

BOROUGH OF BROOKHAVEN
DELAWARE COUNTY, PENNSYLVANIA

ORDINANCE No. 800 of 2018

AN ORDINANCE OF THE BOROUGH OF BROOKHAVEN,
DELAWARE COUNTY, PENNSYLVANIA, PROHIBITING
CERTAIN NOISES AND NOISE LEVELS WITHIN THE BOROUGH
OF BROOKHAVEN; SETTING REGULATIONS FOR PROHIBITED
NOISES AND NOISE LEVELS; SETTING ENFORCEMENT
STANDARDS FOR NOISES AND NOISE LEVELS; SETTING
VIOLATIONS AND PENALTIES FOR FAILURE TO COMPLY;
AND REPEALING ALL ORDINANCES OR PARTS OF
ORDINANCES INCONSISTENT HEREWITH, INCLUDING
SPECIFICALLY REPLACING CHAPTER 652 "NOISE CONTROL."

BE IT ENACTED and it is hereby enacted and ordained by the Council of the Borough of Brookhaven, Delaware County, Pennsylvania, as follows:

CHAPTER 652
Noise Control

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|--------|---|--------|--------------------------|
| 652.01 | Definitions. | 652.06 | Exceptions to chapter. |
| 652.02 | Enforcement by Police
Department;
Notice of violations. | 652.07 | Declaration of nuisance. |
| 652.03 | Prohibited noises. | 652.08 | Remedies. |
| 652.04 | Noise level limits. | 652.99 | Penalty. |
| 652.05 | Noise from motor vehicles. | | |

CROSS REFERENCES

- Arrest for breach of the peace – see Borough Code
Sec. 1121 (53 P.S. Sec. 46121)
Noise from animals – see GEN. OFF. 614.05
Peace disturbances – see GEN. OFF. Ch. 668
Use of whistles, horns, etc. by peddlers – see B.R. & T. 828.07
Noise from internal combustion engines – see P. & Z. 1274.10

652.01 – DEFINITIONS

All terminology not specifically defined in this section shall be in conformity with applicable publications of the American National Standards Institute (ANSI) or its successor body. In addition, as used in this chapter:

1. “Ambient noise level” means the sound pressure level of the all-encompassing noise associated with a given environment, usually being a composite of sounds from many sources, and/or the A-weighted sound pressure level exceeded ninety percent of the time/L90 based on a one-hour period.
2. “A-weighted sound pressure level” means the sound pressure level as measured in decibels on a sound level meter using the A-weighting network. The level so read shall be designated dB(A) or dBA.
3. “Continuous noise” means a steady, fluctuating, or impact noise which exists, essentially without interruption, for one hour or more.
4. “Cyclically varying noise” means a steady, fluctuating, or impulsive noise which may or may not contain a pure tone and which varies in sound pressure level such that the same level is obtained repetitively at reasonably uniform intervals of time.
5. “Decibel” means a logarithmic (dimensionless) unit of measure often used in describing the amplitude of sound. Decibel is denoted as “dB.”
6. “Department” means any Municipal agency.
7. “Device” means any mechanism which is intended to produce or which actually produces noise when operated or handled.
8. “Emergency vehicle” means a motor vehicle used in response to a public calamity or to protect persons or property from imminent danger.
9. “Emergency work” means work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from an imminent exposure to danger.
10. “Fluctuating noise” means a noise for which the sound pressure level varies more than six dB(A) during the period of observation when measured with the slow meter characteristics of a sound level meter and which does not equal the previously existing ambient noise level more than once during the period of observation.
11. “Motor vehicle” means any vehicle which is propelled or drawn by mechanical equipment, including, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, campers, motorcycles, minibikes, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles.
12. “Muffler” means any apparatus consisting of baffles or chambers of acoustical absorbing materials whose primary purpose is to transmit liquids or gases while causing a reduction in sound emission at one end.
13. “Noise” means any sound which is unwanted or which causes or tends to cause an adverse psychological effect on human beings.

