

ORDINANCE NO. 06-2022

**AN AMENDMENT TO THE CITY CODE OF ORDINANCES, ARTICLE II OF
CHAPTER 26 ENTITLED “NOISE CONTROL,”
TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE
DATE, AND FOR OTHER PURPOSES AS STATED HEREIN:**

WHEREAS, the City Council of the City of Norcross, Georgia 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 City Council also recognizes that excessive noise negatively impacts tourism, economic development, and residents making it difficult for visitors, workers, and residents to enjoy places and activities; and

WHEREAS, the City Council 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 City Council 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 the City of Norcross; and

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

WHEREAS, the City Council has not undertaken an extensive review of the current Noise Control Ordinance since at least 2005; and

WHEREAS, since 2005, growth and urbanization of the City has continued, and the population has continued to increase, resulting in more individuals residing more closely together and businesses being conducted in closer proximity to residential neighborhoods; and

WHEREAS, since 2005, the City has experienced a growth in mixed-use developments where residential and commercial activities are conducted in close proximity within developments; and

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

WHEREAS, the City Council believes that it is necessary to the public health, welfare, safety, quality of life, and economic vitality of the City of Norcross and its residents and businesses to appropriately balance the rights of individuals to derive pleasure from various sources of sound with the rights of individuals to a peaceful and healthful environment; and

WHEREAS, the City Council believes that it is in the best interest of the City to revise the Noise Control Ordinance to more appropriately balance these interests and better meet the needs of residents and businesses within the City; 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, the City Council desires to protect the health, safety, and welfare of those residing in, visiting, or doing business in the City of Norcross through the reasonable regulation of certain noises; and

WHEREAS, the City Council desires to adopt reasonable regulations concerning noise that are clear to follow and can be effectively and efficiently enforced; and

WHEREAS, the adoption of the proposed Noise Control Ordinance has been duly noticed and advertised in accordance with Official Code of Georgia Annotated Section 25-10-2(c); and

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

ENACTING CLAUSE. The Mayor and City Council of the City of Norcross, Georgia, hereby ordain that the adopted Code of Ordinances is hereby amended as more particularly set forth below. It is the intention of the Mayor and City Council, and it is hereby ordained that the following provisions shall become and be made a part of the Code of the City of Norcross, and the Sections in the Code in the Ordinance be numbered to accomplish that intention.

I. AMENDMENT.

Article II of Chapter 26 of the Code of Ordinances of the City of Norcross entitled “Noise Control” is hereby amended as follows:

By deleting Sec. 26-19 through Sec. 26-45 of Article II of Chapter 26, entitled “Noise Control,” in their entirety and substituting a new Article II, Sections 26-19 through 26-23, which sections read as follows:

“ARTICLE II. – NOISE CONTROL.

Sec. 26-19. Purpose and standards.

- (a) *Purpose.* This article is enacted to protect, preserve and promote the health, safety and welfare of the citizens of the city through the control of noise. It is the intent of this article 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.
- (b) *Sound measurement standards for law enforcement personnel.* For the purposes of this article, "plainly audible" shall mean any sound emanating from the specific sound-producing sources set forth below which can be heard from the distances set forth below, 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.

Sec. 26-21. Prohibited Conduct.

- (a) Restrictions of 300 feet for 7:00 a.m. through 10:00 p.m. Sunday through Thursday and 7:00 a.m. through 11:00 p.m. on Friday and Saturday.
 - 1. *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 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 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, between the hours of 7:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 11:00 p.m. on Friday and Saturday.
 - 2. *Human-produced sounds.* It is unlawful for any person or persons to yell, shout, hoot, whistle, or sing 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, between the hours of 7:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 11:00 p.m. on Friday and Saturday.
 - 3. *Commercial advertising.* It is unlawful for any person or persons to use, operate, or permit to be used or operated any radio receiving device, musical instrument,

phonograph, loud speaker, 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 for the purpose of commercial advertising or 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, between the hours of 7:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 11:00 p.m. on Friday and Saturday.

