

GWINNETT COUNTY
BOARD OF COMMISSIONERS
LAWRENCEVILLE, GEORGIA

ORDINANCE ENTITLED: Noise Control Ordinance

READING AND ADOPTION: December 1, 2015

At the regular meeting of the Gwinnett County Board of Commissioners held in the Justice and Administration Center, Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Name	Present	Vote
Charlotte Nash, Chairman	Yes	Aye
Jace Brooks, District 1	Yes	Aye
Lynette Howard, District 2	Yes	Aye
Tommy Hunter, District 3	Yes	Aye
John Heard, District 4	Yes	Aye

On motion of Commissioner Hunter, which carried 5-0, the Code of Ordinances of Gwinnett County is hereby amended by repealing Article III of Chapter 42 of the Gwinnett County Code of Ordinances, entitled "Noise" and any amendments thereto and replacing it with a new Chapter 42, Article III, entitled "Noise Control."

WHEREAS, the Gwinnett County Board of Commissioners recognizes that excessive community noise is detrimental to individuals and the community in the enjoyment of life and property and in the conduct of business; and

WHEREAS, the Board of Commissioners recognizes that there has been much research concerning the effects of excessive noise which has been shown to have significant medical, social, and economic impacts; and

WHEREAS, the Board of Commissioners further recognizes that uncontrolled excessive noise could be a hazard to the public health, welfare, safety, and quality of life of those living, working, and visiting Gwinnett County; and

WHEREAS, the Board of Commissioners is authorized to adopt ordinances for the purpose of protecting and preserving the public health, safety, and welfare of the County and its residents; and

WHEREAS, the Gwinnett County Board of Commissioners adopted a Noise Ordinance on November 14, 1978, which was amended in 1986 and 1994 to address specific issues; and

WHEREAS, over the past 20 years, the population of Gwinnett County has more than doubled and employment and businesses have expanded as well, leading to a more urban landscape in the County; and

WHEREAS, with increased urbanization, individuals reside more closely together and businesses are conducted in closer proximity to residential neighborhoods; and

WHEREAS, the increased number of residents and businesses necessarily lead to increased noise; and

WHEREAS, the County is more likely to attract and retain commercial enterprises and permanent residents if the County has ordinances in place to improve and maintain appropriate noise quality; and

WHEREAS, the Federal Government has long recognized the importance of promoting an environment free from noise that jeopardizes health and welfare of its citizens and businesses through the passage of the Noise Control Act of 1972; and

WHEREAS, the State of Georgia has also recognized the importance of noise control through the enactment of O.C.G.A. § 40-6-14(a), which regulates sound from cars and provides that “[i]t is unlawful for any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical sound-making device or instrument from within the motor vehicle so that the sound is plainly audible at a distance of 100 feet or more from the motor vehicle;” and

WHEREAS, Section 42-46 of Gwinnett County’s Noise Ordinance recently came under review in the Gwinnett County Recorder’s Court and was found to be vague; and

WHEREAS, the Board of Commissioners recognizes the need to amend the Gwinnett County Noise Ordinance to address the County’s changed landscape and to address the issues raised in the Court’s Order; and

WHEREAS, the Board of Commissioners desires to protect the health, safety, and welfare of those residing in, visiting, or doing business in Gwinnett County through the reasonable regulation of certain noises; and

WHEREAS, the Board of Commissioners desires to adopt reasonable regulations concerning noise that are clear to follow and can be efficiently enforced; and

WHEREAS, the proposed Noise Control Ordinance was drafted by staff after reviewing the law and similar ordinances and was drafted in consultation with those departments and agencies responsible for enforcement of the Ordinance; and

WHEREAS, the Board of Commissioners finds that the adoption of a new and revised Noise Control Ordinance is in the best interest of Gwinnett County to protect the health, safety, and welfare of its residents, visitors, and workers.

NOW, THEREFORE, BE IT ORDAINED that the Gwinnett County Board of Commissioners hereby repeals Article III of Chapter 42 of the Gwinnett County Code of Ordinances, entitled "Noise" and all amendments thereto and replaces it with a new Article III of Chapter 42 of the Gwinnett County Code of Ordinances, entitled "Noise Control" which is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this ordinance shall be effective upon adoption.

BE IT FURTHER RESOLVED that all ordinances, regulations or parts of the same in conflict with this Resolution are hereby rescinded to the extent of said conflict.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: Charlotte J. Nash
Charlotte J. Nash, Chairman

Date Signed: 12/3/15

ATTEST:

By: Diane Kemp
Diane Kemp, County Clerk



APPROVED AS TO FORM:

By: Theresa A. Cox
Theresa Cox, Senior Assistant County Attorney

EXHIBIT A

CHAPTER 42 - NUISANCES

Article III - Noise control.

