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2nd Reading and Adoption: 19 April 2017

Posted: 20 April 2017

Effective Date: 1 June 2017

TOWN OF BRENTWOOD, MARYLAND

ORDINANCE NO. 2017-03

Introduced By Chief Robert Althoff

An Ordinance Authorizing Enforcement of Noise Control in the Town.

WHEREAS, Section 401.0 ("**General powers**") of the Brentwood Town Charter states that "The Council shall have the general power to pass all such ordinances ... as it may deem necessary for the good government of the Town"; and

WHEREAS, the Brentwood Town Charter section 402.0 states that the Council shall have powers to pass ordinances not contrary to the laws and Constitution of this state; and Section 402.30 gives the specific power to regulate noises, and

WHEREAS, the Mayor and Council have determined that every resident of the Town is entitled to noise levels that are not detrimental to health, safety, or welfare and the use, enjoyment and protection of property; and

WHEREAS, the Mayor and Council have determined it is in the best interests of the Town and its residents to control noise levels throughout the Town so as to promote public health, safety, welfare, the peace and quiet of the inhabitants of the Town.

Section 1. NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the Town of Brentwood be, and is hereby, adopted to read as follows:

Purpose and Intent.

The Mayor and Councils finds that excessive noise harms public health and welfare and weakens enjoyment of property. The intent of this Chapter is to regulate noise sources within the town to permit the health, safety, welfare, and the use, enjoyment and protection of property of the inhabitants of the Town. This Chapter must be liberally construed to carry out this intent. A person may not create noise or allow noise to be created that disturbs the peace, quiet, and comfort of a residential area and includes residences in all areas.

Definitions.

The following words and phrases shall have the meanings respectively ascribed to them in this Ordinance:

- 1: "Noise" shall mean noise related to human activity including noise produced vocally, with a radio receiving set, musical instrument, phonograph or any other device or by a machine, tool or other equipment which produces, reproduces or amplifies any sound or noise which is continuous in nature and audible more than fifty (50) feet from the source of the sound or noise in the public right of way or an adjacent building.
- 2: "Department" shall mean the Police Department and Code Enforcement for the Town of Brentwood MD.
- 3: "Landlord" shall mean the person who manages, leases, holds, or otherwise controls the property of an owner.
- 4: "Owner" shall mean the person listed on the tax records of the Town as the property owner.
- 5: "Police Chief" or "officer" shall mean the Chief of the Town of Brentwood Police Department, a sworn member of the Town of Brentwood Police Department, or their authorized designee.
- 6: "Residential area" is an area located within a residential zone listed within the incorporated limits of the Town of Brentwood, including residential areas abutting mixed-use, commercial and industrial areas as defined.
- 7: "Daytime" means the hours from 8:00 am to 8:00 pm from Sunday through Friday and 8:00 am to 10:00 pm on Saturday.

- 8: "Nighttime" means the hours from 8:00 pm to 8:00 am from Sunday through Friday and 10:00 pm on Saturday to 8:00am on Sunday.
- 9: "Impulsive noise" means a burst of non - mechanical sound not exceeding ten (10) seconds in duration. Examples are laughter, coughing, exclamations, or a dog's bark.
- 10: "Continuous" means any noise constantly audible for at least five (5) minutes, examples being burglar alarms, engines, and loud machinery.
- 11: "Intermittent" means any noise with a sound level that varies to the human ear but is audible for more than a period often (10) seconds. Examples are music, radios, conversations, and barking dogs.
- 12: "Persists on an intermittent basis" means intermittent noise recurring for a period exceeding five (5) minutes.

Daytime Noise.

During daytime hours, the following noises are unreasonable and persons shall not cause nor allow on their property such noises if the noise occurs on a continuous or intermittent basis and is audible more than fifty (50) feet from the private property where such noise is occurring or more than fifty (50) feet from the noise source on public property

1. Noise from using, operating, or permitting to be played or operated any device that is designed to electronically amplify sound or that produces sound and vibrations of sub-audible frequencies. Such devices would include, but are not limited to, stereos, CD players, televisions, radios, and microphones. Locations of such devices includes but is not limited to homes, motor vehicles, pedestrians, public spaces, and commercial Establishments
2. Noise from motor vehicle horns used for other than a warning.

Nighttime Noise.

During nighttime hours, unreasonable noise is a public nuisance and is prohibited. If the noise occurs on a continuous or intermittent basis and is audible more than fifty (50) feet from the private property where such noise is occurring or more than fifty (50) feet from the noise source on public property, then there is a presumption that the noise is unreasonable and that a public nuisance exists. Location of sources of the sound or noise would include, but is not limited to, motor vehicles, pedestrians, garages, homes, public spaces, and commercial establishments. The following, among others, are

declared to be unreasonable night-time noises, but said enumeration shall not be deemed exclusive, namely, noise from:

- 1: Any alarm, bell, chime, horn, whistle, or similar device
- 2: The loading or unloading of any vehicle or trash receptacle
- 3: Motor vehicles that are operated in such a manner as to create loud and unnecessary grating, grinding, rattling, or other noise.
- 4: The operation or use of any tool or equipment, including but not limited to construction equipment, lawnmowers, power tools, hammers, drills, and generators.
- 5: The warming or idling of motor vehicles - including but not limited to motorcycles, buses, trucks - and the unreasonable or repeated idling, acceleration and deceleration of such vehicle.
- 6: Yelling, shouting, hooting, whistling or singing.
- 7: Amplified noise, including vibrations of sub audible frequencies
- 8: Any device for killing, trapping, attracting or repelling insects or other pests.