4. *Party noise.* It is unlawful for any person or persons in charge of a party or other social event that occurs on any private property to allow that party or social event to produce noise in such a manner that such noise is plainly audible at a distance of 300 feet or more from the building or structure from which the noise is emanating or in the case of real property, beyond the property limits, on which the party or social event is located, whichever is farthest, between the hours of 7:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 11:00 p.m. on Friday and Saturday. For the purposes of this subsection, a "person in charge of a party or other social event" shall mean any adult person who resides in or on the premises involved in such party or social event and is present at such party or social event. For the purposes of this subsection, "noise" shall mean the same sounds, or any combination thereof, as described in subsections 1. or 2. above.

(b) Restrictions of 100 feet for 10:00 p.m. through 7:00 a.m. Sunday through Thursday and 11:00 p.m. through 7:00 a.m. on ~~Saturday-Friday~~ and ~~Sunday~~Saturday.

1. *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 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 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, between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 7:00 a.m. on Saturday and Sunday.
2. *Human-produced sound.* It is unlawful for any person or persons to yell, shout, hoot, whistle, or sing 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, between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 7:00 a.m. on Saturday and Sunday.

3. *Commercial advertising.* It is unlawful for any person or persons to use, operate, or permit to be used or operated any radio receiving device, musical instrument, phonograph, loud speaker, 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 for the purpose of commercial advertising or 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, between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 7:00 a.m. on Saturday and Sunday.
 4. *Party noise.* It is unlawful for any person or persons in charge of a party or other social event that occurs on any private property to allow that party or event to produce noise in such a manner so as to such noise is plainly audible at a distance of 100 feet or more from the building or structure from which the party noise is emanating or in the case of real property, beyond the property limits, on which the party or social event is located, whichever is farthest, between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 7:00 a.m. on Saturday and Sunday. For the purposes of this subsection, a "person in charge of a party or other social event" shall mean any adult person who resides in or on the premises involved in such party or social event and is present at such party or social event. For the purposes of this subsection, "noise" shall mean the same sounds, or any combination thereof, as described in subsections 1. or 2. above.
- (c) Restrictions for areas within apartments, condominiums, townhouses, duplexes, or other such residential dwelling units.
1. 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 noise in such a manner as to be plainly audible to any other person a distance of five feet beyond the adjoining property line wall or boundary of any apartment, condominium, townhouse, duplex, or other such residential dwelling units with adjoining points of contact.
 2. For the purposes of this subsection, "noise" shall mean human-produced sounds of yelling, shouting, hooting, whistling, singing, or mechanically produced sounds made by radio-receiving device, television, stereo, musical instrument, phonograph sound amplifier or other machines or devices for the producing, reproducing, or amplifying of sound, or any combination thereof.
 3. For the purposes of this subsection (c), "property line or boundary" 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.

(d) *Restrictions regarding noise produced by consumer fireworks.* The use or ignition of consumer fireworks as defined in O.C.G.A. § 25-10-1 that willfully make, continue, or cause to be made or continued any excessive, or unusually loud noise, except during the following dates and times:

1. On January 1, the last Saturday and Sunday in May, July 3, July 4, the first Monday in September and December 31 beginning at the time of 10:00 a.m. and up to and including the ending time of 11:59 p.m.; and
2. On January 1 of each year beginning at the time of 12:00 midnight and up to and including the ending time of 1:00 a.m.
3. For the purposes of this section, the term "consumer fireworks" shall have the meaning set forth in O.C.G.A. § 25-10-1(a)(1), but such term shall not include those items excluded therefrom in O.C.G.A. § 25-10-1(b) as such code section is enacted or as may be amended in the future.

(e) *Exclusions.* The prohibitions of this section shall not apply to the following:

1. Noises and/or sounds caused to be made by manufacturing, governmental, or commercial entities in the normal course of their business;
2. Noises and/or sounds emanating from any official private school event at a private school located in the city or any official county school district event on county school district property;
3. Noises or sounds made by domestic animals, which noises or sounds are controlled by section 6-1;
4. 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
5. Noises or sounds made by law enforcement and other public safety officials performing their public functions.

(f) *Landscape maintenance devices.* Time restrictions on use of landscape maintenance motorized devices such as leaf blowers, lawn mowers, or chain saws. It is unlawful for any person to use or operate any noise-generating, motorized landscape maintenance devices, including, but not limited to, leaf blowers, lawn mowers, or chain saws, within any residential zoning district or in areas within 300 feet of any residential zoning district from 9:00 p.m. to 8:00 a.m.

