

NOISE ORDINANCE

AN ORDINANCE TO PREVENT AUDIBLE SOUNDS FROM DISTURBING THE CITY'S
RESIDENTS AND BUSINESSES; AND FOR OTHER PURPOSES.

WHEREAS, the Mayor and Council seek to prevent plainly audible sound from disturbing the City's residents in their homes during typical sleeping hours, as such sound jeopardizes the public health, welfare, and safety of the city's residents and degrades the quality of life in the City.

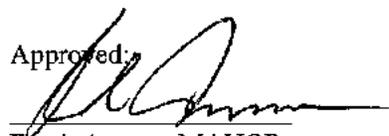
WHEREAS, the Mayor and Council seek to regulate disruptive sounds within a commercial area, industrial area, or a mixed-use development disturbing the businesses as such sound jeopardizes the public health, welfare, and safety within the city and degrades the quality of life in the City

WHEREAS the Mayor and City Council desire to facilitate the creation of a convenient, attractive and harmonious community.

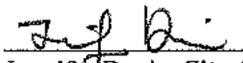
NOW, THEREFORE, THE COUNCIL OF THE CITY OF TUCKER HEREBY ENACTS AND ORDAINS that Chapter ____ NOISE, as attached hereto, is hereby adopted and approved as part of the Code of Ordinances for the City of Tucker, Georgia effective on 10 day of October, 2016.

SO ORDAINED this 10 day of October, 2016.

Approved:


Frank Auman, MAYOR

Attest:


Jennifer Davis, City Clerk (Seal)

ARTICLE XVII. NOISE ORDINANCE

Sec. 17-301. - Purpose.

- (a) The City of Tucker seeks to prevent plainly audible sound from disturbing the city's residents in their homes during typical sleeping hours, as such sound jeopardizes the public health, welfare, and safety of the city's residents and degrades the quality of life in the city..
- (b) This article applies to any sound projected, emitted or transmitted between 11:00 p.m. and 7:00 a.m., such that the sound is plainly audible anywhere within the interior of a single-family detached sealed dwelling in a residential area. This article further applies to any sound projected, emitted or transmitted between 11:00 p.m. and 7:00 a.m., such that the sound is plainly audible in a common area of a multifamily dwelling in a residential area.
- (c) Most sound within a commercial area, industrial area, or a mixed-use development shall be regulated in division 2 of this article.

Sec. 17-302. - Definitions.

For purposes of this article, certain phrases and words are defined below. Words or phrases not defined in this article, but defined in applicable state law or the Code of the City of Tucker, Georgia, shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context requires otherwise. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them below except where the text clearly indicates a different meaning:

"A" weighted sound level means the sound level reported in units of dB(A) approximating the response of human hearing when measuring sounds of low to moderate intensity as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

ANSI means the American National Standards Institute.

"C" weighted sound level means the sound level reported in units of dB(C) as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

Commercial area means any parcel of land which is zoned for any commercial use, including regional commercial centers, neighborhood and community-oriented stores, shopping centers and other developed centers where commercial land uses predominate. Such area includes property zoned O-I, O-I-T, C-2, O-D, NS, C-1 and any property zoned OCR, excluding property used for residential use.

Common area means any portion of residential property that is either commonly used or owned by its residents, is intended for the common enjoyment of its residents, or is accessible to residents of more than one (1) dwelling located on the property and includes, but is not limited to, closed and open hallways, stairwells, stairways, elevators, lobbies, parking lots, parking garages, indoor and outdoor recreational areas within the development, laundry rooms, mailbox areas, yards, and open space that is the central organizing feature of a development.

Decibel (dB) means the unit for the measurement of sound pressure based upon a reference pressure of twenty (20) micropascals (zero (0) decibels), i.e., the average threshold of hearing for a person with very good hearing.

Dwelling means one (1) or more rooms, designed, occupied or intended for occupancy as separate living quarters for humans.

