

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HOLLY SPRINGS, GEORGIA, AS AMENDED, TO AMEND ARTICLE III – NOISE REGULATIONS OF CHAPTER 34 ENVIRONMENT; TO REVISE SECTION 34-71 ET. SEQ., ADDING DEFINITIONS; TO ADD PROVISIONS FOR SOUND LEVEL LIMITS; TO PROVIDE FOR NOISE REGULATIONS IN CERTAIN DISTRICTS AND ACTIVITIES; TO PROVIDE FOR EXEMPTIONS; TO PROVIDE FOR GENERAL NOISE REGULATIONS, ENFORCEMENT PROCEDURES, AND PENALTIES; TO PROVIDE FOR THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE CITY OF HOLLY SPRINGS, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

The Council of the City of Holly Springs hereby ordains that:

Section 1. That Article III - Noise, Chapter 34 - Environment of the Code of the City of Holly Springs, Georgia, as amended, is hereby further amended by deleting the article in its entirety and replaced as follows:

“ARTICLE III. NOISE REGULATION

***State law references:** Limits on sound volume produced by radio, tape player or other mechanical sound-making device or instrument from within motor vehicle, O.C.G.A. § 40-6-14; sale of muffler which causes excessive noise prohibited, O.C.G.A. § 40-8-71(c).

Sec. 34-71. Declaration of Policy.

The challenges of noise in the City of Holly Springs have been observed by the Mayor and City Council and City staff. These challenges have been documented by complaints received and investigated by staff. The Mayor and City Council find that it is necessary to minimize said noise to protect the citizens of Holly Springs from the physiological and psychological dangers of excessive noise and to promote the public health, safety and welfare as well as to control the level of noise in a manner which promotes the use, value and enjoyment of property; and the quality of the environment.

Sec. 34-72. Definitions.

All terminology used in this article, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. The following words and terms, when used in this article, shall have the following meanings:

Acoustic means a musical instrument or other sound produced that is not amplified or electronically modified.

Amplified noise is produced or reproduced sound, modified or enhanced through the use of electronic equipment and/or other means to artificially increase the decibel levels.

Commercial property category is all property which is used primarily for the sale of merchandise or goods, or for the performance of service, or for office or clerical work.

Construction is any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

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

Emergency is any occurrence or set or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

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.

Fast response is a setting on the sound level meter associated with measuring short bursts and sound peaks.

Impulsive sound is a sound having a duration of less than one second with an abrupt onset and rapid decay.

Industrial property category is any property which is used primarily for manufacturing or processing.

Institutional property category is any property which is used primarily for public or non-profit purposes, such as City Hall, a City Park, public safety facility, charitable organization, or club; not otherwise defined as a *Noise Sensitive Facility*.

Muffler is a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine where such a device is part of the normal configuration of the equipment.

Multi-family dwelling is any building or other shelter that has been divided into separate units to house more than one (1) family.

Noise disturbance is any sound that:

- (1) Endangers the safety or health of any person;
- (2) Disturbs a reasonable person of normal sensitivities; or
- (3) Endangers personal or real property.

Noise sensitive facility means any facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include, but are not limited to: elder care/convalescence homes, group homes for children or the disabled, schools, hospitals, and places of worship.

Person means any individual, firm, association, partnership, corporation, company, society, political subdivision, or any other entity, public or private.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties.

Real property line is the line, including its vertical extension that separates one parcel of real property from another.

Receiving property is property within which sound originating beyond its real property line is received.

Residential property category is all property on which people live and sleep that is not commercial or industrial.

Short Bursts are impulsive sounds, typically amplified, that approach peak levels, but may also sustain longer than one second.

Slow response is a setting on the sound level meter associated with measuring the average level of fluctuating noise.

Sound amplification device is equipment used to produce or reproduce sound, modified or enhanced, through the use of electronic equipment and/or other means to artificially increase the decibel levels so as to communicate under normal business practices (outdoor loudspeaker or announcing system), attract attention to an activity, advertise, announce a sporting event, or exercise free speech.

Sound level is measured noise in a decibel unit.

Sound level limit is the maximum sound pressure level (threshold of noise) permitted by receiving property in units of decibels.

Sound level meter (SLM) is an instrument used to measure sound levels conforming to IEC651 TYPE 2, ANSI S1.4 TYPE 2, or any TYPE 1 or TYPE 2 equivalent device as specified in ANSI Standard S1.4-1983 or the latest version thereof.

Sound peak is an extreme level of noise disturbance; also known as “peak levels.”

Sec. 34-73. Sound level limitations.

