



## CITY OF DUNWOODY

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# MEMORANDUM

**To:** Mayor and City Council

**From:** Howard J. Koontz, City Planner

**Date:** September 13, 2010

**Subject:** Text amendment to City of Dunwoody Noise Ordinance

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## **BACKGROUND**

At the direction of the Mayor and City Council at their May 24 work session, Councilmember Shortal directed staff to bring forward a text change amending the current Noise Ordinance with specific changes. The following ordinance reflects those changes, and staff has proposed the format to amend the hours of prohibited noise created by construction and landscape activities in Chapter 18, Section 18-19 of the City of Dunwoody Noise Ordinance.

## **DISCUSSION/RECOMMENDATION**

At their regularly scheduled meeting on July 8, Community Council discussed the item at length. The Council voted on the amendments separately since there were some dissenting views. A motion was made to approve Section 18-19(10)(a)(i)(1) as proposed, and it carried with a vote of 4-2. After several other failed motions, the Council voted to amend the Sunday hours in Section 18-19(10)(a)(i)(3), to change to "BEFORE 12:00 PM OR AFTER 6:00 PM ON SUNDAYS."<sup>1</sup> The motion carried 5-1. Another motion was made for Section 18-19(10)(a)(i)(3) to allow construction from "12:00 PM-6:00 PM ON LEGAL HOLIDAYS,"<sup>2</sup> and it carried 4-2. The Council voted to leave Section 18-19(10)(b) as written with the amendment that homeowners may perform landscaping activities from "7:30 AM-7:30 PM ANY DAY OF THE WEEK AND DURING HOLIDAYS."<sup>3</sup> The motion carried 5-1. As a whole, the Community Council felt that the ordinance as presented was too restrictive for individual homeowners and asked that the issue of Sunday work be addressed further.

The Planning Commission reviewed the proposed ordinance changes and discussed their recommendations. The Commissioners recommended that the allowable times for Section 10(a)(i)(1-2) and Section 10(b)(i)(1-2) be "REMAIN AT THE TIMES IN THE CURRENT CODE."<sup>4</sup> The Commissioners moved to amend the proposed text for Section 10(a)(i)(3) to allow construction on residential lots from "12 PM-6 PM ON SUNDAYS AND LEGAL HOLIDAYS";<sup>5</sup> it carried 4-0. A motion was made to amend Section 10(a)(ii)(2-3) to allow construction on a commercial lot from "10 AM-6 PM ON

SUNDAYS AND LEGAL HOLIDAYS.”<sup>6</sup> Lastly, the Commissioners moved to amend Section 10(a)(b)(i)(3) to allow landscaping on residential lots from “12 PM-6 PM ON SUNDAYS AND LEGAL HOLIDAYS”<sup>7</sup> and 10(a)(b)(ii)(2-3) to allow landscaping on commercial lots from “10 AM-6 PM ON SUNDAYS AND LEGAL HOLIDAYS.”<sup>8</sup> The motion carried 3-1, the dissenting vote coming from the idea that landscaping restrictions should apply to everyone, not just landscaping contractors. The Commissioners agreed on the idea, but did not agree to recommend new restrictions on home owners that were not previously in place or advertised as possible changes.

Recommended changes by Community Council and Planning Commission that are different from the proposed ordinances below are noted in SMALL CAPS AND SUPERSSCRIPTS that relate back to the recommendations.

*(10) Construction or repair.*

- (a) Construction of any type, including, but not limited to, the erection (including excavation), demolition, alteration, or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, stream or electric hoist, automatic nailers or staplers, or any similar equipment attended by loud or unusual noise, shall be prohibited during the following times:

*i. Residential Lots/Lots within 400 feet of a Residential Lot:*

1. Before 7:30 a.m. or after ~~8:30~~ 7:30 p.m. on weekdays;<sup>4</sup>
2. Before 8:00 a.m. or after ~~8:30~~ 7:00 p.m. on Saturdays; and<sup>4</sup>
3. At any time on Sundays and/or legal holidays:<sup>1,2,5</sup>
  - (i) New Years Day (observed);
  - (ii) Memorial Day (observed);
  - (iii) Independence Day (observed);
  - (iv) Labor Day (observed);
  - (v) Thanksgiving Day; and
  - (vi) Christmas Day (observed).

*ii. Commercial Lots:*

1. Before 7:00 a.m. or after 8:30 p.m. on weekdays and Saturdays;
2. Before 1:00 p.m. or after 5:00 p.m. on Sundays; and<sup>6</sup>
3. At any time on legal holidays:<sup>6</sup>
  - (i) New Years Day (observed);
  - (ii) Memorial Day (observed);
  - (iii) Independence Day (observed);
  - (iv) Labor Day (observed);
  - (v) Thanksgiving Day; and
  - (vi) Christmas Day (observed).

- (b) Landscape contractor<sup>3</sup> using any type of motorized mowers or mechanical blowers and other equipment which create loud and excessive noise shall be prohibited, during the following times:

*i. Residential Lots/Lots within 400 feet of a Residential Lot:*

1. Before 7:30 a.m. or after ~~8:30~~ 7:30 p.m. on weekdays;<sup>4</sup>
2. Before 8:00 a.m. or after ~~8:30~~ 7:00 p.m. on Saturdays; and<sup>4</sup>
3. At any time on Sundays and/or legal holidays:<sup>7</sup>
  - (i) New Years Day (observed);
  - (ii) Memorial Day (observed);
  - (iii) Independence Day (observed);
  - (iv) Labor Day (observed);
  - (v) Thanksgiving Day; and
  - (vi) Christmas Day (observed).