Industrial area means any parcel of land which is zoned for industrial use, including property used for light and heavy distribution, warehouses, assembly, manufacturing, quarrying, truck terminals and landfills. Such area includes property zoned M-1 and M-2 and includes any commercial land uses allowed in M-2.

Mixed-use development means a development which incorporates a variety of two (2) or more different land uses, buildings or structures that include both primary residential uses and primary nonresidential uses as part of the same development. Such uses may include, but not be limited to, residential, office, commercial, institutional, recreational, or public open space in a compact urban setting that encourages pedestrian-oriented development that can result in measurable reductions in traffic impacts. Such a development would have interconnecting pedestrian and vehicular access and circulation.

Multifamily dwelling means a building designed for and containing more than one (1) dwelling, and shall include single-family attached dwellings, multifamily dwelling units, apartments, duplexes, triplexes, condominiums and attached townhomes.

Plainly audible means any sound which can be heard or detected by the unaided and unimpaired human ear. Words and phrases need not be discernable in order for them to be considered plainly audible.

Residential area means any parcel of land which is zoned for any residential use, including single-family detached or attached dwellings, multifamily dwellings, or mobile home parks. Such area includes any property zoned O-1 or OCR which is used for multifamily dwellings, and any property zoned C-1 which is used for multifamily dwellings.

Sealed dwelling means any dwelling that has all of its windows and doors closed.

Single-family detached dwelling means a dwelling on an individual lot unattached to another dwelling.

Sound means any oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency. Bass reverberations constitute sound. Sound includes, but is not limited to:

- (1) Mechanical sound-making devices such as radios, stereos, boom boxes, televisions, musical instruments, horns, whistles, bells, chimes or carillons, phonographs, sound amplifiers or other machines or devices for the producing, reproducing or amplifying of sound;
- (2) Human-produced sounds such as yelling, shouting, hooting, whistling, singing, speaking or arguing;
- (3) Commercial advertising sounds;
- (4) Party noise;
- (5) Sound coming from motorized landscape maintenance devices such as lawn mowers, weed-whackers, leaf blowers, and chain saws;
- (6) Animal vocalizations from pets or nondomesticated animals;
- (7) Testing of burglar, fire or car alarms; and
- (8) Sound coming from construction and demolition activities such as hammering, nailing, drilling, sawing, and paving.

Sound level meter means an instrument that conforms to ANSI S1.4-1983 or its successors.

DIVISION 1. - NOISE IN RESIDENTIAL AREAS

Sec. 17-303. - Sound between the hours of 11:00 p.m. and 7:00 a.m.

- (a) *Single-family detached dwellings*. It is unlawful for any person, between the hours of 11:00 p.m. and 7:00 a.m., to make, cause, or allow any sound from a source within his ownership or control that projects, emits or transmits into any single-family detached dwelling in a residential area owned or occupied by another, such that the sound is plainly audible anywhere within the interior of a sealed dwelling.

- (b) *Multifamily dwellings.* It is unlawful for any person, between the hours of 11:00 p.m. and 7:00 a.m., to make, cause, or allow any plainly audible sound from a source within his ownership or control that projects, emits or transmits within the common area of a multifamily dwelling in a residential area.
- (c) *Exclusions.* The prohibitions of this section shall not apply to the following sounds:
- (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) Sound from an exterior burglar or fire alarm of any building, provided such burglar or fire alarm shall terminate its operation within five (5) minutes of its activation if the sound is uninterrupted, or ten (10) minutes, if intermittent, but the testing of burglar and fire alarms shall not be allowed between the hours of 8:00 p.m. and 7:00 a.m.;
 - (3) Sound 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;
 - (4) The generation of sound in situations within the jurisdiction of the federal Occupational Safety and Health Administration;
 - (5) National Warning System (NAWAS) sounds used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane;
 - (6) Sound of aircraft operations, where federal regulations preempt the local regulation of such specific operations;
 - (7) Protests, marches, parades, or an event sanctioned by the federal, state or county government(s);
 - (8) Surface carriers engaged in commerce by railroad;
 - (9) Any other activity solely controlled and within the jurisdiction of federal or state law;
 - (10) Sound projected, emitted or transmitted from motor vehicles, as such sound is regulated by O.C.G.A. § 40-6-14(a);
 - (11) An emergency which is a serious urgent situation or occurrence that happens unexpectedly and requires immediate attention;
 - (12) Sound from agricultural activities;
 - (13) Sound from the travel of properly muffled motor vehicles on a public right-of-way;
 - (14) Sound from residential air conditioner units;
 - (15) Sound from swimming pool filtering systems; and
 - (16) Sound resulting from activities for which a special administrative permit has been issued pursuant to the terms of this article.

