

**AN ORDINANCE OF THE CITY OF BURNSIDE, KENTUCKY
ESTABLISHING NOISE LIMITS WITHIN THE CONFINES
OF THE CITY OF BURNSIDE, KENTUCKY.**

WHEREAS, it is the desire of the City Council of the City of Burnside, Kentucky to ensure that public health, safety and welfare not be abridged by the making and creating of public nuisances from disturbing, excessive or offensive noises in the City.

WHEREAS, the residents of the City recognize that uncontrolled noise represents damages to the health and welfare of themselves and their neighbors and that each resident of the City is entitled to live in an environment in which the level of impulse and amplified noise is minimized for the community good.

WHEREAS, it is the desire of the City Council of Burnside, Kentucky to establish community guidelines regulating noise pollution.

NOW THEREFORE be it ordained by the City Council of the City of Burnside as follows:

SECTION 1. Scope.

- (a) This Ordinance shall apply to all persons, property, equipment, vehicles, appliances, instruments and other sound emitting devices, as regulated herein.
- (b) The provisions of this Ordinance are not intended to interfere with, abrogate or annul other laws, rules, regulations or ordinances, including any applicable chapters of the Kentucky Revised Statutes or ordinances of the City. If more stringent standards concerning noise abatements are contained in other laws, rules, regulations or ordinances, the more stringent standards shall apply.

SECTION 2. DEFINITIONS.

The following words, terms, and phrases, when used in this ordinance, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (a) **"Ambient sound."** The all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.
- (b) **"Continuous noise disturbance."** Any noise disturbance which exists, essentially without interruption, for a period of one minute in a 10 minute span.
- (c) **"Decibel."** A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the referenced pressure, which is 20 micro-Newtons per square meter.
- (d) **"Emergency work."** Work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.
- (e) **"Noise."** Any sound emitted by a person, vehicle, appliance, equipment, instrument or other human-made device. Specifically excluded is sound emitted by an animal.
- (f) **"Noise disturbance."** Any noise which:

- i. Endangers or injures the safety or health of humans or animals;
 - ii. A noise that disturbs a reasonable person of normal sensitivities;
 - iii. Endangers, injures, annoys, or seriously interferes with the quiet enjoyment or reasonable use of real or personal property; or
 - iv. Exceeds the limits set out in Sections 3 and 5 of this Ordinance.
- (g) **"Person."** Includes an individual, firm, association, organization, partnership, trust, company, corporation, business, or any similar entity.
- (h) **"Sound level."** The weighted sound pressure level obtained by the use of a sound level meter and frequency weighing networks such as A, B or C as specified in ANSI specifications for sound level meters. If the frequency weighing employed is not indicated, the A-weighing shall apply.
- (i) **"Sound level meter."** An instrument including a microphone, amp, output meter and frequency weighting networks for the measurement of noise and sound levels in a specified matter.

SECTION 3. Noises Prohibited.

It shall be unlawful for any person to make, continue, cause or allow to be made any noise or continuous noise disturbance, any unreasonably loud, harsh or excessive noise which either annoys, disturbs, or endangers the comfort, repose, health, peace, or safety of others, unless the making and continuous noise is necessary for the protection or preservation of property or the life, health, or safety of a person or persons. Any noise disturbance plainly audible at a distance of 50 feet from the place from which the noise emanates shall be prima facie evidence of a violation of this section.

SECTION 4. Exemptions.

None of the terms or prohibitions of this chapter shall apply to or be enforced against:

- (a) All safety signals and warning devices (for example: intrusion alarms, backup alarms on trucks, etc.); authorized vehicles when responding to emergencies (for example: police, fire and EMS vehicles); or any other device used to alert persons to an emergency or used during the conduct of emergency work;
- (b) The provision, repair and maintenance of municipal services or public utilities;
- (c) Bells, chimes, or carillon used in conjunction with religious purposes, national celebrations or public holidays;
- (d) Excavations or repairs on bridges, streets or highways by or on behalf of city, county or state during the night when the public welfare and convenience renders it impossible to perform the work during the day;
- (e) Musical, recreational and athletic events conducted by schools, local government and non-profit entities;
- (f) Construction operations from 7:00 a.m. to 6:00 p.m. on weekdays for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing, all equipment is operated in accordance with manufacturer's specifications and with all standard equipment, manufacturers' mufflers and noise reduction equipment in use and in proper operating condition;
- (g) Lawn mowers and agricultural equipment used between 7:00 a.m. and 9:00 p.m. when operated with all the manufacturers' standard mufflers and noise reducing equipment in use and in proper operating condition;

- (h) Activities permitted by permit (fireworks, parades, etc.), as provided herein, according to the terms and conditions of the permit;
- (i) Any use of an engine brake that constitutes an emergency, and/or the engine brake use is necessary to avoid a collision with other vehicles or pedestrians;
- (j) Noises that are controlled, mandated, or sanctioned by local, state or federal law.

