

AN ORDINANCE

AMENDING, Section 10-6-050(H) of the Comprehensive Code of the City of Marietta.

NOW, THEREFORE BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, THAT:

Section 1: Chapter 10-6-050, Noise, is hereby amended as follows:

10-6-010 - Noise; creating unnecessary noise.

- A. Excessive and disturbing sound is a serious hazard to the public health and welfare, safety, and the quality of life. A substantial body of science and technology exists by which excessive and disturbing sound may be substantially abated. People have a right to and should be ensured an environment free from excessive and disturbing sound that may jeopardize their health, safety, or welfare or degrade the quality of life.
- B. In order to ensure attractive residential and commercial areas, it is necessary that an audibly satisfying environment be maintained. The City of Marietta is more likely to attract permanent residents and commercial enterprises if it improves and maintains appropriate noise quality and the residents will ultimately gain financial improvements and increases in their quality of life as a result of these regulations.

10-6-020 - 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:

- *A-weighting* is the electronic filtering in sound level meters that models human hearing frequency sensitivity.
- *Background sound level* is the total sound pressure level in the area of interest excluding the noise source of interest.
- *Boom box* means any self-contained, portable, hand-held music or sound amplification or reproduction equipment capable of emitting sound.
- *Boom car* means any vehicle with loudspeakers, amplifiers, radio receiving sets, musical instruments, phonographs or other equipment capable of producing, reproducing or emitting noise which is cast upon public property or private property.
- *Commercial or business property category* is all property which is used primarily for the sale of merchandise or goods, or for the performances 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.
- *C-weighting* is the electronic filtering in sound level meters that minimally attenuates very low frequencies.

- *Decibel (dB)* is the unit of measurement for sound pressure level at a specified location.
- *dBA* is the A-weighted unit of sound pressure level.
- *dB(C)* 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.
- *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.
- *Impulsive sound* is a sound having duration of less than one second with an abrupt onset and rapid decay.
- *Industrial or manufacturing 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 purposes such as city hall or a city park.
- *Legal holidays* recognized by Marietta include New Years Day, Martin Luther King Jr. Day, Spring Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, day after Thanksgiving, Christmas Eve, and Christmas Day.
- *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.
- *Multifamily dwelling* is any building or other shelter that has been divided into separate units to house more than one family.
- *Noise* is 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 chapter.
- *Noise sensitive facility* means any facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include, but are not limited to, schools, hospitals, and places of worship.
- *Octave band* is all the components in a sound spectrum whose frequencies are between two sine wave components separated by an octave.
- *Public space property category* is any real property or structures thereon that is owned, leased, or controlled by a governmental entity.
- *Real property line* is the line, including its vertical extension that separates one parcel of real property from another.
- *Residential property category* is all property on which people live and sleep or that which is not commercial or industrial.
- *Sound level meter (SLM)* is an instrument used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in ANSI Standard S 1.4-1983 or the latest version thereof.
- *Sound pressure level (SPL)* is 20 multiplied by the logarithm, to the base ten, of the measured sound pressure in question divided by the sound pressure associated with the threshold of human hearing, in units of decibels. An A-weighted or C-weighted filter should be applied to the measurement as required. The sound pressure level measured value should be designated with the suffix dB(A) or dB(C) as required.
- *Weekday* is any day, Monday through Friday, that is not a legal holiday.

10-6-030 - Sound level limitations.

No person shall cause, suffer, allow, or permit a domestic animal or 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 unless otherwise noted. Such a sound source would constitute a noise disturbance.

TABLE 1
SOUND LEVEL LIMITS
BY RECEIVING PROPERTY

Residential, public space, institutional, or noise sensitive facility		7:00 a.m. to 11:00 p.m.	65	84
		11:00 p.m. to 7:00 a.m.	60	79
Commercial or business		7:00 a.m. to 11:00 p.m.	65	84
		11:00 p.m. to 7:00 a.m.	60	79
Industrial or manufacturing		At all times	70	89
Receiving Property Category	Time	Sound Level Limit (dBA)	Sound Level Limit (dBC)	

If the noise is an impulsive sound, the fast response setting shall be used and the daytime (7:00 a.m. to 11:00 p.m.) limits of Table 1 shall be increased by ten dBA.

10-6-040 - Exemptions.