Sec. 17-304. - Animal vocalizations, construction and landscaping activities, and the testing of burglar and fire alarms.

- (a) *[Residential areas.]* Instead of the limitations set forth in section 17-303, the sound limitations set forth in this section 17-304 apply to the following activities in all residential areas.
- (b) *Animal vocalizations.* Animal vocalizations in a residential area during the hours from 7:01 a.m. until 10:59 p.m. shall be regulated as follows. Pets and nondomesticated animals may not make any vocalizations for more than fifteen (15) minutes without interruption or more than thirty (30) minutes if intermittent. The limitations in subsections 16-303(a) and (b) apply to animal vocalizations between

11:00 p.m. and 7:00 a.m. The limitations in this subsection and in section 17-303 do not apply if the vocalizations are given as a warning to the presence of an intruder.

- (c) *Landscaping.* Power tools used for landscaping or yard maintenance shall only be operated between the hours of 7:01 a.m. and 9:00 p.m. on weekdays, or between the hours of 9:01 a.m. and 9:00 p.m. on weekends. Power tools used for landscaping or yard maintenance shall not be operated between the hours of 9:01 p.m. and 7:00 a.m. on weekdays, or between the hours of 9:01 p.m. and 9:00 a.m. on weekends. All motorized equipment used in these activities shall be operated with a muffler.
- (d) *Construction and demolition activity.* Construction and demolition activity or deliveries shall only be performed between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, or between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. There shall be no construction or demolition activity or deliveries on Sundays or New Year's Day, Thanksgiving Day, Christmas Day, Memorial Day, July 4, or Labor Day unless such activity arises from an emergency which puts the site or neighboring property owners and their property at risk of harm or loss.
- (e) *Testing burglar and fire alarms.* The testing of burglar or fire alarms shall not exceed five (5) minutes in duration, and shall not occur between the hours of 8:00 p.m. and 7:00 a.m. Fire drills may be conducted outside of these hours no more than once a month, and with prior notification to all properties within two hundred fifty (250) feet of the property line where the testing will take place.

DIVISION 2. - NOISE IN COMMERCIAL AND INDUSTRIAL AREAS AND IN MIXED-USE DEVELOPMENTS.

Sec. 17-305. - Maximum permissible sound levels and sound during certain hours.

- (a) This division applies to all sound emitting from property in all commercial and industrial areas and all mixed-use developments within the unincorporated limits of the county.
- (b) No person shall cause, suffer, allow, or permit the operation of any source of sound on any property within commercial areas, industrial areas, mixed-use developments that exceeds seventy (70) dB(A) in commercial areas; eighty (80) dB(A) in industrial areas; and seventy (70) dB(A) or seventy-three (73) dB(C) in mixed-use developments from the hours of 7:01 a.m. until 10:59 p.m. or sixty (60) dB(A) or sixty-three (63) dB(C) from the hours of 11:00 p.m. until 7:00 a.m. Sound shall be measured at any location at or within the property line of the affected property, and sound levels in excess of those established in this section shall constitute prima facie evidence that such sound is in violation of this article.
- (c) It is unlawful for any person between the hours of 11:00 p.m. and 7:00 a.m. to make, cause or allow any sound from a source within his ownership or control that projects, emits or transmits from a commercial area, industrial area, or a mixed-use development if such sound is plainly audible within the interior of a single-family detached sealed dwelling in a residential area or in a common area of a multifamily dwelling in a residential area.
- (d) The exclusions listed in subsection 17__-303(c) apply as exclusions in all commercial and industrial areas and all mixed-use developments as if fully set forth in this section.