*ii. Commercial Lots:*

1. Before 7:00 a.m. or after 8:30 p.m. on weekdays and Saturdays;
2. Before 1:00 p.m. or after 5:00 p.m. on Sundays; and<sup>8</sup>
3. At any time on legal holidays:<sup>8</sup>
  - (i) New Years Day (observed);
  - (ii) Memorial Day (observed);
  - (iii) Independence Day (observed);
  - (iv) Labor Day (observed);
  - (v) Thanksgiving Day; and
  - (vi) Christmas Day (observed).

**AN ORDINANCE AMENDING CHAPTER 18 OF THE CITY OF DUNWOODY CODE OF ORDINANCES BY CHANGING HOUR RESTRICTIONS FOR CONSTRUCTION OR REPAIR NOISE**

**WHEREAS,** the City of Dunwoody (the “City”) has heretofore adopted an ordinance for Noise, as set forth in Chapter 18 of the Code of the City of Dunwoody (the “Code”); and

**WHEREAS,** Chapter 18 currently has certain noise regulations prohibiting construction noise during certain hours of each day; and

**WHEREAS,** the Mayor and City Council recognize the need for peace and tranquility within the City; and

**WHEREAS,** the Mayor and City Council have determined that it is appropriate to amend the ordinance to adjust the hours during which construction and repair may take place within the City in order to preserve the health, safety and welfare of its citizens and preserve the peace and tranquility of the community for its enjoyment; and

**WHEREAS,** First Read of this Ordinance took place at the September 13, 2010 City Council Work Session and a properly advertised public hearing took place on September 27, 2010, along with a Second Read of this Ordinance.

**THEREFORE,** Mayor and City Council of the City of Dunwoody hereby ordain as follows:

**Section 1:** The City of Dunwoody Noise ordinance, Chapter 18, Article 2, Sec. 18-19(b)(10) of the City of Dunwoody Code of Ordinances, is hereby amended as follows:

**ADDITIONS – underlined**

**DELETIONS – ~~strikethroughs~~**

**Sec. 18-19. Loud or disturbing noises**

....

(b) *Acts declared violations.* The following acts are declared to be loud, disturbing, and unnecessary noise in violation of this section, but this enumeration shall not be deemed to be exclusive:

...

(10) *Construction or repair.*

- a. Construction of any type, including, but not limited to, the erection (including excavation), demolition, alteration, or repair of any building, as well as the operation of any pile driver, steam shovel,

pneumatic hammer, derrick, stream or electric hoist, automatic nailers or staplers, or any similar equipment attended by loud or unusual noise, shall be prohibited during the following times:

A. Residential Lots/Lots within 400 feet of a Residential Lot:

1. Before 7:30 a.m. or after ~~8:30~~7:30 p.m. on weekdays;
2. Before 8:00 a.m. or after ~~8:30~~7:00 p.m. on Saturdays; and
3. At any time on Sundays and/or legal holidays:
  - (i) New Years Day (observed);
  - (ii) Memorial Day (observed);
  - (iii) Independence Day (observed);
  - (iv) Labor Day (observed);
  - (v) Thanksgiving Day; and
  - (vi) Christmas Day (observed).

B. Commercial Lots:

1. Before 7:00 a.m. or after 8:30 p.m. on weekdays and Saturdays;
2. Before 1:00 p.m. or after 5:00 p.m. on Sundays; and
3. At any time on legal holidays:
  - (i) New Years Day (observed);
  - (ii) Memorial Day (observed);
  - (iii) Independence Day (observed);
  - (iv) Labor Day (observed);
  - (v) Thanksgiving Day; and
  - (vi) Christmas Day (observed).

- b. Landscape contractor using any type of motorized mowers or mechanical blowers and other equipment which create loud and excessive noise shall be prohibited, during the following times:

A. Residential Lots/Lots within 400 Feet of a Residential Lot:

1. Before 7:30 a.m. or after ~~8:30~~7:30 p.m. on weekdays;
2. Before 8:00 a.m. or after ~~8:30~~7:00 p.m. on Saturdays; and
3. At any time on Sundays and/or legal holidays:
  - (i) New Years Day (observed);
  - (ii) Memorial Day (observed);
  - (iii) Independence Day (observed);
  - (iv) Labor Day (observed);
  - (v) Thanksgiving Day; and
  - (vi) Christmas Day (observed).

B. Commercial Lots:

1. Before 7:00 a.m. or after 8:30 p.m. on weekdays and Saturdays;
2. Before 1:00 p.m. or after 5:00 p.m. on Sundays; and
3. At any time on legal holidays:
  - (i) New Years Day (observed);
  - (ii) Memorial Day (observed);
  - (iii) Independence Day (observed);
  - (iv) Labor Day (observed);
  - (v) Thanksgiving Day; and
  - (vi) Christmas Day (observed).

**Section 2:** This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

**STATE OF GEORGIA  
CITY OF DUNWOODY**

**ORDINANCE 2010-09-XX**

**SO ORDAINED**, this \_\_\_\_ day of September, 2010.

Approved:

\_\_\_\_\_  
Ken Wright, Mayor

ATTEST:

Approved as to Form and Content:

\_\_\_\_\_  
Sharon Lowery, City Clerk

\_\_\_\_\_  
Brian Anderson, City Attorney

(Seal)