

Chapter 20 ENVIRONMENT

ARTICLE I. IN GENERAL

Secs. 20-1—20-18. Reserved.

ARTICLE II. AIR QUALITY CONTROL

~~Sec. 20-19. Emissions of gases, vapors and odors.~~

- (a) ~~No person shall cause, suffer or allow any emission of gases, vapors or odors beyond the property line from which such emissions occur to be in sufficient quantities and of such characteristics and duration as is or is likely to be injurious to the public welfare, to the health of human, plant or animal life, or to property, or which interferes with the enjoyment of life and property.~~
- (b) ~~Detectable odors emitted from the following sources of emission are hereby declared to be objectionable per se:~~
- ~~(1) Ammonia, bleaching powder or chlorine manufacture;~~
 - ~~(2) Asphalt manufacture or refining;~~
 - ~~(3) Blood processing;~~
 - (4) Bag cleaning;**
 - ~~(5) Celluloid manufacture;~~
 - ~~(6) Coal tar products manufacture;~~
 - ~~(7) Compost heaps;~~
 - ~~(8) Crematory;~~
 - ~~(9) Creosote treatment or manufacture;~~
 - ~~(10) Disinfectants manufacture;~~
 - ~~(11) Distillation of bones, coal or wood;~~
 - ~~(12) Dyestuff manufacture;~~
 - ~~(13) Fat rendering;~~
 - ~~(14) Fertilizer manufacture and bone grinding;~~
 - ~~(15) Glue or gelatine manufacture;~~
 - ~~(16) Incinerator or reduction of garbage, dead animals, offal or refuse;~~
 - ~~(17) Oiled rubber or leather goods manufacture;~~
 - ~~(18) Paint, oil, shellac, turpentine or varnish manufacture;~~

Commented [FH1]: Air Quality statutes are found in Chapter 9 of Title 12 of the Official Code of Georgia Annotated along with Regulations of the Dept of Natural Resources in Chapter 391-3-1.
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- (19) Paper and pulp manufacture;
- (20) Rubber or gutta percha manufacture;
- (21) Sauerkraut manufacture;
- (22) Shoe blackening manufacture;
- (23) Soap manufacture;
- (24) Stockyards;
- (25) Sulfuric, nitric, or hydrochloric acid manufacture;
- (26) Tar distillation or manufacture;
- (27) Tar roofing or waterproofing manufacture;
- (28) Any other air contaminant discharged into the open air of a character and in a quantity which is detrimental to or endangers the public health.

(Code 2005, § 13-101)

Sec. 20-~~2019~~. Outdoor and Open burning.

- (a) ~~In general.~~ Except as provided in subsection (b) of this section, no person shall kindle an open fire in any public or private place outside any building. Fires started in violation of this section shall be promptly extinguished by the person responsible for same upon notice by the Gwinnett County Fire Department or the City of Lawrenceville Police Department. During the existence of an air pollution alert, as may be declared by the City Manager, all exceptions are void and no open fires shall be kindled.
- (b) ~~Exceptions.~~ Open burning may be done under permit as follows: Under a duly granted permit after application for such a permit on forms provided by the Gwinnett County Fire Department. The permit shall be issued by the Gwinnett County Fire Department only.

(Code 2005, § 13-102)

(a) Permits and fees.

- (1) Permits for open burning at or on development sites for the purpose of clearing land for new construction shall be obtained from county fire plan review. Permits shall be registered with the county Fire Services Communications Center by the county fire marshal's office.
- (2) The applicant shall complete an application for an open burning permit issued by county fire plan review. The applicant shall submit a plat or site plan showing the proposed location of the burn pit and information relating to the proximity of any occupied or unoccupied structure.
- (3) The application, if approved, shall be accompanied by fees as established in the "Gwinnett County Land Development and Other Services Fee Schedule," as may be amended. Fees shall be retained by Gwinnett County/Gwinnett County Department of Fire and Emergency Services.
- (4) No burning shall commence prior to an inspection of the site and the burn pit by a representative of the county fire marshal's office. Upon approval of the burn pit, the permit shall be valid for a period of 30 days. Permits may be extended for increments of 15 day periods without additional fees, with a maximum of two extensions.

(b) Fires requiring written permits.