14. "Noise disturbance" means any sound which annoys, disturbs, or perturbs reasonable persons with normal sensitivities, or any sound which injures or endangers the comfort, repose, health, hearing, peace, or safety of other persons.
15. "Person" means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency, or instrumentality of the United States, a state or any political subdivision of the state.
16. "Plainly audible noise" means any noise for which the information content of that noise is unambiguously communicated to the listener, including, but not limited to, understandable spoken speech or comprehensible rhythms.
17. "Powered model vehicles" means any powered vehicle, either airborne or land borne, which is not designed to carry persons or property, including, but not limited to, model airplanes, boats, cars or rockets, and which can be propelled by mechanical means.
18. "Property boundary" means any imaginary line at the ground surface, and its vertical extension, which line separates the real property owned by one person from that owned by another person.
19. "Public right of way" means any street, avenue, boulevard, highway, alley or similar place which is owned or controlled by a public governmental entity.
20. "Pure tone" means any noise which can be distinctly heard as a single pitch or as a set of single pitches. For the purpose of measurement, a pure tone exists when the one-third octave band sound pressure level of the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by five dB for frequencies of 500 hertz and above by eight dB for frequencies between 160 and 400 hertz and by fifteen dB for frequencies less than or equal to 125 hertz.
21. "Repetitive impulsive noise" means any noise which is composed of impulsive noises that are repeated at sufficiently slow rates such that a sound level meter set at fast meter characteristics will show changes in sound pressure level greater than two dB(A).
22. "Sound" means a temporal and spatial oscillation in pressure or other physical quantity, in a medium with internal forces, that causes compression and rarefaction of that medium and that propagates at finite speed distance points.
23. "Sound level meter" means an instrument, which includes a microphone, amplifier, RMS detector, integrator, or time average, output meter and weighing networks, used to measure sound pressure level and shall exclude any un-calibrated instrument and/or smart phone application.
24. "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space.
25. "Stationary emergency signaling device" means any device excluding a device attached to a motor vehicle, used to alert persons engaged in emergency operations. These include, but are not limited to, firefighters, first-aid squad members, and law enforcement officers, whether paid or volunteer.

26. "Stationary noise sources" means any device, fixed or movable, which is located or used on geographically defined real property, other than a public right of way.
27. "Steady noise" means a sound pressure level which remains essentially constant during the period of observation, i.e. the fluctuations are too small to meet the criterion for fluctuating noise.
28. "Time" means prevailing time. (Ord. 500. Passed 4-13-87.)

652.02 – ENFORCEMENT BY POLICE DEPARTMENT; NOTICE OF VIOLATIONS

- (a) The Police Department shall enforce this chapter.
- (b) A violation of any of the provisions of this chapter shall be cause for a summons and complaint to be issued forthwith. However, if the noise source is not a motor vehicle moving on a public right of way then, in lieu of a summons and complaint, enforcement personnel may issue a notice, in writing, which notice may be served personally or by certified mail to the last known address of the person in charge or control of the device, building, or premises on which a violation exists. The notice shall state the nature of the violation and a specific time period for the correction and abatement of the violation. No person shall fail to comply with the notice so issued.
- (c) In order to implement the purpose of this chapter, the Police Department may:
 - 1) Conduct, or cause to be conducted, studies, research, and monitoring related to noise;
 - 2) Conduct programs of public education regarding the cause and effects of noise, but not giving specific advice for its abatement, and encourage the participation of public interest groups in related public information efforts;
 - 3) For reasonable cause, and upon presentation of proper credentials, enter any building, property, premises, or place and inspect any noise source for the purpose of ascertaining compliance or noncompliance with this chapter, or have access to and require the production of books and papers pertinent to any matter under investigation;
 - 4) Require the owner or operator of any noise source to establish and maintain records and make such reports as the Borough may reasonably prescribe; and
 - 5) Require the owner or operator of any noise source to measure the noise emission therefrom in accordance with such methods and procedures and at such locations and times as the Borough may reasonably prescribe.(Ord. 500. Passed 4-13-87.)

652.03 – PROHIBITED NOISES

- (a) No person shall make or continue or cause to be made or continued any excessive or unusually loud noise, or create a noise disturbance in the Borough.