Sec. 17-306. - Animal vocalizations, construction and landscaping activities, and the testing of burglar and fire alarms.

- (a) *[Time limitations.]* Instead of the limitations set forth in section 17-305, the time limitations set forth in this section 17-306 apply as specified in this section.
- (b) *Animal vocalizations in commercial and industrial areas and mixed-use developments.* Animal vocalizations in commercial and industrial areas and in mixed-use developments during the hours from 7:01 a.m. until 10:59 p.m. shall be regulated as follows. Pets and nondomesticated animals may not make any vocalizations for more than fifteen (15) minutes without interruption, or more than thirty (30) minutes, if intermittent. The limitations in subsection 17-303(a) and (b) apply to animal vocalizations

between 11:00 p.m. and 7:00 a.m. The limitations in this subsection and in section 17__-303 do not apply if the vocalizations are given as a warning to the presence of an intruder.

- (c) *Landscaping in mixed-use developments.* Power tools used for landscaping or yard maintenance shall only be operated between the hours of 7:01 a.m. and 9:00 p.m. on weekdays, or between the hours of 9:01 a.m. and 9:00 p.m. on weekends in a mixed-use development. Power tools used for landscaping or yard maintenance shall not be operated between the hours of 9:01 p.m. and 7:00 a.m. on weekdays, or between the hours of 9:01 p.m. and 9:00 a.m. on weekends. All motorized equipment used in these activities shall be operated with a muffler.
- (d) *Construction and demolition activity in mixed-use developments.* Construction and demolition activity or deliveries shall only be performed between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, or between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays in mixed-use developments. There shall be no construction or demolition activity or deliveries on Sundays, New Year's Day, Thanksgiving Day, Christmas Day, Memorial Day, July 4, or Labor Day in mixed-use developments unless such activity arises from an emergency which puts the site or neighboring property owners and their property at risk of harm or loss.
- (e) *Testing burglar and fire alarms in a mixed-use development.* The testing of burglar or fire alarms in a mixed-use development shall not exceed five (5) minutes in duration, and shall not occur between the hours of 8:00 p.m. and 7:00 a.m. Fire drills may be conducted outside of these hours no more than once a month, and with prior notification to all properties within two hundred fifty (250) feet of the property line where the testing will take place.

DIVISION 3. - SOUND CONTROL OFFICERS, MEASUREMENT OF SOUND, ADMINISTRATION, VIOLATIONS AND PENALTIES.

Sec. 17-307. - Sound control officers.

Where the provisions of this article require the measurement of sound with the use of a sound level meter, sound control officers shall make such measurement. A person shall be qualified to be a sound control officer if the person meets the criteria set forth by the sound control administrator and completes, at a frequency specified by the sound control administrator, a sound certification and recertification course which has been approved by the administrator.

Sec.17-308. - 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 sound measurements shall be made at or within the property line of the affected property, unless otherwise directed in this article. 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 ordinance, sound 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 sound 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 sound control administrator. Calculation of sound levels shall conform with accepted practice established by ANSI.

Sec. 17-309. - Sound control administrator, special administrative permits.

