

ARTICLE VI. - NOISE CONTROL^[2]

Footnotes:

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Editor's note—Ord. No. 10-137, §§ 1, 2, adopted Nov. 23, 2010, deleted the former Art. VI, Div. 1, § 36-147, Div. 2, §§ 36-178—36-182, Div. 3, §§ 36-191—36-197, and enacted a new Art. VI as set out herein. The former Art. VI pertained to noise control and derived from Code 1975, § 16-26(a)—(c); Code 1985, § 17-20; Code 1985, §§ 17-41—17-45; Ord. No. 90-171, §§ 1—5, 11-27-1990; Ord. No. 97-123, § 1, 6-10-1997; Ord. No. 04-108, §§ 1, 2, 2-26-2004; Ord. No. 04-109, §§ 1, 2, 3-23-2004. It should be noted that §§ 36-191—36-197 bore no history notes. For a completed derivation, see the Code Comparative Tables at the end of this volume.

DIVISION 1. - GENERALLY

Sec. 36-147. - Use of loudspeakers or public address systems upon public property prohibited; exception by permit; application; penalty.

- (a) The use and operation of a loudspeaker or public address system upon the streets, alleys or public property within the city limits for the purpose of commercial advertising or attracting the attention of the public to any building or structure by any person is prohibited and declared to be unlawful unless such person shall obtain a written permit from the city manager, or his designee, at least 48 hours prior to the commencement of the use thereof.
- (b) To obtain the permit referred to in subsection (a) of this section, written application shall be made to the city manager, or his designee, by the person desiring to use the loudspeaker or public address system, in which application the applicant shall state the time, place and manner of the proposed use and the type of loudspeaker or public address system which is proposed to be used, and the vehicle, if any, upon which the same shall be located. The application must be received 14 days prior to the proposed use. The factors to be considered include, but are not necessarily limited to
- (1) The previous experience with the applicant;
 - (2) The time of the event;
 - (3) Other activities in the vicinity of the proposed location;
 - (4) The cultural or social benefits of the proposed activity;
 - (5) The effect of the activity on any adjacent residential property.

The permit may impose conditions, including but not limited to: (i) maximum height that speakers may be off the ground; (ii) that permit holders change the arrangement of the amplifying equipment or sound instruments upon the request of the city police department so as to minimize the disturbance to others resulting from the position or orientation of the amplifying equipment; (iii) adequate provisions to insure the proper cleanup of any litter resulting from the event for which the permit to exceed was obtained; (iv) adequate private security for the purpose of crowd and traffic control—and shall be part of any permit. The adequacy of such private security shall be determined by the city police department.

- (c) *Limit on permits.* Permits shall be subject to the following limitations:

- (1) Permits will only be granted for temporary purposes not to exceed eight continuous hours in any one time period;
 - (2) No more than two permits shall be allowed per address (person or group of persons) during any six-month period. January 1 through June 30 shall constitute one six-month period. July 1 through December 31 shall constitute the second six-month period.
 - (3) No permit shall be granted for the time period between 1:00 a.m. and 9:00 a.m.
 - (4) If the permit holder fails to provide such security then the permit shall be considered revoked and use of the loudspeaker(s)/amplification shall cease.
- (d) *Cooperation.* Permit holder(s) shall agree to cooperate with the city police department by being available at the site of the event during the entire time period for which a permit has been issued. If at any time the permit holder is absent, then the permit shall be considered revoked and use of loudspeaker(s)/amplification shall cease.
- (e) The city manager, or his designee, will respond in writing within five days of the proposed use.
- (Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Secs. 36-148—36-177. - Reserved.

DIVISION 2. - REGULATIONS OF NOISE ON PUBLIC RIGHT-OF-WAY AND PROPERTY

Sec. 36-178. - Legislative findings and purpose.