(a) No person, entity, or establishment shall cause, suffer, allow, or permit the operation of any sound source in such a manner as to create a sound level that exceeds the sound level limits set forth in Table 1, when measured at or within the real property line of the receiving property using the slow response setting on the sound level meter, unless otherwise noted in subsection (b) below. Such a sound source would constitute a noise disturbance.

TABLE 1: Sound Level Limits by Receiving Property

| Receiving Property Category | Time | Sound Level Limit (dB) |
|---|------------------------|-------------------------------|
| Residential or Noise Sensitive Facility | 11:00 p.m. - 7:00 a.m. | 55 |
| | 7:00 a.m. – 11:00 p.m. | 65 |
| Commercial/Institutional | 11:00 p.m. - 7:00 a.m. | 65 |
| Industrial | 11:00 p.m. - 7:00 a.m. | 70 |

(b) Should the noise disturbance consist of short bursts or impulsive sounds, the fast response setting on the sound level meter may be used to determine sound peak. Sound peaks captured on this setting, greater than the levels indicated in Table 1, above, shall constitute a noise disturbance if measured at more than one (1) instance within any one ten (10) minute period or greater than four (4) instances in any one (1) hour period, during the times indicated.

Sec. 34-74. Uses and activities, additional restrictions.

Regardless of the decibel levels measured, the following uses and activities shall be restricted as follows:

(a) *Amplified noise.* Amplified noise shall be prohibited if it is plainly audible at 100 feet. Self-contained, portable, hand-held music or sound amplification or reproduction equipment shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 7:00 a.m. and 11:00 p.m. Between the hours of 11:00 p.m. and 7:00 a.m., sound from such equipment shall not be plainly audible by any person other than the operator. This requirement shall not include non-amplified, acoustical instruments.

Plainly audible means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

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

(c) *Construction equipment and activity.* The erection, including excavation, demolition, alteration, or repair of any building within the City other than between the hours of 7:00 a.m. and 9:00 p.m. (9:00 a.m. on Saturdays) is expressly prohibited. The operating of any equipment or the performing of outside construction projects on Sundays, unless a permit for such construction or repair work between such hours has been obtained, is expressly prohibited.

(d) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by the creation of noise within the City unless a permit for such use has been obtained from the City of Holly Springs is expressly prohibited.

(e) *Exhausts.* It shall be unlawful to discharge into the open air the exhaust of any internal combustion engine, motorboat, or motor vehicle except through a muffler or other device that will effectively prevent loud or explosive noises therefrom.

(f) *Motor vehicle horns.* It shall be unlawful for the sounding of any horn on any automobile, motorcycle or other motor vehicle on any street or public place of the City except as a warning signal.

(g) *Multi-family dwelling.* It shall be unlawful within a multi-family dwelling development to create or permit to be created any noise that exceeds the daytime (7:00 a.m.--11:00 p.m.) limit of sixty-five (65) dBA and the nighttime (11:00 p.m.--7:00 a.m.) limit of fifty-five (55) dBA as measured from the closest neighbor's dwelling.

(h) *Peddlers and Solicitors.* The selling of anything by outcry within the residential areas of the city, except at licensed sporting events, parades, fairs, circuses, and other similar licensed public entertainment events, is expressly prohibited.

(i) *Vehicle repair in residential areas.* The repairing, rebuilding or testing of any motor vehicle between the hours of 10:00 p.m. and 7:00 a.m. within any residential area in such a manner as to disturb the peace, quiet and comfort of the residents of the area is expressly prohibited.

(j) *Noise prohibited in general.* No person shall willfully make, continue, or cause to be made or continued any excessive, unnecessary or unusually loud noise that disturbs the peace or quiet of any neighborhood or that causes discomfort or annoyance to any reasonable person of normal sensitivity residing within the City limits.

Sec. 34-75. Exemptions.

The following uses and activities shall be exempt from the regulations set forth in this article:

(a) Non-amplified (acoustical) musical instruments practiced or performed on residential premises, between the hours of 7:00 a.m. – 11:00 p.m., by the owner, tenant, or guest of the same;

(b) Noises of safety signals and warning devices;

- (c) Noises resulting from any authorized emergency vehicle, when responding to an emergency call or responding to an emergency;
- (d) Noises resulting from emergency work, to be construed as work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger;
- (e) Noise generated from government sponsored or approved celebrations or events;
- (f) Noise generated by any farming or agricultural entity, operating in the General Agricultural District (AG);
- (g) Noise from an exterior burglar alarm of any building, provided such burglar alarm shall terminate its operation within five (5) minutes of its activation if the sound is uninterrupted or ten (10) minutes if intermittent;
- (h) Noise from any automobile alarm, provided such alarm shall terminate its operation within five (5) minutes of its activation if the sound is uninterrupted or ten (10) minutes if the sound is intermittent;
- (i) The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;
- (j) Noise resulting from any practice or performance sponsored by or associated with the educational process administered by a recognized institution of learning, including, but not limited to band, choir, and orchestral performances;
- (k) Noise resulting from the activities of an organized sports league;
- (l) Bells, chimes or carillons while being briefly used in conjunction with religious services between the hours of 7:00 a.m. - 11:00 p.m.;
- (m) Surface carriers engaged in commerce by railroad;
- (n) Events operating within the time and volume parameters set forth in an approved permit issued by the City of Holly Springs.