- (1) The only types of fires permitted for the purpose of land clearing are pit fires. Non-pit fires are not permitted for land clearing in the city or county. All pit fires shall be conducted in strict accordance

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with the "Air Curtain Destructor Operating Guide and Procedures" as published by the North Georgia Region of the environmental protection division.

(2) Pit fires shall comply with the following stipulations:

- a. The pit shall be at least 300 feet from any occupied or habitable structure. This distance may be required to be increased by the county fire marshal's office if needed.
- b. Where a site cannot be excavated to the recommended depth(s) due to high water table and/or subsurface rock, the pit may be constructed above ground level, subject to the same state standards and procedures for a pit below ground level.
- c. Only wood wastes consisting of trees, logs, large brush, stumps, leaves, and untreated lumber may be burned in the pit.
- d. Leaves, sawdust or other densely packed wood wastes, paper (any type); chemically treated, coated or impregnated wood; or non-wood construction materials shall not be burned. The amount of dirt/soil mixture shall be kept to a minimum.
- e. No more than one air curtain destructor is allowed to be operated within a ten-acre permitted site at one time. The air curtain destructor must be under the supervision of a trained operator at all times during operation. In the event there is a need for multiple burning pits there shall be a minimum of 1,000 feet between each burning pit.
- f. Air curtain destructors shall pass an even, non-turbulent flow of air across the top of the pit. Air curtain destructors with an air duct or manifold that has been altered by bends, dents, holes, etc., and are incapable of providing an even and non-turbulent flow of air across the top of the pit shall not be approved for use.
- g. The air curtain destructor shall be operated in a manner to prevent air, land or water pollution, safety/health hazards, or nuisances.
- h. Tires or other rubber products, plastics, heavy oils or asphaltic base or impregnated materials, shall not be used to start or maintain air curtain destructor operations.
- i. No smoke emissions exceeding 40 percent opacity may be produced during operation except for a reasonable period during ignition and charging of the pit.
- j. When the pit is cleared of ash, airborne particulate is to be minimized by wetting or mixing the ashes with dirt.
- k. Diesel fuel or kerosene may be used to start pit fires.

(c) Types of burning allowed without a written permit.

(1) Burning of leaves, limbs, and natural vegetation that may fall on one's property.

- a. The location for open burning of natural vegetation shall not be less than 50 feet from any structure, and not less than 25 feet from a property line. Provisions shall be made to prevent the fire from spreading to within 50 feet of any structure and 25 feet from a property line.
Exception: The minimum required distance from a structure shall be 25 feet when the pile size is less than three feet in diameter and less than two feet high.
- b. Fires shall be limited to a size that can be easily controlled under the conditions and with the resources available on the property.

(2) Fires for the purpose of keeping warm.

- a. Warming fires shall be contained within a metal barrel of 55 gallon capacity or less.

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- b. Untreated wood or lumber shall be the only material or substance permitted to be burned.
- c. The container for the warming fire shall not be less than 50 feet from any structure.
- d. No on-ground warming fires shall be permitted.
- e. The outside temperature shall be 50 degrees Fahrenheit or less.

(3) Fires for the purpose of cooking food for human consumption.

- a. Charcoal, wood, and gas grills and other open flame cooking devices shall not be operated on combustible balconies or within ten feet of combustible construction.
Exception: One- and two-family dwellings.
- b. LP gas grills and burners having an LP gas container with a water capacity greater than 2.5 pounds (one pound LP gas capacity) shall not be located on combustible balconies or within ten feet of combustible construction.
Exception: One- and two-family dwellings.
- c. Open fires used for cooking food for human consumption shall not be less than 50 feet from any structure and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure.
Exception: The minimum required distance from a structure shall be 25 feet when the pile size is less than three feet in diameter and less than two feet high.
- d. Fires shall be limited to a size that can be easily controlled under the conditions and with the resources available on the property.

(4) Recreational fires in commercially available chimineas or outdoor fire places.

- a. Chimineas or outdoor fireplaces shall be used according to their intended use, the manufacturer's recommendations, and the rules set forth below:
 - i. Chimineas or outdoor fireplaces shall have a chimney, screen, or other approved method to arrest sparks.
 - ii. Chimineas or outdoor fireplaces shall not be operated inside structures, on combustible surfaces or balconies, or within 25 feet of combustible construction.
 - iii. Chimineas or outdoor fireplaces shall have a noncombustible surface underneath to safely catch sparks or dropping coals and ashes.
 - iv. Untreated wood, lumber, manufactured fire logs, or charcoal shall be the only materials or substances permitted to be burned in chimineas or outdoor fireplaces.

(5) Bonfires; permit required; no fee.

- a. No person shall kindle or maintain any bonfire or authorize any such fire to be kindled or maintained on any private or public land unless the location is no less than 50 feet from a structure with a size not to exceed four cubic feet of combustible materials and 100 feet from a structure with a size not to exceed five cubic feet of combustible materials.
- b. For purposes of clarification, bonfires shall be limited to activities sponsored by civic, educational, religious or other groups for purpose of celebration, etc. An example would be a high school pep rally.
- c. Bonfires shall be constantly attended by a competent person until such fire is extinguished.

d. Such person shall have a garden hose connected to a water supply, or other fire extinguishing equipment, capable of extinguishing the fire, readily available for use.

e. Access to communications to the fire department shall be maintained within 500 feet of the bonfire.

(d) *Burning restrictions.* The following rules govern all burning in the city, whether or not a written permit is required:

(1) The county fire marshal's office may temporarily prohibit any and/or all outdoor fires when atmospheric conditions or local circumstances make such fire hazardous.

(2) No burning is permitted on Sundays or nights. Burning at construction sites for the clearing of land for new development shall not be conducted before or after daylight hours.

Exception: Compliant bonfires, cooking fires, and recreational fires in chimineas and outdoor fireplaces may be burned on Sunday and at night provided all other criteria and restrictions are applied.

(3) No burning is permitted when prevailing winds are predicted to be or are in excess of 15 miles per hour.

(4) No burning is permitted when the National Weather Service has issued a "Red Flag Warning." Burning shall be limited or prohibited as conditions warrant, when the National Weather Service has issued a "Fire Weather Watch."

(5) No burning is permitted during an air pollution episode, such as an air pollution alert/warning/emergency declared by proper authorities.

(6) No burning is permitted when there is fog, rain, or a cloud base that is diffused, or ill defined, or for at least one day following the passage of a cold front.

(7) No burning of solid waste or household garbage is allowed.

(8) No burning of any materials that emit a heavy, dark smoke, such as rubber products, oils, roofing material, petroleum-based products, etc.

(9) No burning when smoke presents a health hazard to persons in the vicinity of the fire. The county fire marshal's office shall be authorized to ban outdoor burning in a limited geographical area upon receipt of medical certification from a resident that the resident has a medical condition(s) adversely affected by smoke.

(10) No burning shall be conducted within 20 feet of flammable, combustible or explosive materials unless otherwise specified by the fire code.

(11) Burning of leaves, limbs, etc., that fall on a person's own property may only be conducted during daylight hours.

(12) Prior notification shall be given to the state forestry commission before any agricultural burning is conducted. The term "agricultural" refers to land zoned RA-200 as defined by the county zoning ordinance.

(13) All fires shall be constantly attended by a competent person until extinguished.

(14) There shall be a garden hose connected to a water supply or other fire extinguishing equipment capable of extinguishing the fire readily available for use.

(e) *Summary abatement.* The staff of the county fire marshal's office and personnel of the county department of fire and emergency services shall have the authority to summarily abate any condition(s) which are in violation of any of the provisions of this section, and which may constitute an immediate threat to life and

property. In no event shall a pit fire or other open burning continue after the county fire marshal's office has revoked the permit.

(f) Enforcement. The provisions of this section shall be enforced by any designated representative of the Gwinnett County Department of Fire and Emergency Services and the Police Chief and such subordinate officers of the county department and the police department as are necessary to effectuate the requirements set forth herein.

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Sec. 20-21. Enforcement.

~~The provisions of this article shall be enforced by any designated representative of the Gwinnett County Fire Department and the Police Chief and such subordinate officers of the Gwinnett County Fire Department and the Police Department as are necessary to effectuate the requirements set forth in this article.~~

~~(Code 2005, § 13-103)~~

Sec. 20-22. Penalties.