- (b) The following acts are hereby declared to be loud, disturbing, excessive noises and/or noise disturbances in violation of this chapter, but such enumeration shall not be deemed to be exclusive:
- 1) Horns and signaling devices. The sounding of any horn or signaling device on any motor vehicle, except as a danger or warning signal or as provided in the Vehicle Code of Pennsylvania;
 - 2) Radios, television sets, and similar devices.
 - a. Operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum, or other device for the production or reproduction of sound in such a manner as to cause a noise disturbance; or
 - b. Operating any such device between 10:00 p.m. and 8:00 a.m. of the following day in such a manner as to be plainly audible across real property boundaries, through partitions common to two parties within a building, or at a distance of fifty feet from such device when operated within a motor vehicle parked on a public right of way or on a public space.
 - 3) Exterior loudspeakers. Using or operating any mechanical device or loudspeaker in a fixed or movable position exterior to any building or mounted upon any aircraft or motor vehicle, such that the sound therefrom is plainly audible at or beyond the property boundary of the source or on a public right of way between 6:00 p.m. and 8:00 a.m. of the following day;
 - 4) Animals. Owning, keeping, possessing, or harboring any animal which, by frequent or habitual howling, barking, meowing, squawking, or other noise, causes a noise disturbance. This paragraph applies to all private or public facilities, including animal pounds, which hold or treat animals.
 - 5) Loading Operations. Loading, unloading, opening, or otherwise handling boxes, crates, containers, garbage cans, or similar objects between 6:00 p.m. and 8:00 a.m. of the following day in such a manner as to cause a noise disturbance;
 - 6) Construction noise. Operating or causing the operation of any equipment used in commercial construction, repair, alteration, or demolition work on buildings, structures, streets, alleys, or appurtenances thereto in any land use category between 6:00 p.m. and 7:00 a.m. of the following day;
 - 7) Vehicle repairs or testing. Repairing, rebuilding, modifying, or testing any motor vehicle, off-road vehicle, or motorboat in or near a residential use district in such a manner as to cause a noise disturbance or a violation of this chapter;
 - 8) Places of public entertainment. Operating or permitting the operation of any loudspeaker or other source of sound in any place of public entertainment, which loudspeaker or other source of sound produces a maximum sound pressure level of ninety dB(A) at any point that is normally occupied by a human being as read with the slow response on a

sound level meter, without a conspicuous and legible sign located outside such place, near the entrance, stating "WARNING: SOUND ENVIRONMENT WITHIN MAY CAUSE TEMPORARY HEARING IMPAIRMENT WHICH MAY BECOME PERMANENT WITH CONTINUED EXPOSURE";

- 9) Powered model vehicles. Operating or permitting the operation of powered model vehicles between 6:00 p.m. and 8:00 a.m. of the following day. Maximum sound pressure levels during the permitted period of operation shall conform to those set forth in Section 652.04 and shall be measured at the property boundary of the source. Powered model vehicles shall not be operated on a public property.
- 10) Refuse compacting vehicles. Operating or permitting the operation of any motor vehicle which can compact refuse and which creates during the compacting cycle a disturbing noise between 9:30 p.m. and 7:30 a.m. of the following day in any business district, shopping center district, special use district, or industrial district if an establishment therein abuts within 100 feet of a residentially zoned property upon which there is a residence building;
- 11) Bells and alarms. Sounding or permitting the sounding of any exterior burglar alarm on any building or motor vehicle, unless such burglar alarm terminates its operation within fifteen minutes of its being activated;
- 12) Stationary emergency signaling devices. Testing of only the electromechanical functioning of a stationary emergency signaling device between 6:00 p.m. and 8:00 a.m. of the following day. Such testing shall occur at the same time each day that a test is performed and shall only use the minimum cycle test time.
- 13) Power tools. Operating or permitting the operation of any powered saw, sander, drill, grinder, garden equipment, or tools of like nature, used primarily for domestic purposes, outdoors in residential zones between one hour after sunset and 8:00 a.m. of the following day. (Ord. 500. Passed 4-13-87.)

652.04 – NOISE LEVEL LIMITS

- (a) No person shall operate or permit to be operated any stationary source of noise in such a manner as to create a sound pressure level which is unreasonable and exceeds the limits, as determined by the police department, of the receiving land use when measured at the property boundary. When a noise source can be identified and its noise can be measured in more than one land use category, the limits of the most restrictive use shall apply at the boundaries between different land use categories.

