

## 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-weighted sound level* is the sound pressure level in decibels as measured on a sound level meter using the A-weighting network as specified in ANSI documents for sound level meters that models human hearing frequency sensitivity by de-emphasizing the low frequency components of sound. The level so read is post scripted dB(A) or dBA.

*Amplified Sound* means the reproduction of sound from any radio, stereo, CD player,, DVD player, microphone, drum, turn table, audio or visual equipment, musical instrument, sound equipment, sound amplification device, television set,, exterior loudspeakers, bullhorn or similar device.

*Background sound level* is the total sound pressure level of the all-encompassing sound associated within an area of interest, being usually a composite of sounds from many sources near and far excluding the specific noise under investigation.

*C-weighting sound levels* is the sound pressure level in decibels as measured on a sound level meter using the C-weighting network as specified in ANSI documents for sound level meters that emphasizes the low frequency components of sound. The level so read is post scripted dB(C) or 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 measure used in describing the amplitude of sound.

*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 course facilities 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.

*Plainly audible* is any sound for which the information content of that sound is distinguished by the listener possessing normal hearing sensitivity, such as, but not limited to, understandable speech, comprehension of whether a voice is normal or raised, repetitive bass sounds, or comprehension of musical rhythms, without the aid of any listening device.

*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 in the following residential zoning districts: R-1 through R-6; TR; A; A-I; NUP; and CUP.

*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.

Sound Pressure Level (SPL) is the logarithm ratio of the square of the actual sound pressure to the square of the sound pressure at the threshold of hearing. The threshold of hearing shall be referenced as 20 micro Pascal. The level so read is post scripted decibel or dB.

#### 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;
- (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 property owner, tenant or an agent or employee of a property owner shall employ any device or instrument at an Entertainment Venue that creates, or amplifies sound to generate any sound for the purpose of communication or entertainment that is plainly audible at a receiving residential property, including but not limited to: any loudspeaker; bullhorn, amplifier; public address system; musical instrument; radio; or device that plays recorded music.

(2) At the sole discretion of a law enforcement officer or code enforcement officer and as an alternative to making a determination of whether a sound is plainly audible, the following shall apply: A Sound Pressure Level (SPL) reading may be taken at the receiving residential property according to the sound measurement procedures contained herein. In no instance shall the SPL from any Entertainment Venue music or amplified sound source exceed the following absolute limits except as prescribed herein:

TABLE 1.

Receiving Property Category	Daytime: 7:01 AM – 11 PM		Nighttime: 11:01 PM – 7 AM	
	dBA	dBC	dBA	dBC
Residential	55	60	40	50

Provided however, that under no circumstance shall the existence of this SPL standard prevent a violation being found if the sound is plainly audible as set forth in Section 30-20(A)(1).

(3) In cases where the receiving residential property background sound levels dBA or dBC exceed the levels in TABLE 1, in no instance shall the sound pressure level from any Entertainment Venue amplified sound source exceed the receiving residential property background sound level, except as prescribed herein.

(4) Insofar as practicable, sound shall be measured while the amplified sound of interest under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including but not limited to, design, maximum, and fluctuating rates. When measurements cannot be conducted at or within the residential property boundary, they shall be made as close thereto as is reasonable. Sound pressure levels shall be measured using the A- and C- weighting networks on a sound level meter meeting, at a minimum, the tolerance characteristics for a Type 2 device as established within ANSI S1.4.

All measurements shall be conducted in accordance with the following procedures:

- (a) Only during periods when the sound pressure level from sound sources unrelated to the sound of interest dominate the measurement location;

(b) For a period of time sufficient to ensure that the measured sound pressure levels are typical of the sound of interest, but in no event shall the duration of measurement be less than one minute;

(c) Only during periods when wind speeds (including gusts) are no greater than 15 mph;

(d) Never under any condition that allows the SLM to become wet; and

(e) Only after the SLM has undergone a field calibration process or method as recommended by the SLM manufacturer.

(5) 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.

(6) 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.

(B) Landscaping and Yard Maintenance Equipment.

(1) For residential properties, power ~~tools~~ equipment used for landscaping and yard maintenance shall not be operated between the hours of 9:00 p.m. and 7:00 a.m. and not on Saturday before 8:00 a.m. and not on Sunday before 10:00 a.m.

(2) For non-residential properties, with the exception of golf course facilities, power equipment ~~tools~~ used for landscaping and yard maintenance shall be not be operated between the hours of 9:00 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.) 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.

(E) Consumer Fireworks. Consumer fireworks shall be used in accordance with Georgia State law.

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. (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 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 issue citations 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.
- (d) An owner, agent or tenant with nuisances of the same type that repetitively violate this Article shall be subject to progressive penalties as determined by the municipal court judge subject to the following fine schedule:

- 1. Minimum fine for second violation within any 12 month rolling period - \$250.00
- 2. Minimum fine for third violation within any 12 month rolling period - \$500.00
- 3. Minimum fine for four or more violations within any 12 month rolling period - \$1,000.00.

(e) A property owner, tenant, or an agent or employee of either a property owner or tenant that fails to obey an otherwise lawful order by an on-duty, certified law enforcement officer to reduce noise or vibration coming from the property occupied by such property owner, tenant, agent or employee so that said noise is no longer plainly audible or sensed at a residential property may be subject to section 34.59 of the City Code.

(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.