~~(a) Any person who violates any provision of this article shall be subject to a fine not to exceed \$500.00, such fine to be imposed at the discretion of the Judge of the Municipal Court.~~

~~(b) Action pursuant to subsection (a) of this section shall not be a bar to enforcement of this article by injunction or other appropriate remedy, and the Police Chief shall have the power to institute and maintain in the name of the City any and all such enforcement proceedings.~~

~~(c) Nothing in this article shall be construed to abridge, limit or otherwise impair the right of any person to maintain any action or other appropriate proceeding for damages or other relief on account of injuries to persons or property.~~

~~(Code 2005, § 13-104)~~

Secs. 20-21~~30~~—20-47. Reserved.

ARTICLE III. NOISE CONTROL¹

Sec. 20-48. Generally.

(a) *Purpose.* This section is enacted as a general noise ordinance to protect, preserve, and promote the health, safety and welfare of the citizens of the City through the control of noise. It is the intent of this section to establish standards that will reduce excessive community noises, which are harmful and otherwise detrimental to individuals and to the community in the enjoyment of life and property and in the conduct of business.

¹Editor's note(s)—Ord. No. 2021-12, § 2, adopted November 17, 2021, repealed art. III, §§ 20-48—20-51, and enacted a new art. III as set out herein and later amended. Former art. III pertained to noise regulation and derived from Ord. No. 2018-26, adopted November 5, 2018.

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- (b) *Sound measurement standards.* For the purposes of this section 20-48, "plainly audible" shall mean any sound emanating from the specific sound-producing sources set forth below which can be heard from the distances set forth below, using the following sound measurement standards: measurement shall be by the auditory senses of a person standing at a distance no less than the required minimum distance from the source of the sound. For music and other noise, words and phrases need not be discernable. For music and other noise, bass reverberations are included.
- (c) *Prohibited conduct.*
- (1) Restrictions of 300 feet for 8:00 a.m. through 10:00 p.m. Sunday through Thursday and 8:00 a.m. through 11:00 p.m. on Friday and Saturday.
- a. *Mechanical sound-making devices.* It is unlawful for any person or persons 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 for the producing, reproducing or amplifying of sound and/or noise 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 at a distance of 300 feet or more from the building, structure or vehicle, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest, between the hours of 8:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 8:00 a.m. and 11:00 p.m. on Friday and Saturday.
- b. *Human-produced sounds.* It is unlawful for any person or persons 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 of 300 feet or more 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, between the hours of 8:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 8:00 a.m. and 11:00 p.m. on Friday and Saturday.
- c. *Commercial advertising.* It is unlawful for any person or persons to use, operate, or permit to be used or operated any radio receiving device, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract the attention of the public to any building, structure or vehicle in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 300 feet or more from the source of the sound cast upon the public streets or other public property or from the building, structure, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest, between the hours of 8:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 8:00 a.m. and 11:00 p.m. on Friday and Saturday.
- d. *Party noise.* It is unlawful for any person or persons in charge of a party or other social event that occurs on any private property to allow that party or social event to produce noise in such a manner that such noise is plainly audible at a distance of 300 feet or more from the building or structure from which the 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, between the hours of 8:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 8:00 a.m. and 11:00 p.m. on Friday and Saturday. For the purposes of this subsection, a "person in charge of a party or other social event" shall mean any adult person who is the owner of; resides in or on; rents, leases, or otherwise has the right to occupy the premises involved in such party or social event and is present at such party or social event. For the purposes of this subsection, "noise" shall mean the same sounds, or any combination thereof, as described in paragraphs a. or b. above.