(g) *Construction noise.*

1. Noises from exterior site and building construction activity are exempt from this section between the hours of 8:00 a.m. and 10:00 p.m. on weekdays and 10:00

a.m. and 8:00 p.m. on Saturdays and holidays. Exterior site and building construction activity may occur on Sundays and outside of hours specified above on other days of the week when the contractor applies for, and is granted, a variance by the Director of Community Development and Planning as outlined below.

2. Interior construction activity may take place between the hours of 7:00 a.m. and 10:00 p.m. weekdays and Saturdays. Interior construction may take place between the hours of 10:00 a.m. and 10:00 p.m. on Sunday and holidays when the contractor applies for, and is granted, a permit by the Director of Community Development and Planning.

(h) *Variances.* A variance from the above-referenced hours/days of operation for construction noise may be requested, in writing, at least 48 hours prior to the proposed construction operation, for consideration by the Community Development Director or his/her designee. Such a request shall state:

1. The reasons that support a claim of need based on specific loss or inconvenience or weather-related considerations for such a variation from the allowable workdays/hours;
2. The impact that the denial of this request would have on the applicant's project and the surrounding properties;
3. The steps which have been taken by the applicant to communicate those needs and impacts to owners of surrounding and nearby properties;
4. The steps that have or will be taken to limit the impact of the proposed activity upon surrounding and nearby properties; and
5. The possible risks to public health and safety.

If the Director finds that the application adequately demonstrates the need for a variance from the above allowable workdays/hours, adequately provides for mitigation of the impact upon surrounding and nearby properties and poses no additional risk to public health and safety, then permission shall be granted for a variance to alter the allowable workdays/hours during one ten-day period. There shall be no more than three requests in any calendar year approved administratively for any one construction project. Each new request must be a minimum of 30 days from the end date of the most recently approved request.

The prohibitions of this subsection (h) shall not apply to government road, water, sewer, stormwater construction or maintenance projects or other government construction projects or to utility company construction or maintenance projects.

(i) *Commercial entities near single-family residential zoning districts.*

1. Notwithstanding any provisions of this section concerning noises and/or sounds caused to be made by commercial entities in the normal course of their business, the provisions and prohibitions of Sec. 26-21, entitled "Prohibited Conduct," subsection (a), concerning "restrictions of 300 feet for 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" and its subparts 1. through 4. shall apply to noises and/or sounds

generated by a commercial entity that are plainly audible within any single-family residential zoning district more than 300 feet beyond the property boundary of the property from which the noises and/or sounds emanate.

2. Notwithstanding any provisions of this section concerning noises and/or sounds caused to be made by commercial entities in the normal course of their business, the provisions and prohibitions of Sec. 26-21 entitled "prohibited Conduct," subsection (b), concerning "restrictions of 100 feet for 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," and its subparts a. through c. shall apply to noises and/or sounds generated by a commercial entity that are plainly audible within any single-family residential zoning district more than 100 feet beyond the property boundary of the property from which the noises and/or sounds emanate.

- (j) *Engine, muffler and/or exhaust system noise.* No person shall use, operate, or cause to be used or operated any motor vehicle equipped (or the failure to be equipped) with an engine, muffler, muffler cutout, muffler bypass, bypass, muffler system, exhaust system, or similar device which causes a noise or sound which is plainly audible at a distance of 100 feet or more from the motor vehicle.

Sec. 26-22. - Penalties.

Any person violating the provisions of this article may, upon conviction, be punished in accordance with section 10-17.

Sec. 26-23. - Responsibility for enforcement.

The city police department shall have the responsibility for the enforcement of this article."

II. SEVERABILITY.

In the event that any section, subsection, sentence, clause, or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjunction shall in manner affect the other sections, sentences, clauses, or phrases of this Ordinance, which shall remain in full force and effect, as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally part thereof.

III. REPEALER.

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

IV. EFFECTIVE DATE.

This Ordinance shall become effective immediately and shall remain in effect until revised or repealed by further action the Mayor and Council of the City of Norcross.

IN WITNESS WHEREOF, I have hereunto set my hand and cause this seal to be affixed
this ____ day of _____, 2022.

Craig Newton, Mayor

ATTEST:

Monique Lang, City Clerk