

## OPTION A – STAKEHOLDERS VERSION

### Chapter 30 - NUISANCES

#### ARTICLE I. - GENERAL

Secs. 30-1—17 RESERVED

#### ARTICLE II. - NUISANCE ABATEMENT PROCEDURE

##### 30-18. - Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*A-weighting* is the electronic filtering in sound level meters that models human hearing frequency sensitivity (see definition for dBA).

*C-weighting sound level* is the sound pressure level in sound level meters using the C-weighting network as specified in ANSI or its successor body documents for sound level meters. This level is post scripted dB(C) or dBC and captures a lower frequency sound (see definition for dBC).

*Construction* is any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures, except construction work initiated by a government entity.

*Decibel (dB)* is the unit of measurement for sound pressure level at a specified location.

*dBA* means the sound level measured in decibels, using the "A" weighting network on a sound level meter.

*dBC* is the C-weighted unit of sound pressure level.

*Emergency* is any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action, except construction work initiated by a government entity.

*Emergency work* is any work or action performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency or work by private or public utilities for providing or restoring immediately necessary utility services.

*Entertainment venue* is an establishment (indoors or outdoors) where entertainment, either passive or active, is provided for the pleasure of the patrons, either independent or in conjunction with any other use. Such entertainment includes but is not limited to vocal and instrumental music, dancing, karaoke, comedy, acting or other activities using amplified sound. Entertainment venues do not include country clubs, golf courses and residential neighborhood amenity areas.

*Equipment* means any stationary or portable device or any part thereof capable of generating sound.

*Noise* any sound which annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans or violates this Ordinance.

Noise *disturbance* is any sound that (a) endangers the safety or health of any person, (b) disturbs a reasonable person of normal sensitivities, or (c) endangers personal or real property or violates this Ordinance.

*Public space property category* is any real property or structures thereon that is owned, leased, or controlled by a governmental entity.

*Receiving property* means the real property within which sound originating from outside the property is received.

*Residential property* is all property on which people legally live.

*Sound level meter (SLM)* is an instrument used to measure sound pressure levels conforming to Type 1 or Type 2 standards as currently defined by the American National Standards Institute's specifications.

#### Sec. 30-19. - Conditions for nuisance declaration.

The following conditions being maintained or located on an owner's property may be declared to be nuisances when any one of them endangers the health, welfare or good of other persons or the good order of the community:

- (1) Stagnant water on premises;
- (2) Any dead or decaying matter, weeds, vegetation, fruit, vegetable, animal or rodent upon premises which is odorous or capable of causing disease or annoyance to the inhabitants of the city;
- (3) The generation of smoke or fumes in sufficient amounts to cause odor or annoyance to the inhabitants of the city;
- (4) The pollution of public water or the injection of matter into the sewerage system which would be damaging thereto;
- (5) Maintaining a dangerous or diseased animal or fowl;
- (6) Obstruction of a public street, highway or sidewalk without a permit;
- (7) Loud or unusual noises, ~~not addressed in Sec. 30-20, which are detrimental or annoying to reasonable people including without limitation unusual loud disturbances in or around churches or multiple-family complexes, such as loud music and other activities in swimming pools and clubhouse areas;~~
- (8) All walls, trees and buildings that may endanger persons or property;
- (9) Any business or building where illegal activities are habitually and commonly conducted in such a manner as to reasonably suggest that the owner or operator of the business or building was aware of the illegal activities and failed to reasonably attempt to prevent the activities;
- (10) Unused iceboxes, refrigerators and the like, unless the doors, latches or locks thereof are removed; and
- (11) Any other condition constituting a nuisance under state law or this Code.

#### Sec. 30-20. – Specific Noise Nuisances.

The following standards shall apply to the activities or sources of sound set forth below:

(a) Music and Amplified Sound.

(1) No person shall employ any device or instrument at an entertainment venue that creates or amplifies sound, including but not limited to any loudspeaker, bullhorn, amplifier, public address system, musical instrument, radio or device that plays recorded music, to generate any sound for the purpose of communication or entertainment, that exceeds 70 dBA from 7 AM to 10 PM or 60 dBA from 10 PM to 7 AM measured at a receiving residential property. In addition, no person shall employ any device or instrument at an entertainment venue that creates or amplifies sound that exceeds 80 dBC from 7 AM to 10 PM or 75 dBC from 10 PM to 7 AM measured outside of any receiving residential structure.