Sec. 34-76. Procedures for the determination of sound levels.

- (a) Insofar as practicable, using the sound level meter, sound and noise will be measured while the sound 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 sound and noise measurements shall be made at or within the property line of the receiving property, unless otherwise directed in this article. When the SLM cannot be placed at or within the property line, the measurement shall be made as close thereto as is reasonable. For the

purposes of this article, noise and sound measurements are measured on the A- or C-weighted sound scale, as applicable, of a sound level meter, as defined by this article.

(b) Measurements shall be taken by police officers or code enforcement officers, adhering to the instructions of the sound level meter.

Sec. 34-77. Permits.

(a) *Sound amplification device permit.* Nothing in this article shall be construed to prohibit the operation of a sound amplification device, whether stationary or attached to a vehicle, provided the same is permitted by the City of Holly Springs in compliance with the following requirements:

- (1) Any person or entity seeking permission to operate a sound amplification device for the purpose of communicating under normal business practices (outdoor loudspeaker or announcing system), advertising, soliciting, attracting attention, announcing a sporting event, or exercising the right of free speech as guaranteed by the United States Constitution, shall be allowed to do so only after applying for and receiving a permit from the City; and such operation without such permit is declared unlawful.
- (2) An application for a permit to operate a sound amplification device shall be in writing, filed with the City Manager, or designee, and shall set forth the equipment to be used, the place or route to be followed, the intensity of sound level expected, the purpose of such use and the days and hours such use is desired.
- (3) The City Manager or designee shall consider such application at the earliest convenience and shall exercise discretion after considering all pertinent facts. The City may require the applicant to demonstrate the equipment before issuing the permit. The City shall not withhold a permit so as to deprive any person of constitutional rights, but shall have the right to control sound and noise emitted in the City for the general health and welfare of its citizens. Each permit issued shall be issued for a specific term.
- (4) Any person or entity aggrieved by the decision of the City Manager or designee regarding the issuance or denial of a sound amplification device permit, may appeal such decision directly to the City Council for a final decision.

(b) *Construction activities permit.* A permit issued by the City Manager or designee shall be required for any person or entity seeking to engage in construction activities, other than during the established times set forth by Section 34-74 (c). The permitting requirements and hours granted are at the discretion of the City Manager or designee.

Sec. 34-78. Enforcement procedures, warnings, citations.

(a) *Enforcement personnel.* Any police officer or code enforcement officer employed by the City of Holly Springs is hereby authorized and directed to enforce the provisions of this article.

(b) *Procedures.* Upon receiving a complaint alleging noise disturbance, or encountering a noise disturbance or sound level believed to be in violation of this article, the police officer or code enforcement officer shall investigate to determine compliance with this article. Upon finding a violation of this article, the police officer or code enforcement officer shall:

- a. Contact the person or entity creating the alleged noise disturbance and issue a verbal warning to cease and desist, giving an appropriate time period for compliance;
- b. Should the person or entity creating the alleged noise disturbance fail to comply within the time period allotted for compliance, the police officer or code enforcement officer shall issue a written warning, commanding compliance with this article and the provision(s) violated, issuing an appropriate time period for compliance;
- c. Should the person or entity creating the alleged noise disturbance fail to comply within the time period for compliance stated in the written warning, the police officer or code enforcement officer may cause the issuance of a citation to the Municipal Court of the City of Holly Springs for the violation(s) of this article.
- d. Nothing herein shall prevent the police officer or code enforcement officer from summarily issuing a citation for violation(s) of this article to the Municipal Court of Holly Springs, without prior warnings, for egregious violation(s) warranting immediate action.

Sec. 34-79. Penalties.

Any person or entity that shall violate any of the provisions of this article shall, upon conviction thereof, in the Municipal Court of Holly Springs, be punished as provided by Section 1-12.”

Section 2. If any Section, sub-section, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by any court or competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid. It is hereby declared to be the intent of the City Council to provide for separable and divisible parts and does hereby adopt any and all parts hereof as may not be held invalid for any reason.

Section 3. This Ordinance shall become effective immediately upon approval by the Mayor and City Council.

SO ORDAINED, this 16th day of March, 2009.

Timothy B. Downing, Mayor

Karen Norred, City Clerk

Seal: