

OPTION B – MAYORS VERSION

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:

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.

Emergency is any occurrence 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, or work by private or public utilities for providing or restoring immediately necessary utility services, except emergency work initiated by a government entity.

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 courses 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.

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.

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 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;~~
- (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 person shall employ any device or instrument at an indoor entertainment venue that creates or amplifies sound, including but not limited to any loudspeaker, bullhorn, amplifier, public address system, musical instrument, radio or device that plays recorded music, to generate any sound or vibration for the purpose of communication or entertainment, that is plainly audible or sensed at a receiving residential property.

(2) No person shall employ any device or instrument at an outdoor entertainment venue that creates or amplifies sound, including but not limited to any loudspeaker, bullhorn, amplifier, public address system, musical instrument, radio or device that plays recorded music, to generate any sound or vibration for the purpose of communication or entertainment, that is plainly audible or sensed at a receiving residential property between the following hours:

Sunday 9 PM through 7 AM Monday

Monday 9 PM through 7 AM Tuesday

Tuesday 9 PM through 7 AM Wednesday

Wednesday 9 PM through 7 AM Thursday

Thursday 9 PM through 7 AM Friday

Friday 11 PM through 8 AM Saturday

Saturday 11 PM through 10 AM Sunday

(3) 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.

(4) 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 used for landscaping and yard maintenance shall not be operated between the hours of 10:00 p.m. and 7:00 a.m., and not on Saturday before 8:00 a.m. and Sunday before 10:00 a.m.

(2) For non-residential areas, with the exception of golf courses, power tools used for landscaping and yard maintenance shall not be operated between the hours of 10:00 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) Domesticated Animals. Domesticated animals may not make any vocalizations (including barking, baying, howling, crying, or making any other noise) for more than ten (10) minutes without interruption or more than thirty (30) minutes if intermittent.

(e) 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.

(f) All other incidents of noise not addressed under this Section will be addressed under Section 30-19-(7).

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. Any complaint of nuisance shall be investigated

by the police department and may be placed on the municipal court docket for a hearing upon the basis of the investigation.

- (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 within so many hours or days 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 place on the court docket such complaints 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.