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**STATE OF GEORGIA
COUNTY OF DEKALB
CITY OF BROOKHAVEN**

ORDINANCE ORD 2019-02-03

AN ORDINANCE TO AMEND CHAPTER 16, NUISANCES, OF THE CODE OF THE CITY OF BROOKHAVEN

WHEREAS, Section 1.03(b)(23) of the Charter of the City of Brookhaven grants the City of Brookhaven the power to define a nuisance and provide for its abatement whether on public or private property; and

WHEREAS, the Mayor and City Council find that amendments to the nuisance regulations of the City are necessary.

BE IT ORDAINED by the Mayor and Council of the City of Brookhaven, Georgia and it is hereby ordained by the authority of same:

SECTION I:

The identified sections of Chapter 16, Nuisances, are amended to read as follows:

Sec. 16-152. - Sound level limitations.

- (a) No person shall cause, suffer, allow, or permit the operation of any sound source in such a manner as to create a sound level that exceeds the sound level limits set forth in table 1 when measured at or within the real property line of the receiving property using the slow response setting unless otherwise noted. Such a sound source would constitute a noise disturbance.

Table 1 Sound Level Limits by Receiving Property

Receiving property zoning category	Day of week	Time of day	Distance from sound source	Sound limitation
Residential or noise sensitive facility	Everyday	Daytime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	80 dB 75 dB 65 dB 55 dB
Residential or noise sensitive facility	Sunday through Thursday	Nighttime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	70 dB 65 dB 55 dB 50 dB
Residential or noise sensitive facility	Friday and Saturday	Nighttime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	75 dB 65 dB 55 dB 50 dB
Commercial	Sunday to Friday	Daytime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	80 dB 75 dB 65 dB 55 dB

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Commercial	Sunday to Thursday	Nighttime	0—50 feet 51—150 feet 151-300 feet Over 300 feet	70 dB 65 dB 55 dB 50 dB
Commercial	Friday and Saturday	Daytime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	85 dB 80 dB 70 dB 65 dB
Commercial	Friday and Saturday	Nighttime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	75 dB 70 dB 65 dB 55 dB
Industrial	Everyday	Anytime	0—50 feet 51—150 feet 151—300 feet Over 300 feet	85 dB 80 dB 70 dB 65 dB

(b) *Prohibited conduct.*

- (1) *Mechanical sound-making devices.* It is unlawful for any person to play, use, operate, or permit to be played, used, or operated, any radio receiving device, television, stereo, musical instrument, phonograph, sound, amplifier, or other machines or devices producing, reproducing or amplifying sound and/or at such a volume and in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible and heard or cause vibrations to property or person at or more than the specified distances above from the building, structure or motor vehicle on private property, unless the property boundaries from which the sound originates is a greater distance than those specified in subsection (a) of this section. In that event, the sound shall not be plainly audible beyond the property boundary.
- (2) *Human-produced sound.* It is unlawful for any person to yell, shout, hoot, whistle, or sing on the public streets or sidewalks or on private property so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance at or more than the specified distances in subsection (a) of this section from the place, building, structure, or in the case of real property, beyond the property limits, in which the person is located, whichever is farthest.
- (3) *Party noise.* It is unlawful for any person in charge of a party or other social event that occurs on any private property to allow that party or event to produce noise in such a manner so as to cause such noise to be plainly audible at or more than the specified distances in subsection (a) of this section from the building or structure from which the party noise is emanating or, in the case of real property, beyond the property limits on which the party or social event is located, whichever is farthest.
- (4) *Commercial advertising.* It is unlawful for any person to use, operate, or permit to be used or operated, any radio receiving device, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for production or reproduction of a sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract attention of the public to any building, structure or vehicle in such a manner as to create, or cause to be created, any noises or sounds which are plainly audible at

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or more than the specified distances in subsection (a) of this section from the building, structure, or motor vehicle on private property.

- (5) *Use or ignition of fireworks.* It is unlawful for any person to use, ignite or permit to be used or operated any fireworks as defined in O.C.G.A. 25-10-1 producing noise in such a manner so as to cause such noise to be plainly audible on any day before 10:00 a.m. or after 10:30 pm and up to including the time of 11:59 pm, except as permitted by State Statute, and on July 2, 2016, for which no fireworks will be permitted before 10:00 a.m.
 - (c) In a multi-family dwelling, it shall be unlawful to create or permit to be created any noise that exceeds the daytime limit of 75 dBA and the nighttime limit of 55 dBA as measured from the closest neighbor's dwelling.
 - (d) In places of public entertainment having a capacity of 5,000 or more persons, it shall be unlawful to create or permit to be created any noise that exceeds an average of 95 dBC in any ten-minute period from 7:00 a.m. to 12:00 a.m. Sunday through Thursday and from 7:00 a.m. to 1:00 a.m. for events commencing on Friday or Saturday. The sound level limit for all other times shall be 55 dBC. The sound shall be measured at a point which is found by traveling a straight line distance from the center of the sound board through the center rear of the facility a distance of 500 feet or to the property line of the facility, whichever is less. The measurement assumes that the sound board is not more than 100 feet from the center stage. The 500-foot measurement shall be reduced one foot for each foot that the sound board is more than 100 feet from center stage.
 - (e) In interpreting and applying the times and values in table 1, it is the intent of the city council that the times be interpreted to provide maximum protection from undesirable noise possible.
- (Ord. No. 2016-01-02, § 16-303, 1-12-2016 ; Ord. No. 2016-06-01, § 1, 6-21-2016)