- (a) The City of Albany, Georgia, having received an increasing number of complaints from the citizens of the city concerning radio and other noises emanating from vehicles on the public streets and ways and properties of the city, and having made certain observations on the subject, hereby finds and declares that:
- (1) Excessive noise, when unnecessary to the carrying on of religious, political, civic, or commercial activities, or when not generated in the course of other activity necessary to carrying on the daily life, creates a significant threat to the public health, safety and welfare.
 - (2) Those noises which are most obnoxious to public health, safety and welfare in the city are those which are loud, boisterous, raucous, unseemly, or which are generated solely for the purpose of entertainment of a person or group of persons without regard to the health, welfare and safety of others who are unable to avoid being subjected to such noises.
 - (3) There has been an alarming increase in the frequency and volume of noise from the many portable sound reproducing devices available today, such as portable radios, tape recorders, and cassette players.
- (b) It is, therefore, the intent of this division to strike an appropriate balance between the right of individuals to obtain information and derive pleasure by listening to radios and other devices, and the right of the public to a peaceful and healthful environment. It is not the intent of this legislation to interfere unduly with freedom of speech or religion by regulating the initial production or amplification of sound.

(Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Sec. 36-179. - Prohibited noise.

- (a) *Purpose.* This section is enacted to protect, preserve and promote the health, safety and welfare of the citizens of the city through the control of noise. It shall be the intent of this section 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 code enforcement and law enforcement personnel.* For the purposes of this section, "plainly audible" shall mean any sound emanating from the specific sound-producing sources set forth in subsection (c) of this section which can be heard from the distance of 100 feet or more, 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.
- (c) It shall be unlawful for any person or persons to play, use, operate, or permit to be played, used, or operated, any radio, tape recorder, cassette player, or other machine or device for reproducing sound, if it is located in or on any of the following:
 - (1) Any public or private property, including any building, public street, sidewalk, park, thoroughfare; or
 - (2) Any motor vehicle on a public street, highway, public space, or private property within the corporate limits of the city; and if the sound generated is audible at a distance of 100 feet from the device producing the sound or from the building in which the sound is produced.
- (d) Possession by a person or persons of any of the machines or devices enumerated in subsection (c) of this section shall be prima facie evidence (which may be rebutted) that person operates, or those persons operate, the machine or device.
- (e) Upon receipt by the police department of a complaint by any citizen detailing an incident of excessive or annoying music emanating from a motor vehicle, either parked or mobile, which meets the criteria enumerated in subsection (c) of this section and any of its subsections, provided the complainant provides information including, but not limited to:
 - (1) Date and time of the occurrence;
 - (2) Location of the occurrence;
 - (3) License tag number and state of issue;
 - (4) Vehicle description, to include color, and make/model if known;
 - (5) Description of the vehicle operator if known;

And if the complainant indicates a willingness to serve as a witness in municipal court should a case be made, by providing the following information for the issuance of a witness subpoena to municipal court:

- (1) Name of complainant;
 - (2) Address of complainant;
 - (3) Telephone number of complainant;
- (f)

It shall be unlawful for any person or persons to play, use, operate, or permit to be played, used, or operated, any radio, recording player, musical instrument, or other machine or device for reproducing sound at any organized group event or program outside of a building between 10:00 p.m. and 9:00 a.m.

(g) *Exceptions.*

- (1) Any event held in the area known as the central business district (CBD).
- (2) Any event held on any of the Civic Center Complex properties.
- (3) Any other event that has obtained prior approval from the city board of commissioners, and the city manager, such as block parties, etc.
- (4) Nothing in this section shall apply to any event held or sponsored by any government agency or school.

(h) Any person, firm or corporation found in violation of this section within the city, shall be penalized in accordance with sections 1-17 and 1-18 of this Code.

(Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Sec. 36-180. - Enforcement; powers of arrest or summons.

Any authorized police officer shall issue a summons for any violation of this division, except they may arrest for instances when:

- (1) The alleged violator refuses to provide the officer with such person's name and address and any proof thereof as may be reasonably available to the alleged violator.
- (2) When the alleged violator refuses to cease such person's illegal activity after being issued a citation.

(Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Sec. 36-181. - Penalty.

Violations of this division shall constitute offenses punishable as provided in sections 1-17 and 1-18 of this Code.

(Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Sec. 36-182. - Other remedies.

No provision of this division shall be construed to impair or replace any common law or statutory cause of action, or other legal remedy, of any person for injury or damage arising from any violation of this division or from the privacy rights of such individuals.

(Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Secs. 36-183—36-190. - Reserved.

DIVISION 3. - SOUND LEVEL LIMITATIONS

Sec. 36-191. - Definitions.

All terminology used in this division, 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 division, shall have the following meanings:

Ambient noise means the all-encompassing noise associated with a given environment, usually being a composite of sounds with many sources near and far.

A weighted sound level is the sound level 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. The unit of reporting is Db(A). Sounds measured with the "A" weighting network approximate the response of human hearing when measuring sounds of low to moderate intensity.

C weighted sound level is the sound level 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. The unit of reporting is Db(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

Commercial or business property category means 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 means any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

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

dBA means the A-weighted unit of sound pressure level.

dBC means the C-weighted unit of sound pressure level.

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

Emergency work means 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 means a sound having a duration of less than one second with an abrupt onset and rapid decay.

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

Institutional property category means any property which is used primarily for public purposes such as city hall or a city park.

Muffler means 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 means any building or other shelter that has been divided into separate units to house more than one family.

Noise means any sound which annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans.

Noise disturbance means 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, schools, hospitals, and places of worship.

Octave band means all the components in a sound spectrum whose frequencies are between two sine waves components separated by an octave.

Place of public entertainment means any commercial facility open to the general public for purposes of entertainment.

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

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

Sound level meter (SLM) means an instrument used to measure sound pressure levels conforming to type 1 or type 2 standards as specified in ANSI Standard S1.4-1983 or the latest version thereof.

Sound pressure level (SPL) means 20 multiplied by the logarithm, to the base ten, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

(Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Sec. 36-192. - Sound levels.

- (a) No person 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 unless otherwise noted. Such a sound source would constitute a noise disturbance.

Table 1
Sound Level Limits by Receiving Property

Receiving Property Category	Time	Sound Level Limit (dBA)
Residential or noise sensitive facility	7:00 a.m.—11:00 p.m.	<u>60</u>
	11:00 p.m.—7:00 a.m.	<u>55</u>
Commercial or business	7:00 a.m.—11:00 p.m.	65
	11:00 p.m.—7:00 a.m.	<u>60</u>
Industrial or manufacturing	At all times	70

- (b) 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.
- (c) In a multifamily dwelling, it shall be unlawful to create or permit to be created any noise that exceeds the daytime (7:00 a.m. to 11:00 p.m.) limit of 55 dBA and the nighttime (11:00 p.m. to 7:00 a.m.) limit of 45 dBA as measured from the closest neighbor's dwelling.
- (d) In places of public entertainment it shall be unlawful to create or permit to be created any noise that exceeds an average of 95 dBC in any ten-minute period when operating in accordance with section 8-109 of this Code. The sound level limit for all other times shall be 55 dBC. The sound shall be measured at a point which is found by traveling a straight line distance from the center of the sound board through to the inside center rear of the facility. The measurement assumes that the sound board is not more than 100 feet from the center stage.

(Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Sec. 36-193. - Exemptions.

- (a) Noise generated from government sponsored or approved celebrations or events shall be exempt from the provisions of this division.
- (b) The following are exempt from the sound level limits of section 36-192:
- (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 uninterrupted or ten minutes if intermittent;
- (3) Noise from any automobile alarm, provided such alarm shall terminate its operation within five minutes of its activation if the sound is uninterrupted or ten 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 sports league;
- (7) Unamplified bells, chimes or carillons 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) Events with amplified sound that are operating within the time and volume parameters set forth in an approved special administrative permit.

(Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Sec. 36-194. - Restricted uses and activities.

Notwithstanding the provisions of section 36-192 and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below:

- (1) Noncommercial or nonindustrial power tools used for landscaping and yard maintenance shall not be operated between the hours of 9:00 p.m. and 7:00 a.m., or on Saturday or Sunday before the hour of 8:30 a.m., unless such activities can meet the applicable limits set forth in section 36-192. At all other times, the limits set forth in section 36-192 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.
- (2) 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 7:00 p.m. and 7:00 a.m. on weekdays, or before the hour of 9:00 a.m. or after the hour of 5:00 p.m. on Saturday, or at any time on Sunday, unless:
 - a. Such activities are deemed emergency work; or
 - b. Such activities meet the limits set forth in section 36-192.