- A. Noise generated from municipally sponsored or approved celebrations or events shall be exempt from these provisions.
- B. The following are exempt from the sound level limits:
 1. 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;
 2. Noise from an exterior burglar alarm of any building, provided such burglar alarm shall terminate its operation within five minutes of its activation if the sound is not intermittent or ten minutes if intermittent;
 3. Noise from any automobile alarm, provided such alarm shall terminate its operation within five continuous minutes of its activation if the sound is not intermittent or ten continuous minutes if the sound is intermittent;
 4. The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;
 5. 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;
 6. Noise that results from the activities of an organized band or sports league between the hours of 7:00 a.m. and 12:00 a.m.;
 7. Carillons, chimes or unamplified bells while being used in conjunction with religious services between the hours of 7:00 a.m. and 10:00 p.m.;

8. Emergency work;
9. Surface carriers engaged in commerce by railroad;
10. Events with amplified sound that are operating within the time and volume parameters set forth in an approved special administrative permit.

10-6-050 - Restricted uses and activities.

Notwithstanding the provisions of Section 10-6-030 and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below:

- A. Noncommercial or nonindustrial 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., unless such activities can meet the applicable limits set forth in Section 10-6-030. At all other times, the limits set forth in Section 10-6-030 do not apply to noncommercial or nonindustrial power tools and landscaping and yard maintenance equipment, provided that all motorized equipment is operated with a functioning muffler.
- B. Commercial or industrial power tools used for landscaping and yard maintenance shall be operated with a muffler. All motorized equipment used in these activities shall not be operated on a residential property or within 250 feet of a residential property line, between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 9:00 a.m. on weekends, unless:
 1. Such activities are deemed emergency work; or
 2. Such activities meet the limits set forth in Section 10-6-030.

At all other times, the limits set forth in Section 10-6-030 do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.

- C. Construction and demolition activity or the excavation of streets and highways within 1,000 feet of any residential district or section shall not be performed between the hours of 7:00 p.m. and 7:00 a.m. with the exception of all of Sunday. In cases of necessity on Sunday only, a permit to allow construction between the hours of 7:00 a.m. and 7:00 p.m. may be granted by the city engineer. The permit may be granted for a period not to exceed 30 days while the necessity continues. If the city engineer should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building, or the excavation of streets and highways on Sunday or within the hours of 7:00 p.m. to 7:00 a.m. Monday through Saturday and if he or she shall further determine the loss or inconvenience would result to any party in interest, the city engineer may grant permission for the work to be done.
- D. Commercial Sanitation Collection, Transfer and Dumping. Commercial sanitation collection, transfer and dumping and/or garbage collection, transfer and dumping by commercial enterprises between the hours of 9:30 p.m. and 6:30 a.m.; provided, however, that if the city manager or his designee determines that the public health and safety will not be impaired by commercial sanitation collection, transfer and dumping or garbage collection, transfer and dumping by commercial enterprises between the hours of 9:30 p.m. and 6:30 a.m., the city manager or his designee may grant permission for such collection, transfer and dumping to be done within the hours of 9:30 p.m. and 6:30 a.m., upon application being made to him, and such permit may be issued with such conditions as the city manager, or his designee, may determine for the protection of the public.

- E. Owners and the agents of owners of domesticated animals shall not permit any vocalizations (including barking, baying, howling, crying, or making any other noise) for more than ten continuous minutes without interruption or more than 30 minutes if intermittent. Each occurrence will result in a separate offense.
- F. Personal or commercial vehicular music amplification or reproduction equipment, including, but not limited to boom cars, shall not be operated in such a manner as to be plainly audible at a distance of 50 feet in any direction from the equipment between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m. such equipment shall not be operated in such a manner that it is plainly audible at a distance of 25 feet in any direction.
- G. Boom boxes, or any similar device, shall not be operated in a public place 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 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., such equipment shall not be operated in such a manner that it is plainly audible at a distance of 25 feet in any direction.
- H. Fireworks use and ignition and/or explosion are lawfully allowed: where a person 18 years old or older is lawfully allowed on the site of use, and ignition and/or explosion on any day beginning at the time of 10:00 a.m. up to and including 11:59 p.m., unless during such times the noise from such use or ignition is not in compliance with the applicable limits set forth in Section 10-6-030, additionally on January 1, the last Saturday and Sunday in May, July 3, July 4, the first Monday in September, and December 31 of each year, after 10:00 a.m. up to and including 11:59 p.m.; and 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.

10-6-060 - Noise control administrator.