Sec. 16-154. - Restricted uses and activities.

Notwithstanding the provisions of subsection (1)—(2)a. and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below:

- (1) Non-commercial or non-industrial power tools used for landscaping and yard maintenance shall not be operated between the hours of 7:00 p.m. and 7:00 a.m., or on Saturday or Sunday before the hour of 9:00 a.m. At all other times, the limits set forth in subsection (1)—(2)a. do not apply to non-commercial or non-industrial power tools and landscaping and yard maintenance equipment, provided that all motorized equipment is operated with a functioning muffler.
- (2) Commercial or industrial power tools used for landscaping and yard maintenance shall be operated with a muffler. All motorized equipment used in these activities shall not be operated on a residential property or within 250 feet of a residential property line, between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, or before the hour of 9:00 a.m. or after the hour of 5:00 p.m. on Saturday, or at any time on Sunday, unless:
 - a. Such activities are deemed emergency work, or
 - b. Such activities meet the limits set forth in subsection (1)—(2)a.

At all other times, the limits set forth in subsection (1)—(2)a. do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.
- (3) Construction and demolition activity shall not be performed between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, before the hour of 8:00 a.m. or after the hour of 5:00 p.m. on Saturday, or at any time on Sunday, unless:
 - a. Such activities are deemed emergency work; or
 - b. Such activities meet the limits set forth in subsection (1)—(2)a.

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This provision shall not apply if the chief of police determines that the loss or inconvenience that would result to any party in interest is of such a nature as to warrant special consideration. In such cases, the chief of police may grant a renewable permit for a period not to exceed ten days for this work to be done within the hours of 10:00 p.m. to 7:00 a.m.

- (4) Domesticated animals may not make any vocalizations (including barking, baying, howling, crying, or making any other noise) for more than ten minutes without interruption or more than 30 minutes if intermittent.
- (5) The collection of trash or refuse in residential districts is prohibited between the hours of 9:00 p.m. and 7:00 a.m.
- (6) No person shall operate, play, or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, or similar device in such a manner as to create a continuing noise disturbance at 50 feet from such device, when operated in or on a motor vehicle on a public right-of-way or public space.

(Ord. No. 2016-01-02, § 16-305, 1-12-2016)

Sec. 16-193. - Vegetation and debris.

- (a) *Vegetation.* There shall be no dead or hazardous trees, shrubs, ground cover or weeds likely to harbor vermin or insects, restrict or impede access to or public use of adjacent sidewalks, paths, trails and streets, obstruct traffic-control signs and devices and fire hydrants, or pose a risk of physical injury to the public.
- (b) *Debris.* There shall not be maintained on a property for more than seven calendar days any used or damaged lumber, junk, trash, debris, scrap metal, concrete, sand, asphalt, cans, bottles, tires, salvage materials, boxes, containers, bins, and abandoned, discarded, inoperative or unusable furniture, stove, refrigerator, freezer, sink, toilet, cabinet or other household fixtures, yard waste or equipment stored so as to be visible from public street, alley or from an adjoining property unless appropriate permits have been obtained from the county. Nothing herein shall preclude the placement of stacked firewood for use on the premises in the side or rear yards of the premises.
- (c) *Shared property.* Where parking in open areas is used jointly for the benefit of two or more owners or tenants, the responsibility for maintaining these parking areas free of garbage and trash shall be the joint and several responsibility of the owners and tenants.

SECTION II:

Severability: Should any section of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

SECTION III:

Repeal of Conflicting Provisions: All ordinances, part of ordinances, maps, or regulations in conflict herewith are repealed.

SECTION IV:

Effective Date: This ordinance shall be effective immediately upon adoption.

SO ORDAINED, this _____ day of _____, 2019.

Approved by:

Approved as to Form and Content

John Arthur Ernst Jr., Mayor

Christopher Balch, City Attorney

Attest:

Susan Hiott, City Clerk

SEAL