At all other times, the limits set forth in section 36-192 do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.

- (3) Domesticated animals may not make any vocalizations (including barking, baying, howling, crying, or making any other noise) for more than ten minutes without interruption or more than 30 minutes if intermittent.
- (4) The collection of trash or refuse in residential districts is prohibited between the hours of 9:00 p.m. and 7:00 a.m.
- (5) No person shall operate, play, or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, or similar device in such a manner as to create a continuing noise disturbance at 100 feet from such device, when operated in or on a motor vehicle on a public right-of-way or public space.

(Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Sec. 36-195. - 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 division. 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 division, 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) Measurements shall be taken by police or code enforcement officers, or code enforcement inspectors, appropriately trained in the use of a sound level meter.
- (c) The ambient noise levels shall be subtracted from the measured sound levels of the source under investigation by using Table 2 to determine the sound levels from the source of interest alone. If the ambient sound level is less than four dB higher than the background sound level, the source level cannot be derived and a violation of the article cannot be substantiated.

Table 2 Correction for Ambient Noise (in dB)

Difference between ambient and background sound levels	Correction factor to be subtracted from ambient level for source level
0 to 3dB	Unsustainable Violation
4 to 5dB	2dB
6 to 8dB	1dB

9dB or more

0dB

- (d) *Fixed amplified sound reproduction devices.* If the source of sound is an amplified sound reproduction device on private property (e.g., in a residential, industrial or commercial zoned area), and the complainant states that the rhythmic bass component of the music is disturbing, then the sound level measurements may be taken within the dwelling, porch, yard, hotel room, office space, etc., of the complainant. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response. Such measurements shall not be taken in areas that receive only casual use, such as hallways, closets and bathrooms. For the purposes of these measurements, the ambient sound level is that sound level which is measured in the building when the sound source under investigation is not prominent, or in a room on the same floor that is relatively unaffected by the sound source under investigation. This "C" scale measurement shall be in addition to the property line measurement described in subparagraph (a) of this section.

(Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Sec. 36-196. - Special variances.

- (a) The city manager or the city manager's designated representative shall have the authority, consistent with this division, to grant special variances.
- (b) Any person seeking a special variance pursuant to this division shall file an application with the city manager or the city manager's designated representative. The application shall contain information which demonstrates that bringing the source of sound into compliance with this division would constitute an unreasonable hardship on the applicant, on the community, or on the other persons. Notice of an application for a special variance shall be given by the chief or the chief's representative to persons who frequent the area of the sound or activity and who may be adversely affected by the granting of the variance. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the city manager or the city manager's representative containing any information to support such individual's claim.
- (c) In determining whether to grant or deny the application, the city manager or the city manager's designated representative shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact of granting the special variance. Applicants for special variances may be required to submit any information the city manager or the city manager's representative may reasonably require. In granting or denying an application, the city manager or the city manager's representative shall place on public file a copy of the decision and the reasons for denying or granting the special variance.
- (d) Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to those provisions of this division regulating the source of sound or activity for which the special variance was granted.

- (e) Application for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances.
- (f) The city manager or the city manager's designated representative will approve or deny a request for special variance within 30 days of the completed application. An application will be considered complete with the city manager or his designated representative has received not only the initial application but also any additional information requested by the city manager or his designated representative.

(Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Sec. 36-197. - Enforcement procedures; miscellaneous.

- (a) Except as provided in subsection (b) of this section, the city may prosecute noise related violations by issuance of a municipal court citation, in which case, the penalty for a violation shall be as set forth in section 1-17 of this Code. In addition to issuing a fine as provided in section 1-17, 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.
- (b) 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 article or from other law. Additionally, it is not the intent of this article to repeal, or otherwise affect, subsection 36-2(b)(1) of this chapter.
- (c) *Severability clause.* A determination of the invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, subsection or part of this article shall not affect the validity of the remaining parts of this article.

(Ord. No. 10-137, §§ 1, 2, 11-23-2010)

Secs. 36-198—36-202. - Reserved.