



# AGENDA REPORT **Johns Creek**

**To:** Honorable Mayor and City Council Members

**From:** Warren Hutmacher, City Manager

**By:** Sharon Ebert, Director Community Development

**Copy To:** Ed Densmore, Chief of Police  
Ron Bennett, City Attorney  
Richard Carothers, City Attorney

**Date:** May 18, 2016

**Agenda:** **May 23, 2016 City Council Meeting: Public Hearing related to Noise Nuisances**

---

**Issue:**

Noise disturbances are currently addressed by the City's Nuisance Ordinance. The City has not developed a specific noise ordinance. In general, noise ordinances limit the allowable levels of noise at different times of day for specific uses. At the request of City Council and with the input from a Stakeholder Committee, staff has prepared a draft amendment to the City's Nuisance Ordinance to better address specific noise nuisances within the City. In addition, an alternative draft proposed by the Mayor has been provided.

**Recommendation:**

It is important to be consistent with the process that was established by the Mayor and City Council in March of this year when the creation of a noise ordinance was first requested. The process currently in place is using a Stakeholders Group of various interested parties to provide comments on enforcement measures for various noise nuisances. This method has provided sound advice and careful consideration of whether certain enforcement criteria may have un-intended consequences and whether certain enforcement measures will adequately address the noise nuisance.

It is therefore recommended that the Stakeholders Group complete their analysis and review both Options A and Option B. Their review comments will then be brought back to the Mayor and City Council for consideration in making a final determination on adopting an amended Nuisance Ordinance.

## **Background:**

The City has a substantial interest in protecting its citizens from unwanted noise. Accordingly, the City may impose reasonable restrictions on the time, place and manner of noise. While the City may impose such regulatory restrictions, it cannot prohibit all noise.

At a Special Called Meeting on March 16, 2016, staff presented a draft Noise Ordinance at the request of the Mayor and City Council. Following this presentation and discussion, it was recommended that a Stakeholder Committee be assembled and that a draft ordinance be fully vetted in a public forum. The Stakeholder Committee was appointed and consists of business/institutional representatives and residents of neighborhoods that are more likely to be impacted by noise, due to their location adjacent to parks, schools and retail. Two meetings were held, during which time the Stakeholder Committee indicated that a more moderate approach of amending the City's existing Nuisance Ordinance might be more appropriate. This approach would focus on specific noise nuisances as opposed to creating a full-scale noise ordinance with potential unknown, adverse impacts. The Stakeholder Committee's version (Option A) is attached. In addition, the Mayor asked staff to develop an alternative draft of this potential amendment that eliminates the need for sound measurement equipment to determine violations, specifically amplified sound coming from entertainment venues. The Mayor's version (Option B) is also attached.

## **Discussion:**

The Stakeholder Committee's version of the Nuisance Ordinance Amendment (Option A) includes a definition section and addresses specific noise nuisances including music and amplified sound for commercial establishments, landscaping and yard maintenance equipment, construction activity, domesticated animals and trash collection. These noises are the most common nuisances that are reported to the City's Code Enforcement staff. Currently, these and other noise disturbances are addressed by the Nuisance section of the Johns Creek City Code. According to Chapter 30 of the City Code:

*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:*

*(7) Loud or unusual noises 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.*

The current language requires a city official to use their personal judgement to determine if noise is detrimental or annoying to reasonable people. The Stakeholder Committee recommended adding maximum decibel levels for noise related to amplified sound and music to provide more consistency when addressing these potential noise nuisances. Option A includes both daytime (7 AM to 10 PM) and nighttime (10 PM to 7 AM) maximum decibel levels for both dBA (middle frequency) and dBC (low and high frequency) noise. Staff believes that providing these maximum decibel levels will allow for more consistent enforcement of noise nuisances stemming from amplified sound and music. The proposed decibel levels and daytime/nighttime hours are based on the average decibel levels set by other metro Atlanta municipalities and research of best practices nationwide.

In addition, more specific guidelines are proposed for other, more common, noise disturbances. Landscaping and yard maintenance is limited to certain hours of the day for residential properties and commercial properties located near residential areas (due to their unique business model golf courses and country clubs are exempted). In addition, more guidance is provided to allow city officials to determine when nuisances are created by construction activity, noise from pets and trash collection. Currently, trash collection is regulated in another section of the City Code. Construction activity is regulated through an agreement signed by contractors during the land development permitting process. Adding these more common noise nuisances to the Nuisance Ordinance will ensure consistency and allow for appropriate abatement procedures. The current noise nuisance language would remain in effect to capture any other potentially detrimental or annoying disturbances.

Adopting Option A will require that special equipment be purchased by the City. High-quality noise level meters range in price from \$600 to \$1100+. In addition, those using the equipment to measure noise will require proper training. If Option A is adopted, staff recommends an effective date 30 days after adoption by the Mayor and City Council to allow appropriate time for purchasing equipment and training.

Option B, is the Mayor's version of the Nuisance Ordinance Amendment and addresses specific noise nuisances related to entertainment venues, as well as landscape and maintenance equipment, construction activities, animal sounds and trash removal. Option B does not propose any maximum decibel levels. Instead, a violation occurs when amplified sound is plainly audible or sensed at the receiving residential property. This would be the case at all times for indoor entertainment venues and during specific hours set for outdoor entertainment venues. These specific hours are proposed to be between 9 PM and 7 AM Sunday, Monday, Tuesday, Wednesday and Thursday; between 11 PM and 8 AM Friday and Saturday; and between 11 PM and 10 AM on Sunday. All other incidents of music and amplified sound would still be covered by the current noise nuisance ordinance language.

In addition, Option B specifies progressive fines based on the number of violations in any 12 month rolling period. For the second violation a minimum fine of \$250 would be assessed. For the third violation the minimum fine would be \$500, while a minimum fine of \$1000 is proposed for four or more violations. Also, any individual who does not obey an on-duty law enforcement officer to reduce said noise or vibration so that it is no longer plainly audible or sensed at the receiving property may also be in violation of the disorderly conduct section of the City Code.

**Alternatives:**

1. Adoption of Option A.
2. Adoption of Option B.
3. Do not amend the City's Nuisance Ordinance and continue to regulate noise through existing policy.

**Attachments:**

Draft Stakeholder Committee Nuisance Ordinance Amendment (Option A)  
Draft Mayor's Nuisance Ordinance Amendment (Option B)  
Draft Amendment to Section 34.59 Disorderly Conduct