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- (2) Restrictions of 100 feet for 10:00 p.m. through 8:00 a.m. Sunday through Thursday and 11:00 p.m. through 8:00 a.m. on Saturday and Sunday.
- a. *Mechanical sound-making devices.* It is unlawful for any person or persons 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 for the producing, reproducing or amplifying of sound and/or noise 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 at a distance of 100 feet or more from the building, structure, or motor vehicle or in the case of real property, beyond the property limits, in which it is located, whichever is farthest, between the hours of 10:00 p.m. and 8:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 8:00 a.m. on Saturday and Sunday.
 - b. *Human-produced sound.* It is unlawful for any person or persons 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 of 100 feet or more from the place on public streets and sidewalks, or in the case of private real property, beyond the property limits, on which the person is located, whichever is farthest, between the hours of 10:00 p.m. and 8:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 8:00 a.m. on Saturday and Sunday.
 - c. *Commercial advertising.* It is unlawful for any person or persons to use, operate, or permit to be used or operated any radio receiving device, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract the attention of the public to any building, structure or vehicle in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 100 feet or more from the source of the sound cast upon the public streets or other public property or from the building, structure, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest, between the hours of 10:00 p.m. and 8:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 8:00 a.m. on Saturday and Sunday.
 - d. *Party noise.* It is unlawful for any person or persons 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 that such noise is plainly audible at a distance of 100 feet or more 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, between the hours of 10:00 p.m. and 8:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 8:00 a.m. on Saturday and Sunday. For the purposes of this subsection, a "person in charge of a party or other social event" shall mean any adult person who is the owner of; resides in or on; rents, leases, or otherwise has the right to occupy the premises involved in such party or social event and is present at such party or social event. For the purposes of this subsection, "noise" shall mean the same sounds, or any combination thereof, as described in paragraphs a. or b. above.
- (3) *Restrictions regarding noise produced by consumer fireworks.* The use or ignition of consumer fireworks as defined in O.C.G.A. § 25-10-1 that willfully make, continue, or cause to be made or continued any excessive or unusually loud noise, except during the following dates and times:
- a. On January 1, the last Saturday and Sunday in May, July 3, July 4, the first Monday in September and December 31 beginning at the time of 10:00 a.m. and up to and including the ending time of 11:59 p.m.; and

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- b. On January 1 of each year beginning at the time of 12:00 midnight and up to and including the ending time of 1:00 a.m.

For the purposes of this section, the term "consumer fireworks" shall have the meaning set forth in O.C.G.A. § 25-10-1(a)(1), but such term shall not include those items excluded therefrom in O.C.G.A. § 25-10-1(b) as such code section is enacted as of July 1, 2018 or as may be amended in the future.

- (4) *Apartments, condominiums, townhomes, and similar residential units.* Restrictions for areas within apartments, condominiums, townhouses, duplexes, or other such residential dwelling units. Except for persons within commercial enterprises that have an adjoining property line or boundary with a residential dwelling unit, it is unlawful for any person to make, continue, or cause to be made or continued any noise in such a manner as to be plainly audible to any other person a distance of five feet beyond the adjoining property line wall or boundary of any apartment, condominium, townhouse, duplex, or other such residential dwelling units with adjoining points of contact.

For the purposes of this subsection, "noise" shall mean human-produced sounds of yelling, shouting, hooting, whistling, singing, or mechanically-produced sounds made by radio-receiving device, television, stereo, musical instrument, phonograph sound amplifier or other machines or devices for the producing, reproducing, or amplifying of sound, or any combination thereof.

For the purposes of this subsection, "property line or boundary" shall mean an imaginary line drawn through the points of contact of:

- a. Adjoining apartments, condominiums, townhouses, duplexes or other such residential dwelling units with adjoining points owned, rented, or leased by different persons; or
- b. Adjoining common areas or adjoining exterior walls. Said property line or boundary includes all points of a plane formed by projecting the property line or boundary including the ceiling, the floor, and the walls.

- (5) *Exclusions.* The prohibitions of this section shall not apply to the following:

- a. Noises and/or sounds made by governmental ~~or commercial~~ entities in the normal course of their business;
- b. Noises and/or sounds emanating from any official Georgia Gwinnett College event on Georgia Gwinnett College property or Gwinnett County School District event on Gwinnett County School District property;
- c. Noises or sounds made by domestic animals, which noises or sounds are controlled by section 10-7 of the County Animal Control Ordinance, which has been adopted by the City;
- d. Noises and/or sounds emitted by bells, chimes, or clocks, which occur for no longer than three minutes per hour, from structures located within the Entertainment District as shown on a map maintained in the office of the City Clerk;
- e. Live music emanating from a governmental or commercial ~~entity~~ facility located within the Entertainment District, as shown on a map maintained in the office of the City Clerk, heard at a distance less than ~~1,000~~ 1,250 feet from the governmental or commercial ~~entity~~ facility during the following times: Monday—Thursday from 4 p.m. to 9 p.m. and Friday—Saturday from Noon to 11 p.m.
- f. Sound volumes produced by radio, tape player, or other mechanical sound making device or instrument from within a motor vehicle on a street or highway, which sound is controlled by the O.C.G.A. § 40-6-14 and shall be enforced in accordance with said statute;
- g. Noises and/or sounds that are permitted by an event/film permit issued by the City Police Department and/or Community ~~Relations~~ & Economic Development Department; provided,

