

**Burnsville Town Council
Special Meeting - Thursday, July 14, 2022, 6pm
Burnsville Town Center**

On Thursday, July 14, 2022, the Burnsville Town Council with Mayor Pro Tem Judy Buchanan and members Denise Collier and Bill Wheeler, held a special meeting at the Burnsville Town Center. Mayor Russell Fox and Councilor Randy Ollis were out of Town. Also in attendance were town staff members Heather Hockaday, Chad Fox, and Corbin Cooper; and visitors, Richard Gierloff, and Steven Ray. Mayor Pro Tem Judy Buchanan, who presided, called the meeting to order at 5:57pm and stated that the purpose of the meeting was to conduct a special meeting.

Consideration of ordinance to amend Chapter 130 of the General Code of Ordinances for the Town of Burnsville-Noise provisions - Councilor Denise Collier moved to approve *An Ordinance Amending Town Of Burnsville's Noise Ordinance Chapter 130: General Offenses Of The General Code Of Ordinances* and authorize the Mayor to sign. Councilor Bill Wheeler seconded the motion, which carried. All were in agreement.

Consideration of petition to request non-contiguous annexation - Town Manager Heather Hockaday gave the Council background on a recently received petition for annexation. She explained that after the petition has been submitted, the first step is to direct the Town Clerk to investigate the sufficiency of the petition. The Clerk will then submit a report at the next regular meeting. Bill Wheeler made a motion to approve *Resolution - Burnsville Town Council Directing The Clerk To Investigate An Annexation Petition Received Under NCGS 160A-31* and authorize the Mayor to sign. Denise Collier seconded the motion, which carried. All were in agreement.

Enter into closed session pursuant to NCGS 143-318.11(a)(3) to consult with an attorney retained by the public body. - Denise Collier moved to enter closed session at 6:01pm. Bill Wheeler seconded the motion which carried.

Denise Collier made a motion to leave closed session and reenter open session at 6:17pm. Bill Wheeler seconded the motion, which carried. There was no action taken after re-entering open session.

Adjourn - With there being no further business, Bill Wheeler moved to adjourn the meeting at 6:18pm. All were in agreement and the meeting adjourned.



J. Chad Fox, Town Clerk



T. Russell Fox, Mayor



ORDINANCE NO. 2022.07.14.01

AN ORDINANCE AMENDING TOWN OF BURNSVILLE'S NOISE ORDINANCE
CHAPTER 130: GENERAL OFFENSES OF THE GENERAL CODE OF ORDINANCES

WHEREAS, Pursuant to NCGS 160A-174A a city may by ordinance define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city, and may define and abate nuisances;

WHEREAS, Chapter 130 of the General Code of Ordinances for the Town of Burnsville is entitled "General Offenses" and contains the Town's provisions for Noise Control;

WHEREAS, The Burnsville Town Council is of the opinion that it is in the best interest of the citizens and residents of Burnsville to amend portions of the Noise Control Ordinance.

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

Chapter 130 entitled General Offenses be amended to include a new section, 130.97 entitled "EXCEPTIONS to sections 130.01 and 130.02" and new section 130.98 entitled "Permits to Exceed Limits" as follows:

130.97 EXCEPTIONS

- 1. Between the hours of 8:00 a.m.-9:00 p.m. on Sunday, Monday, Tuesday, Wednesday and Thursday or, between the hours of 8:00 a.m. and 10:00 p.m. on Friday and Saturday the following are exempt from the provisions of sections 130.01 "Noise Generally" and 130.02 "Particular Noise": :**
 - a. Sounds emanating from commercial business establishments located within commercial zoning districts for the purposes of entertainment for the patrons of that business between the hours of 8:00am and 9:00pm on Sunday, Monday, Tuesday, Wednesday and Thursday; or, between the hours of 8:00am-10:00pm on Friday and Saturday.
 - b. Sounds emanating from festivals, parades or other events that are approved by the Burnsville Town Council.
 - c. Noise from lawful fireworks and noisemakers on holidays and at religious ceremonies.
 - d. Noise resulting from any authorized emergency vehicle when responding to any emergency call or acting in a time of emergency.
 - e. Musical accompaniment or firearm discharge related to military ceremonies.
 - f. Any other noise resulting from activities of a temporary duration permitted by law, and for which a permit has been issued according to the limits and conditions contained within this chapter.

130.98 PERMITS TO EXCEED LIMITS

1. A person or group of persons may produce or cause to be produced sound prohibited in section 130.01 or section 130.02, and not listed as an exemption in section 103.97 of this chapter, only if a permit to exceed the limit for the time and place of the activity has been obtained.
2. Any person or group of persons desiring a permit shall apply as provided herein, and shall provide all the information required. All applications shall be submitted to the Chief of Police or his designee at least seven (7) days prior to the scheduled event. Failure to comply with this requirement may be grounds for denying the permit.
3. The Chief of Police or his designee shall have authority to take final action on all applications for permits specified in this article. In considering acting to approve or deny issuance of permits, the Chief of Police or his designee shall consider, but shall not limit consideration to the following:
 - a. the timeliness of the application; the nature of the requested activity;
 - b. previous experience with the applicant;
 - c. the nature of the event;
 - d. other activities in the vicinity of the location proposed;
 - e. the frequency of the application;
 - f. the cultural or social benefit of the proposed activity;
 - g. the effect of the activity on the residential areas of the town;
 - h. previous violations of the requirements of this article, if any, by the applicant.
4. Permits to exceed limits shall specify the duration for which noncompliance shall be permitted and may prescribe the conditions or requirements necessary to minimize adverse effects upon the community or surrounding neighborhood. The Chief of Police or his designee may require, without limitation, the following:
 - a. That no sound speakers shall be set up more than ten feet above the ground;
 - b. That the permit holders change the arrangement of loudspeakers or sound instruments so as to minimize the disturbance to others resulting from the position or orientation of the speakers or from atmospherically or geographically caused dispersal of sound beyond the property lines.
5. Permit holders shall agree to cooperate with the Police Department in enforcing the Noise Control Ordinance by having signers of the permit available at the site of the event during the entire time for which as permit has been issued and capable of assisting the police in enforcing the noise control ordinance. Failure of the permittee or designees to be present or to assist the police in compliance with this article will result in revocation of the permit.
6. Should any provision of this ordinance be declared invalid or unconstitutional by any court of any competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.
7. That this ordinance shall be effective upon its adoption.

This the 14th day of July, 2022.

T. Russell Fox
T. Russell Fox, Mayor

ATTEST:

J. Chad Fox
Town Clerk, J. Chad Fox

Approved as to form:

Heather Herzog
Town Attorney

RESOLUTION
BURNSVILLE TOWN COUNCIL
DIRECTING THE CLERK TO INVESTIGATE AN ANNEXATION PETITION
RECEIVED UNDER G.S. 160A-31

WHEREAS, a petition requesting non-contiguous annexation by the Burnsville Town Council of an area described in said petition was received on July 7, 2022; and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and


WHEREAS, the Town Council of the Town of Burnsville deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Burnsville that:


The Town Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the Burnsville Town Council the result of their investigation.

Adopted this 14th day of July, 2022 by the Burnsville Town Council.

ATTEST



J. Chad Fox
Town Clerk



T. Russell Fox
Mayor