, which is normally held on the first weekend in December. Amplified music and announcements for Midnight Madness after 10:00 p.m. shall be restricted to one venue in the Central Commercial Zone and must end by midnight. The number of events for which a public event permit may be issued shall be limited to three per day.
 - (2) The speakers must be placed at least 75 feet from any boundary of a residential property. To the extent practicable, the speakers should be directed away from the nearest residential property boundary.
 - (3) Compliance with the above-noted conditions shall be enforced by any sworn police officer of the Town. Upon the receipt of a complaint, the officer shall determine the dBA level at the property line of the complainant. Should a violation be noted, the permit holder shall be notified immediately and a written warning issued stating that if a reoccurrence of the noise violation occurs at any time during the event, the exemption for that specific venue will be voided. Furthermore the permit holder shall be subject to the provisions of § 250-15 (Violations and penalties) of the Town Code. Consideration of future requests may be affected by the issuance of a citation. - **The Officer may also determine if the sound is too loud by using their own discretion, as dB levels are additive between sources and may not accurately reflect the predominant source of noise pollution. Should the officer determine the noise pollution source be a combination of several sources, they shall not issue a citation. Should the officer determine that there is just cause for a violation even if the dB does not exceed the noted limits, they shall be**

allowed to cite the offender after a verbal warning.

M. Permits for weddings and other family events. TBD. Recommends an additional public comment session for additional inputs from those who host events and the public before writing this section of proposed code.

Comments:

Marina should have published guidelines for boaters and ways to enforce them – self police

Music can start at 12 on Sundays and must end by 8pm.

Police enforcement is discretionary.

Noise to be determined at the source.

Restaurants and other venues should self-police and monitor the levels – smart phone apps

Abusive or vulgar words should be discouraged – Free speech?

Gas powered lawn equipment (i.e. leaf blowers, mowers, chain saws) prohibited on Sundays.

Music can start at 10am Monday through Thursday and must end by 9pm except special permit issued by COSM.

Music start at 9am on Fridays and Saturdays and must end by 10pm.

§ 216-7. Enforcement. [Amended 3-28-2012 by Ord. No. 431; 12-10-2014 by Ord. No. 454]

This chapter shall be enforced by any sworn police officer of the Town. With the exception of the provisions of § 216-6 (Exemptions) above, any person who shall be in violation of this chapter shall be issued a written warning. Any person who, after first being issued such a written warning, shall thereafter within 30 days commit the same violation, shall be subject to being issued a citation for a municipal infraction. No such written warning or citation shall be issued except upon first-hand knowledge of the police officer giving such warning or issuing such citation, but the citation need not be issued by the same police officer who gave the written warning relating to the same violation. A person who is cited for a municipal infraction for the violation of this chapter occurring at a property need not be the same person who was issued the written warning relating to the same violation at the same property, provided that both persons who are issued such warning and citation were, at the time they were issued such warning or citation, an owner, lessee, tenant or otherwise in control of that property. Procedures set forth in Chapter 33 (Municipal Infractions), as amended from time to time, for issuance of citations, payment of fines, election to stand trial, and court proceedings shall apply.

§ 216-8. Violations and penalties. [Amended 12-10-2014 by Ord. No. 454]

- A. Any person who shall, after receiving a written warning from a sworn police officer for the violation of this chapter, be in violation of the same provision of this chapter shall be guilty of a municipal infraction and shall be subject to a fine of \$500 for the violation of this chapter. Each act of violation of this chapter shall constitute a separate offense. An action under this section shall be in addition to, and shall not prohibit, an action for nuisance, declaratory judgment and/or injunctive relief arising out of the same violation. Failure to pay the fines in full may result in the denial of future permits.
- B. Violations and penalties related to noise associated with public events are set out in § 250-15 of the Town Code.

§ 216-9. Civil action.

The Town or any person adversely affected by the repeated or continued violation of this chapter may bring any civil action permitted by law arising from the facts constituting a violation of this chapter and, in addition thereto, may bring an action for declaratory judgment and/or to enjoin the continued violation of this chapter. No such declaratory and/or injunctive action may be brought until the person bringing such action has given written notice of the continued or repeated violation to the person against whom such action is to be brought, and a reasonable time has lapsed after such notice for the offending person to comply with this chapter. The Town shall be furnished written notice of the filing of any such injunctive action under this chapter, and if it so chooses, the Town may intervene in such action as a party thereto. **- I believe that somewhere in this document we may want to identify that a complainant who files multiple complaints that are deemed not to be noise pollution violations should be subject to a nuisance fee after a certain amount of false complaints. This is akin to repeated false security or fire alarms that result in the waste of public safety resources.**