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however, that the producer or coordinator of the event/film must comply with the terms, restrictions and conditions of the permit issued by the city;

- h. Noises or sounds made by law enforcement, first responders, and other public safety officials performing their public functions;
 - i. Noises of safety signals and warning devices; or
 - j. Noises emanating from aircraft or airport operations at the County Airport in accordance with state and federal regulations.
- (6) *Landscape maintenance devices.* Time restrictions on use of landscape maintenance motorized devices such as leaf blowers, lawn mowers, or chain saws. It is unlawful for any person to use or operate any noise-generating, motorized landscape maintenance devices, including, but not limited to, leaf blowers, lawn mowers, or chain saws, within any residential zoning district or in areas within 300 feet of any residential zoning district from 8:00 p.m. to 8:00 a.m. except that within the agricultural-residential zone no person shall use or operate any such devices within 300 feet of any residential dwelling on adjacent property between the hours of 9:00 p.m. and 8:00 a.m.
- (7) *Engine, muffler and/or exhaust system noise.* No person shall use, operate or cause to be used or operated any motor vehicle equipped (or the failure to be equipped) with an engine, muffler, muffler cutout, muffler bypass, bypass, muffler system, exhaust system, or similar device which causes a noise or sound which is plainly audible at a distance of 100 feet or more from the motor vehicle.
- (8) *Construction noise.* Between the hours of 9:00 p.m. and 7:00 a.m., construction noise of any type, including, but not limited to, noise caused by the erection (including excavation), demolition, alteration, or repair of any building, as well as the operation of any earth-moving equipment, crane, saw, drill, pile driver, steam shovel, pneumatic hammer, hoist, automatic nailer or stapler, or any similar equipment, shall not be plainly audible within any residential zoning district more than 100 feet beyond the property boundary of the property from which the noise emanates.

A variance from the above-referenced hours of operation for construction noise may be requested, in writing, at least 48 hours prior to the proposed construction operation, for consideration by the Director of Planning and Development. Such a request shall state:

- a. The reasons that support a claim of urgent need based on specific loss or inconvenience for such a variation from the allowable work hours;
- b. The impact that the denial of this request would have on the applicant's project and the surrounding properties;
- c. The steps which have been taken by the applicant to communicate those needs and impacts to owners of surrounding and nearby properties;
- d. The steps that have or will be taken to limit the impact of the proposed activity upon surrounding and nearby properties; and
- e. The possible risks to public health and safety.

If the Director finds that the application adequately demonstrates the urgent need for a variance from the above allowable work hours, adequately provides for mitigation of the impact upon surrounding and nearby properties and poses no additional risk to public health and safety, then permission shall be granted for a variance to alter the allowable work hours during one ten-day period.

The prohibitions of this subparagraph (8) shall not apply to government road, water, sewer, stormwater construction or maintenance projects or to utility company construction or maintenance projects.

(9) *Commercial entities near single-family residential zoning districts.*

- a. Notwithstanding any provisions of this section concerning noises and/or sounds caused to be made by commercial entities in the normal course of their business, the provisions and prohibitions of paragraph (c), "Prohibited Conduct," subparagraph (1), concerning "Restrictions of 300 feet for 8:00 a.m. through 10:00 p.m. Sunday through Thursday and 8:00 a.m. through 11:00 p.m. on Friday and Saturday" and its subparts a. through c. shall apply to noises and/or sounds generated by a commercial entity that are plainly audible within any single-family residential zoning district more than 300 feet beyond the property boundary of the property from which the noises and/or sounds emanate.
- b. Notwithstanding any provisions of this section concerning noises and/or sounds caused to be made by commercial entities in the normal course of their business, the provisions and prohibitions of paragraph (c), "Prohibited Conduct," subparagraph (2), concerning "Restrictions of 100 feet for 10:00 p.m. through 8:00 a.m. Sunday through Thursday and 11:00 p.m. through 8:00 a.m. on Saturday and Sunday," and its subparts a. through c. shall apply to noises and/or sounds generated by a commercial entity that are plainly audible within any single-family residential zoning district more than 100 feet beyond the property boundary of the property from which the noises and/or sounds emanate.

- (d) *Severability clause.* A determination of the invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, subsection or part of this section shall not affect the validity of the remaining parts of this section.

(Ord. No. 2021-12 , § 2, 11-17-2021)