SECTION 5. Maximum permissible sound levels.

- (a) No person shall make, continue, or cause or allow to be made or continued any noise disturbance as set forth in Section 2 (f) and Section 3, which exceeds the sound level limits set forth in Table 1 of this Ordinance when measured as hereinafter set forth. Any noise disturbance exceeding the level set forth for the appropriate zoning category in Table 1 shall constitute a per se violation of this Ordinance.
 - i. Nothing herein shall be construed as permitting noise disturbances in violation of the more general standard set for in Section 3, but not exceeding the level set forth in Table 1.

Table 1 Sound Limits by Zoning District		
<i>Zoning District of property from which noise emanates.</i>	<i>Day Time Sound Limits</i>	<i>Night Time Sound Limits</i>
	<i>Monday - Thursday (7:00 a.m. through 11:00 p.m.)</i>	<i>Monday - Thursday (11:00 p.m. through 7:00 a.m.)</i>
	<i>Friday - Sunday (7:00 a.m. through 12:00 a.m.)</i>	<i>Friday - Sunday (12:00 a.m. through 7:00 a.m.)</i>
Residential	65 dB(A)	55 dB(A)
Commercial	75 dB(A)	65 dB(A)
Manufacturing/Industrial	80 dB(A)	75 dB(A)

- (b) The sound level limits set forth in Table 1 shall be exceeded when any one or more of the following occur:
 - i. The sound level at any one point in time exceeds any of the establish zone limits in Table 1 by a measured level of 15 dB(A) for a cumulative total of one minute or more out of any ten-minute period;
 - ii. The sound exceeds, except in manufacturing/industrial districts, any of the established zone limits in Table 1 by a measured sound level of 3 dB(A) continually for a period of one minute, in any ten-minute period;
 - iii. In the event the background ambient sound levels in the area of suspected noise disturbance exceed the level set forth in Table 1, the sound level of the intrusive sound source shall be measured with ambient level being substituted as the Table 1 sound level;
 - iv. For the purpose of this section, sound shall be measured at or within the property line (boundary) of the property receiving the noise or not less than 50 feet from the source of the sound when the sources is in a public right-of-way; and/or
 - v. All sound measurements shall be made on a sound level meter calibrated in the manner required by the manufacturer's specifications.

SECTION 6. Permit to exceed limits.

- (a) Applications for a permit for relief from the noise levels designated in this chapter on the basis of undue hardship may be made to the Mayor or the Mayor's designee. Any permit granted hereunder shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective.
- (b) The Mayor or the Mayoral designee may grant the relief as applied for if he or she finds:
 - i. That additional time is necessary for the applicant to alter or modify his or her activity or operation to comply with this chapter;
 - ii. The activity, operation or noise source will be of a temporary duration and cannot be done in a manner that would comply with other sections of this chapter; and
 - iii. No other reasonable alternative is available to the applicant.
- (c) The Mayor or the Mayoral designee may prescribe any conditions or requirements he or she deems necessary to minimize adverse effects upon the community or surrounding neighborhood.

SECTION 7. Penalties.

- (a) Any person violating any of the provisions of this chapter shall be charged with a misdemeanor and/or violation in the event this chapter is enforced through the Pulaski County District Court. If charged and enforced through the Code Enforcement Board, the offense shall be a civil offense. A first offense may result in a fine of \$100.00. A second offense may result in a fine of \$250.00. Third and subsequent offenses may result in a fine of \$500.00.
- (b) For the purposes of numbering and punishment violations will be reset every two years. The two years will be measured from the date that the violation occurred.
- (c) Each day that violation continues shall constitute a separate offense.
- (d) This chapter and the foregoing penalties shall not be construed to limit or deny the right of the city or any person to such equitable legal remedies as may be available by law.

SECTION 8. Effective Date of Ordinance Provisions.

This Ordinance shall take effect immediately after its Passage and Publication as required by law.

Cress M. Brown

Attest
Clerk, City of Burnside

David H. Hays
Mayor
City of Burnside

First Reading 11/06/17

Second Reading 12/04/17

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