- (b) For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits will be determined on a reasonableness basis by the police department.

652.05 – NOISE FROM MOTOR VEHICLES

- (a) No person shall operate a motor vehicle on a public right of way at any time in such a manner that the sound pressure level emitted by such vehicle exceeds the levels set forth in the following table when measured at the property line. This section shall apply to all motor vehicles, whether publicly or privately owned, that are duly licensed.

Vehicle Class	Sound Pressure Level (dB(A)) Speed Limit 35 mph or less	Sound Pressure Level (dB(A)) Speed Limit 35 mph or more
Federally registered interstate motor carrier	86	90
All motor vehicles with manufacturer's gross vehicle rating of 10,000 pounds or more, and any combination of vehicles towed by such motor vehicle	92	96
Motorcycles	88	92
Any other motor vehicle and any combination of vehicles towed by such motor vehicle	82	88

- (b) For the purpose of such table, the standard measurement height shall be four feet, (1.2 meters) and the standard horizontal measurement distance from the centerline of the traffic lane being monitored shall be fifty feet (fifteen meter). Whenever it is not feasible to use fifty feet, the distance may be shortened to twenty-five feet (7.5 meters), in which case the values of such table shall be increased by six dBA.
- (c) No person shall operate or cause to be operated any motorized vehicle off a public right of way in such a manner that the sound pressure level is high (determined by police department). Recreational motorized vehicles shall not be operated in public parks.

652.06 – EXCEPTIONS TO CHAPTER

- (a) Noise caused in the performance of emergency work for the immediate safety, health or welfare of the community or individuals of the community, or to restore property to a safe condition following a public calamity, shall not be subject to this chapter. Nothing in this section shall be construed to permit law

enforcement, ambulance, fire, or other emergency personnel to make excessive noise in the performance of their duties when such noise is clearly unnecessary. The use of stationary emergency signaling devices shall be for emergency use only.

- (b) Council may grant specific and temporary exceptions to this chapter upon receipt of a written application requesting such exception. The application shall state the nature of the violation and the reason for the request. No exception shall be granted for a period exceeding one year from the date of the request.
- (c) Any person affected by any noise source for which an application for an exception has been filed may submit information to Council in favor of or in opposition to the proposed exception.
- (d) Notice of requests for exceptions shall be advertised in the local newspaper of general circulation, and persons residing within 200 feet of the location of the exception shall be notified of the request by certified mail.
- (e) A public hearing shall be held within thirty days of the receipt of the request and a decision shall be rendered by Council within sixty days of the hearing. (Ord. 500. Passed 4-13-87.)

652.07 – DECLARATION OF NUISANCE

The operation or maintenance of any noise source in violation of any of the provisions of this chapter shall be deemed to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction or in any other manner available for the abatement of public nuisances. (Ord. 500. Passed 4-13-87.)

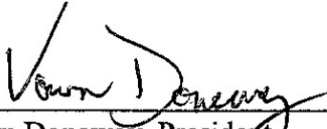
652.08 – REMEDIES

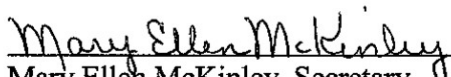
- (a) Any remedy available pursuant to this chapter shall be considered separate and not exclusive of any other remedy available under this chapter.
- (b) Nothing in this chapter shall be construed to impair any cause of action or legal remedy of any person for injury or damage arising from a violation of this chapter. (Ord. 500. Passed 4-13-87.)

652.99 – PENALTY

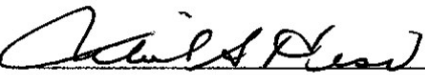
Whoever violates or fails to comply with any of the provisions of this chapter shall be fined not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00) or imprisoned not more than thirty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. (Ord. 500. Passed 4-13-87.)

ENACTED AND ORDAINED this _____ day of _____, 2018.

By: 
Vawn Donaway, President
Brookhaven Borough Council

Attest: 
Mary Ellen McKinley, Secretary
Brookhaven Borough Council

EXAMINED AND APPROVED THIS 5th day of March, 2018.

By: 
Michael Hess, Mayor
Brookhaven Borough