- (a) *Sound control administrator.* The Community Development Director or his/her designee shall be designated as the sound control administrator and he or she shall have the power to:
- (1) Coordinate the sound control activities of all departments in the City of Tucker and cooperate with all other public bodies and agencies, including the DeKalb County Police Chief, to the extent practicable;
 - (2) Review, consider, grant, deny and revoke special administrative permits, pursuant to the procedures and standards contained in this article;
 - (3) Determine if the exclusions listed in this article apply to a particular set of circumstances;
 - (4) Promulgate application forms in conformity with the requirements of this article and recommend application fees to be set by official action of the governing authority;
 - (5) Provide testimony, evidence, and documents in the prosecution of violations of this article;
 - (6) Issue warnings to alleged violators of this article prior to or in lieu of citations;
 - (7) Promulgate rules and procedures to enforce this article and to govern the issuance and revocation of special administrative permits; and
 - (8) Provide clarification, interpretation, and implementation of the provisions of this article.
- (b) *Initiation of applications; special administrative permits.* Any person requesting temporary relief or a stay from the enforcement of this article shall apply for a special administrative permit for a period of time not to exceed a total of fifteen (15) days within any one (1) year. The sound control administrator has discretion to consider and then grant or deny the special administrative permit, pursuant to the procedures and standards contained in this article, if strict enforcement of this article will result in unnecessary hardship to the applicant.
- (c) *Application forms; filing of applications; application fees.* Applications for special administrative permits shall be filed on forms promulgated by the sound control administrator and shall not be considered authorized or accepted unless complete in all respects. By official action, the governing authority shall establish application fees for special administrative permits and the fee schedule shall be maintained by the city clerk.
- (d) *Application forms; criteria.* Applications for special administrative permits shall be considered complete when the applications include all of the following information:
- (1) The nature and location of the sound source for which such application is made;
 - (2) The reason for which the permit is requested, including the unnecessary hardship that will result to the applicant, his/her client, or the public, if the permit is not granted;
 - (3) An explanation of how the permit, if granted, will not exceed the minimum necessary to afford relief to the applicant, and does not constitute a special privilege inconsistent with sound or time limitations imposed on other similarly situated persons;
 - (4) The times, nature and intensity of sound that will occur during the period of the permit;
 - (5) A description of the sound control measures to be taken by the applicant to minimize the sound and the impact therefrom; and
 - (6) The name, address, and means of contacting a responsible party during the hours of operation for which the permit is issued.
- (e) *Issuance of special administrative permits; required enumerated conditions.* The sound control administrator shall grant or deny the special administrative permit within thirty (30) days of receipt of a

complete application. If the sound control administrator does not grant or deny the permit within thirty (30) days, the permit shall stand denied. Upon issuance of a special administrative permit, the sound control administrator shall enumerate the conditions of the permit including, but not limited to, specific dates and times for which the permit is valid, not to exceed a total of fifteen (15) days within any one (1) year.

- (f) *Revocation.* A special administrative permit may be revoked by the sound control administrator, and the issuance of future special administrative permits withheld, if there is a:
 - (1) Violation of one (1) or more 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 sound control administrator in granting the permit.
- (g) *Appeals.* Appeals of any special administrative permit decision made by the sound control administrator or his/her designee shall be to the mayor and city council.

Sec. 17-310. - Violations and penalties.

- (a) The provisions of this article may be enforced by police officers, code enforcement officers, and/or the sound control administrator.
- (b) Any person that does anything prohibited or fails to do anything required by this article, upon citation by a police officer, a code enforcement officer, or the sound control administrator and conviction of the violation in a court of competent jurisdiction, shall be subject to fine and/or imprisonment in accordance with section 1-10, with the following minimum penalties.
 - (1) Upon a first conviction of any violation of this article, the court shall impose a fine of not less than two hundred dollars (\$200.00) in addition to any other penalty or punishment imposed by the court.
 - (2) Upon a second conviction of a violation of this article within twelve (12) months measured from the date of the first conviction, the court shall impose a fine of not less than five hundred dollars (\$500.00) in addition to any other penalty or punishment imposed by the court.
 - (3) Upon a third conviction of a violation of this article within twenty-four (24) months measured from the date of the first conviction, the court shall impose a fine of not less than one thousand dollars (\$1,000.00) in addition to any other penalty or punishment imposed by the court.