There shall be created a noise control administrator who shall be the police chief or designee who shall have the power and authority to:

- A. Coordinate the noise control activities of all departments of the City of Marietta and cooperate with all other public bodies and agencies to the extent practicable.
- B. Review the actions of the City of Marietta and advise the city of the effect, if any, of such actions on noise control.
- C. Review public and private projects, upon request of other departments or boards, for compliance with this chapter.
- D. Promulgate and publish rules and procedures to establish techniques for measuring noise, and to provide for clarification, interpretation, and implementation of this article.
- E. Delegate the duties and functions of noise control officer to any duly qualified individual according to the provisions of Section 10-6-070.

10-6-070 - Noise control officers.

- A. Where the provisions of this chapter require the measurement of sound with the use of a sound level meter, noise control officers shall make such measurement.
- B. A person shall be qualified to be a noise control officer if the person meets criteria established by the noise control administrator and receives appropriate training in the measurement of sound using a sound level meter.
- C. Upon occurrence of a violation of this article, noise control officers or police officers having jurisdiction in the area where the violation takes place, may issue a

citation/summons for the violation returnable to the Municipal Court of Marietta. Penalties for violations of this article will be governed by Section 10-6-080.

10-6-080 - Procedures for the determination of sound levels.

- A. Insofar as practicable, sound will be measured while the 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 noise measurements shall be made at or within the property line of the impacted site, unless otherwise directed in this chapter. When instrumentation 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 chapter, noise measurements are measured on the A- or C-weighted sound scale, as applicable, of a sound level meter of standard design and quality having characteristics established by ANSI.
- B. The sound level meter and calibrator must be recertified annually at a laboratory approved by the noise control administrator. A field check of meter calibration and batteries must be conducted before and after every set of measurements, and at least every hour as necessary.
- C. Total and neighborhood residual sound level measurements shall be taken in accordance with procedures established and approved by the noise control administrator. Calculation of source sound levels shall conform with accepted practice established by ANSI.

10-6-090 - Requests for temporary relief or stay.

- A. Any person requesting temporary relief or a stay from the enforcement of this chapter shall apply to the noise control administrator for a special administrative permit for a period of time not to exceed 30 days. The noise control administrator has discretion to consider and grant or deny the special administrative permit (with such conditions as may be warranted), if strict enforcement of this chapter will result in exceptional and undue hardship to the applicant. Under no circumstances shall the noise control administrator grant a stay of enforcement of this chapter for more than 60 days within any six-month period.
- B. Applications for special administrative permits shall be on a form prescribed by the noise control administrator which shall, among other matters, address the nature of the noise, attenuation measures, and the hardships to the applicant and others if the permit is not granted.
- C. A special administrative permit may be revoked and the issuance of future permits withheld, if there is a:
 - 1. Violation of any conditions of the permit;
 - 2. Material misrepresentation of fact in the permit application; or
 - 3. Material change in any of the circumstances relied upon by the noise control administrator in granting the permit.
- D. No special administrative permit shall be granted for amplified sound.
- E. No special administrative permit shall be authorized to delete, modify, or change in any manner any requirement imposed as a condition of zoning or as a condition of a special or conditional land use permit imposed by the city council.
- F. Appeals of any special administrative permit decision made by the noise control administrator or his or her designee shall be to the city council.

10-6-100 - Enforcement procedures.

- A. The city may prosecute noise related violations by issuance of a city ordinance citation. If an ordinance violation citation is issued to the owner and it is determined by the municipal court that this chapter has been violated, the person may be punished by a fine as follows:
- First offense within 12-month period: Warning.
 - Second offense within 12-month period: Warning.
 - Third offense within 12-month period: A minimum fine of \$250.00.
 - Fourth offense within 12-month period: A minimum fine of \$500.00.
 - Fifth offense and each offense thereafter within 12-month period: A maximum fine of \$1,000.00.
- B. In addition to issuing a fine as provided, or in lieu thereof, the municipal court judge may issue an order requiring immediate abatement of any sound source alleged to be in violation of this section. Failure to abate such noise may result in contempt of court.
- C. No provision of this section shall be construed to impair any common law or statutory cause of action, or legal remedy therefore, of any person for injury or damage arising from any violation of this section or from other law.

Section 4: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.

Section 5: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

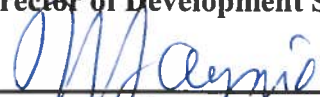
Section 6: This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

Final Ordinance submitted by:



Rusty Roth
Director of Development Services

Approved as to form:



Douglas R. Haynie, City Attorney

Approved by City Council:

DATE: March 13, 2019

APPROVED:


R. Steve Tumlin, Mayor

ATTEST:


Stephanie Guy, City Clerk