Sec. 42-46. Purpose.

This section is enacted to protect, preserve and promote the health, safety and welfare of the citizens of Gwinnett County through the control of noise. It is the intent of this section to establish standards that will reduce excessive community noises, which are harmful and otherwise detrimental to individuals and to the community in the enjoyment of life and property and in the conduct of business.

Sec. 42-47. Definitions and sound measurement standards.

- (1) *Construction Noise* shall mean noise associated with building on or developing property including, but not limited to, noise caused by the erection (including excavation), demolition, alteration, or repair of any building, as well as the operation of any earth-moving equipment, crane, saw, drill, pile driver, steam shovel, pneumatic hammer, hoist, automatic nailer or stapler, or any similar device.
- (2) *Devices used to attract attention* shall mean any horn, signaling device, radio receiving device, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets or other public property which serves to attract the attention of the public to any building, structure or vehicle.
- (3) *Human produced sound* shall mean yelling, shouting, hooting, whistling, or singing on the public streets or sidewalks or on private property.
- (4) *Mechanical sound-making devices* shall mean any radio receiving device, television, stereo, musical instrument, phonograph sound amplifier or other machines or devices for the producing, reproducing or amplifying of sound and/or noise.
- (5) *Motorized landscape maintenance devices* shall mean any noise generating motorized equipment used to perform landscape or yard maintenance, including but not limited to, leaf blowers, lawn mowers, weed eaters, or chain saws.
- (6) *Multi-family residential units*, for the purposes of this article, shall mean apartment, condominiums, attached townhouses, attached villas, duplexes, and other such residential dwelling units that share a common wall.
- (7) *Plainly Audible*, for the purposes of this article, shall mean any sound emanating from the specific sound-producing sources set forth in this article which can be heard from the distances set forth in this article, using the following sound measurement standards: Measurement shall be by the auditory senses of a person standing at a distance no less than the required minimum distance from the source of the sound. For music and other noise, words and phrases need not be discernable. For music and other noise, bass reverberations are included.

- (8) *Property line wall or boundary*, for the purposes of this article, with respect to multi-family residential units shall mean an imaginary line drawn through the points of contact of (1) adjoining apartments, condominiums, townhouses, duplexes or other such residential dwelling units with adjoining points owned, rented, or leased by different persons; or (2) adjoining common areas or adjoining exterior walls. Said property line or boundary includes all points of a plane formed by projecting the property line or boundary including the ceiling, the floor, and the walls.

Sec. 42-48. General Noise and/or Sound Prohibitions.

- (1) **Day and evening hours.** The following prohibitions shall apply between the hours of 7:00 a.m. and 11:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 12:00 midnight on Friday and Saturday.
- a. **Mechanical sound-making devices.** It is unlawful for any person or persons to play, use, operate, or permit to be played, used, or operated any mechanical sound-making devices at such a volume and in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 300 feet or more from the building, structure or vehicle, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest.
 - b. **Human-produced sounds.** It is unlawful for any person or persons to make human-produced sounds on the public streets or sidewalks or on private property so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 300 feet or more from the place, building, structure, or in the case of real property, beyond the property limits, in which the person is located, whichever is farthest.
 - c. **Devices used to attract attention.** It is unlawful for any person or persons to use, operate, or permit to be used or operated any device or devices used to attract attention which are cast upon the public streets or other public property which serves to attract the attention of the public to any building, structure or vehicle in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 300 feet or more from the source of the sound cast upon the public streets or other public property or from the building, structure, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest.
- (2) **Overnight hours.** The following prohibitions shall apply between the hours of 11:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday.
- a. **Mechanical sound-making devices.** It is unlawful for any person or persons to play, use, operate, or permit to be played, used, or operated any mechanical sound-making device at such a volume and in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 100 feet or more from the building, structure, or motor vehicle or in the case of

real property, beyond the property limits, in which it is located, whichever is farthest.

- b. **Human-produced sound.** It is unlawful for any person or persons to make human-produced sound on the public streets or sidewalks or on private property so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 100 feet or more from the place on public streets and sidewalks, or in the case of private real property, beyond the property limits, on which the person is located, whichever is farthest.
- c. **Devices used to attract attention.** It is unlawful for any person or persons to use, operate, or permit to be used or operated any device used to attract attention which is cast upon the public streets or other public property which serves to attract the attention of the public to any building, structure or vehicle in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 100 feet or more from the source of the sound cast upon the public streets or other public property or from the building, structure, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest.

Sec. 42-49. Specific Noise and/or Sound Prohibitions.

(1) Multi-family residential dwelling units.