Exceptions.

The following noise generating activities shall be exempt from enforcement under this Ordinance:

- 1: Any sound resulting from the emergency operation of a public service company as defined in Section 1-101(x), Public Utilities Article of the Annotated Code of Maryland;
- 2: Any sound resulting from the operations of an instrumentality of the Federal, State, or County government, the Board of Education, or of a municipality.
- 3: A sound resulting from the operation of an aircraft or train.
- 4: On private property for which a valid use and occupancy permit has been issued for purposes of sporting, recreational, entertainment establishment, or for any other event to which the public is invited; or

- 5: An event or activity with a validly issued permit, license or other written authority which takes place on property owned by the United States, the State, the County, the Board of Education, or a municipality.
- 6: Lawn care, snow removal equipment and other household tools or equipment when used and maintained in accordance with the manufacturer's specifications between the hours of 7:00 am to 9:00 pm.
- 7: To any sound resulting from the emergency operations by fire and rescue services or police agencies.
- 8: To motor vehicle horns and warning devices used to warn of an emergency or danger, but not excepting motor vehicle anti-theft devices or alarms.
- 9: To alarms in buildings if the sound ceases within twenty (20) minutes.
- 10: To any vendor or outdoor event with an approved permit from the Town of Brentwood.
11. Any sound from equipment necessary to keep electricity and other essential utilities operational during weather emergencies, or as a result of such emergencies, including, but not limited to, generators.
- 12: To municipal and commercial trash collection vehicles during the hours of 7:00 am to 8:00 am.
- 13: During times where a State of Emergency has been declared by the Mayor of the Town of Brentwood, which would allow town residents to perform necessary operations to aid in the recovery within the Town.

Permits and Variances

The Town Administrator or his/her designee, is authorized to issue a permit to exceed the noise provisions of this section. Any resident, property owner, or business owner may secure for a specific address or location a maximum of 4 variances per year from these restrictions.

- 1: Permits shall specify places, dates and hours of the permitted activities and may impose terms and conditions appropriate to reduce the impact of the noise variance.
- 2: No permit shall be granted for nighttime hours. Permits are valid for a

specified five (5) hour period. Only one (1) permit shall be issued to a property in a thirty (30) day period.

- 3: A noise permit allows noise to be heard up to two hundred (200) feet from its source. If the noise can be heard further than two hundred (200) feet from the source, the noise permit is void. A Brentwood police officer or Code Enforcement Officer has the authority to revoke or impose restrictions on a noise permit if, in his or her judgment, the provisions of the City noise restrictions are being violated.
- 4: Permits for residential properties shall cost ten dollars (\$10) and be available for inspection during the event.
- 5: Permits for non-residential property shall be posted so as to be visible to the public prior to and during the event; a fee of twenty-five dollars (\$25) shall accompany applications for such permits.
- 6: The Town Administrator or his/her designee is authorized to adopt and use such forms of applications and permits as may be reasonably required in the performance of his/her duties and enforcement of this section.

Enforcement and Penalties Against Persons.

- 1: Any person, who after instructed to cease the noise, shall allow or cause a continued violation of this Section shall, upon conviction, be guilty of a misdemeanor and subject to a fine not exceeding \$500.00 for a first offense, and \$1,000.00 for each subsequent offense or imprisonment not exceeding thirty (30) days, or both such fine and imprisonment. Maryland Criminal Law Title 10 Subtitle 2 Section § 10-201. - Disturbing the public peace and disorderly conduct.
- 2: As an alternative to criminal action, the Chief of Police or a police officer may issue a civil citation for any violation of this Ordinance not exceeding \$500.00 for a first offense, and \$1,000.00 for each subsequent offense. . The issuance of a citation or warning in violation of this ordinance shall be at the discretion of the police officer.

Enforcement and Penalties Against Owners and/or Landlords of Property.

- 1: The Town Administrator, Chief of Police, police officer or a code enforcement officer may issue a civil citation to the owner or landlord of the building or premises from which noise is in violation of this Ordinance of this title emanates, if more than three civil citations have been filed against an occupant, at one address, within a 60-day period. The issuance of a citation or warning in violation of this ordinance shall be at the discretion of the police officer.
 - 2: The Town Administrator, Chief of Police, police officer or a code enforcement officer may issue additional civil citations for each subsequent violation within 6 months after the initial citation of the owner or landlord.
 - 3: Before issuing a citation, the Town Administrator, Chief of Police, police officer or a code enforcement officer shall send by certified mail or deliver written notice to the owner or landlord that three citations have been filed under this Ordinance within a 60-day period.
 - 4: Failure of payment by the owner will result in the Town of Brentwood filing for a property tax lien.
5. The Town may seek injunctive or other appropriate judicial relief to stop or prevent continuing violations of this Chapter.

Authorization to enter upon private property.

Any sworn Town of Brentwood Police Officer shall be authorized to enforce this section of the Town Code. In the performance of their duties as regards to noise control a police officer is hereby authorized to enter upon private property in the Town of Brentwood in order to quell any noise that is detrimental to health, safety, or welfare and the use, enjoyment and protection of property.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BRENTWOOD THAT:

THIS ORDINANCE IS ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF BRENTWOOD THIS 19th DAY OF APRIL, 2017 TO BE EFFECTIVE NOT SOONER THAN 30 DAYS AFTER PASSAGE.



Magdalena Rojas, Town Clerk



Rocio Treminio-Lopez, Mayor



Jeffrey F. Clark, Vice Mayor



Tonya Y. Harrison, Council Member



Regina M. Morlan, Council Member



Victor R. Olano, Council Member