(2) The limitations imposed in this section do not apply to a person participating in a parade, athletic event, public assembly, or outdoor special event; provided that an administrative permit has been issued, if required, and the person is in compliance with the permit and any other provisions or City policies including policies related to activities in City parks.

(3) The limitations imposed in this section do not apply to sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of an emergency or emergency work.

(4) Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including but not limited to, design, maximum and fluctuating rates. All noise measurements shall be made as indicated above using the slow response setting, unless otherwise directed in this article. When instrumentation cannot be placed as indicated above, the measurement shall be made as close thereto as is reasonable. For the purposes of this article, noise measurements are measured on the A- or C-weighted sound scale, as applicable, of a sound level meter of standard design and quality having characteristics established by ANSI. Measurements shall be taken by city officials using a sound level meter.

(b) Landscaping and Yard Maintenance Equipment.

(1) For residential properties, power tools used for landscaping and yard maintenance shall not be operated between the hours of 10:00 p.m. and 7:00 a.m., and not on Saturday before 8:00 a.m. and Sunday before 10:00 a.m.

(2) For non-residential areas, with the exception of golf courses, power tools used for landscaping and yard maintenance shall be not be operated between the hours of 10:00 p.m. and 7:00 a.m., and not on Saturday before 8:00 a.m. and Sunday before 10:00 a.m. if within 250 feet of a residential property.

(c) Construction Activity. Construction for land disturbance and building activity shall not be performed between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, before the hour of 8:00 a.m. or after the hour of 5:00 p.m. on Saturday, or at any time on Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day, unless such activities are deemed emergency work or special permission has been granted by the Community Development Director.

(d) Domesticated Animals. Domesticated animals may not make any vocalizations (including barking, baying, howling, crying, or making any other noise) for more than ten (10) minutes without interruption or more than thirty (30) minutes if intermittent.

(e) Trash Collection. The collection of trash or refuse is prohibited between the hours of 7:00 p.m. and 7:00 a.m. or as determined by section 42-40.

This section shall not be construed to be the exclusive definition of nuisance within this Code.

(Ord. No. O2006-12-25, Ch. 12, Art. 3, § 1, 12-19-2006)

Sec. 30-21. - Complaint.

- (a) Any official of the city or private citizen specially injured may direct a complaint of nuisance to the city police department or the city manager or his designee. Any complaint of nuisance shall be investigated by the police department and may be placed on the municipal court docket for a hearing upon the basis of the investigation.
- (b) The municipal court, after five days' notice to the party involved, shall hold a hearing thereon and upon finding that a nuisance does exist shall issue an order to the owner, agent in control or tenant in possession, stating that a nuisance has been found to exist and that the nuisance must be abated within so many hours or days as the judge shall deem reasonable, having consideration for the nature of the nuisance and its effect on the public.
- (c) City building, code enforcement and license inspectors may also receive complaints, investigate the same and place on the court docket such complaints in the same manner as police officers.

(Ord. No. O2006-12-25, Ch. 12, Art. 3, § 2, 12-19-2006)

State Law reference— Similar provisions to subsections (a) and (b), O.C.G.A. §§ 41-2-2, 41-2-5.

Sec. 30-22. - Abatement by city.

- (a) In any case where the owner, agent or tenant fails to abate the nuisance in the time specified, or where the owner, agent or tenant cannot be served with notice, or where the nature of the nuisance is such, in the opinion of the municipal court judge, that it must be immediately abated, the judge may issue an order to the chief of police directing the nuisance to be abated.
- (b) The chief of police, in such case, shall keep a record of the expenses and cost of abating same, and the costs shall be billed against the owner, agent or tenant for collection as for city revenues generally and shall become a lien on the property of such persons.
- (c) Other city departments shall assist the chief of police as is necessary in abating nuisances hereunder.

(Ord. No. O2006-12-25, Ch. 12, Art. 3, § 3, 12-19-2006)

Sec. 30-23. - Nuisance per se; exception; summary abatement.

Nothing contained in this chapter shall prevent the municipal court judge from summarily and without notice ordering the abatement of or abating any nuisance that is a nuisance per se in the law or where the case is an urgent one and the health and safety of the public or a portion thereof is in imminent danger.

(Ord. No. O2006-12-25, Ch. 12, Art. 3, § 4, 12-19-2006)

State Law reference— Similar provisions, O.C.G.A. § 41-2-5.

Secs. 30-23—30-47. - Reserved.