- a. Except for persons within commercial enterprises that have an adjoining property line or boundary with a residential dwelling unit, it is unlawful for any person to make, continue, or cause to be made or continued any mechanical sound-making devices or human-produced sounds in such a manner as to be plainly audible to any other person a distance of twenty-five feet beyond the adjoining property line wall or boundary of any multi-family residential unit between the hours of 7:00 a.m. and 11:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 12:00 midnight on Friday and Saturday.
- b. It is unlawful for any person to make, continue, or cause to be made or continued any mechanical sound-making devices or human-produced sounds in such a manner as to be plainly audible to any other person a distance of ten feet beyond the adjoining property line wall or boundary of any multi-family residential unit between the hours of 11:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday

(2) Motorized landscape maintenance devices.

It is unlawful for any person to use or operate any noise-generating, motorized landscape maintenance devices within any residential area or within 300 feet of any residential area from 9:00 p.m. to 7:00 a.m. Sunday through Saturday.

(3) Construction noise.

- a. It shall be unlawful for any person to make, continue, or cause to be made or continued any construction noise in such a manner so as to be plainly audible at a distance of 300 feet or more beyond the property boundary of the property from which the noise emanates between the hours of 7 a.m. and 10 p.m. Monday through Friday and between the hours of 9 a.m. and 6 p.m. on Saturday.
- b. It shall be unlawful for any person to make, continue, or cause to be made or continued any construction noise on Sunday; between the hours of 6 p.m. and 9 a.m. on Saturday; and between the hours of 10 p.m. and 7 a.m. Monday through Friday.
- c. Notwithstanding this prohibition, the Director of the Department of Planning and Development or his designee may determine when the loss or inconvenience that would result to any party in interest is of such a nature as to warrant special consideration, in which case the Director or his designee may grant a permit for a period of time not to exceed ten (10) days for construction work to be done between the hours on 10 p.m. and 7 a.m. on weekdays.
- d. The prohibitions of this subsection (3) shall not apply to government road, water, sewer, stormwater construction or maintenance projects or to utility company construction or maintenance projects.

(4) Noises and/or sounds made by business entities in the normal course of such entity's operations.

- a. It shall be unlawful for business entities to make continue, or cause to be made or continued any noises and/or sounds generated in the normal course of such entity's operations through any mechanical sound-making devices, human-produced sounds, or devices used to attract attention that are plainly audible within any residential area more than 300 feet beyond the property boundary of the property from which the noises and/or sounds emanate between the hours of 7:00 a.m. through 11:00 p.m. Sunday through Thursday and 7:00 a.m. through 12:00 midnight on Friday and Saturday.
- b. It shall be unlawful for business entities to make continue, or cause to be made or continued any noises and/or sounds generated in the normal course of such entity's operations through any mechanical sound-making devices, human-produced sounds, or devices used to attract attention that are plainly audible within any residential area more than 100 feet beyond the property boundary of the property from which the noises and/or sounds emanate between the hours of 11:00 p.m. through 7:00 a.m. Sunday through Thursday and 12:00 midnight through 7:00 a.m. on Friday and Saturday.

Sec. 42-50. Exclusions.

The prohibitions of this article shall not apply to the following:

- (1) Except as otherwise prohibited in Section 42-49(4), noises and/or sounds caused to be made by business entities in the normal course of such entity's operations;
- (2) Noises and/or sounds emanating from any official Gwinnett County School District event on Gwinnett County School District property or from any state-accredited public or private school, college, or university event on such state-accredited public or private school, college, or university property;
- (3) Noises and/or sounds emanating from any official Gwinnett Braves event on the Gwinnett Braves Stadium property or any permitted event at the Gwinnett Civic Center or Gwinnett Arena.
- (4) Noises and/or sounds emanating from fireworks and pyrotechnic displays that are permitted by Gwinnett County in accordance with the applicable provisions of the Gwinnett County Code of Ordinances;
- (5) Noises or sounds made by domestic animals, which noises or sounds are controlled by Section 10-51 of the Gwinnett County Code of Ordinances;
- (6) Noises or sounds made by aircraft using the Gwinnett County Airport in accordance with state and federal regulations;
- (7) Sound volumes produced by radio, tape player, or other mechanical sound making device or instrument from within a motor vehicle on a street or highway, which sound is controlled by the O.C.G.A. § 40-6-14; or
- (8) Noises or sounds made by law enforcement, other public safety officials, and any vehicle of the county while performing public functions.

Sec. 42-51. Penalties.

Any person found guilty of violating the provisions of this article shall be punished by a fine of not more than \$1000.00, by imprisonment in the county jail not in excess of six months, or both.

Sec. 42-52. Severability clause.

A determination of the invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, subsection or part of this article shall not affect the validity of the remaining parts of this article.