

03-0-0119

(Do Not Write Above This Line)

AN ORDINANCE BY COUNCILMEMBERS CLAIR MULLER AND HOWARD SHOOK, *AWAY, FAYVER*

AN ORDINANCE TO AMEND ARTICLE IV, SECTION 74 OF THE CITY OF ATLANTA CODE OF ORDINANCES, TO PROVIDE FOR A MORE EFFECTIVE MEANS OF ENFORCING THE PROVISIONS OF THE NOISE CONTROL CODE; AND FOR OTHER PURPOSES.

ADOPTED BY
MAY 05 2003
COUNCIL

~~SUBSTITUTES AMENDED~~

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 1/21/03

Referred To: Public Safety

Date Referred 3/17/03

Referred To: Public Safety & Legal Affairs

Date Referred _____

Referred To: _____

First Reading

Committee _____

Date _____

Chair _____

Referred To _____

PSL Committee

Date 1-28-03

Chair _____

Action Hold (see rev. side)

Other _____

Members

Refer To

PSL Committee

Date 3-13-03

Chair _____

Chair

Action Hold (see rev. side)

Other _____

Members

Refer To

PSL Committee

Date 4/1/03

Chair _____

Action Hold (see rev. side)

Other _____

Members

Refer To

PSL Committee

Date _____

Chair _____

Chair

Action Hold (see rev. side)

Other _____

Members

Refer To

FINAL COUNCIL ACTION

2nd Reading

1st & 2nd Reading

3rd Reading

Consent

V Vote

RC Vote

CERTIFIED

CERTIFIED

MAY 05 2003

ATLANTA MUNICIPAL GOVERNMENT

Arthur W. Norland

CERTIFIED

MAY 05 2003

Rudolph B. Johnson

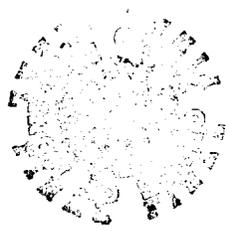
MUNICIPAL CLERK

MAYOR'S ACTION

Mandy Stander

MAY 13 2003

MAYOR



AN ORDINANCE

**BY COUNCILMEMBERS CLAIR MULLER, HOWARD SHOOK AND ANNE FAUVER
AS SUBSTITUTED BY THE PUBLIC SAFETY/ LEGAL ADMINISTRATION
COMMITTEE**

**AN ORDINANCE TO AMEND ARTICLE IV, SECTION 74
OF THE CITY OF ATLANTA CODE OF ORDINANCES, TO
PROVIDE FOR A MORE EFFECTIVE MEANS OF
ENFORCING PROVISIONS OF THE NOISE CONTROL
CODE; AND FOR OTHER PURPOSES.**

WHEREAS, it is clear that government has a substantial interest in protecting its citizens from unwelcome noise; and

WHEREAS, it is declared to be the policy of the City of Atlanta to prohibit noise disturbances from all sources in order to secure and promote the public health, comfort, safety, welfare and prosperity of the citizens of Atlanta, as well as the value of property, quality of life, and the environment; and

WHEREAS, the City has created standards and prohibitions regulating the level, volume and tone of noise emanating from various sources in an effort to balance the sometimes competing interests of commerce, an individual's right to freedom of speech and the free exercise of religion, and the public's right to peace and quiet; and

WHEREAS, it is the stated purpose of these standards and prohibitions to prevent noise disturbances; and

WHEREAS, the enforcement of these standards and prohibitions is subject to the power of its police; and

WHEREAS, the current technical standards within the Code of Ordinances create certain obstacles for the police in enforcing these ordinances in a variety of circumstances; and

WHEREAS, the Atlanta Police Department receives numerous calls concerning noise complaints, in addition to self-initiated calls; and

WHEREAS, the City must create more readily enforceable standards to allow its police to properly enforce the stated purpose of these ordinances; and



WHEREAS, in an effort to narrowly tailor the City's efforts to protect the citizens of Atlanta from excessive noise, the City has relied upon information gathered at public hearings, and the evidence generated by comparable cities which have imposed distance standards for the enforcement of noise violations; and

WHEREAS, the City has selected the least restrictive standard available to exercise its police power with regard to noise violations by selecting distance standards which take into account the reasonable needs of businesses as expressed at the public hearings as well as the needs of citizens to enjoy the quiet of their homes and other places by noting the distances of conduct which is the subject of individual noise complaints; and

WHEREAS, the City has selected distance standards which are the same or less restrictive than comparable cities, including Orlando, Florida; Honolulu, Hawaii; Indianapolis, Indiana; Cincinnati, Ohio; Toledo, Ohio; and Portland, Oregon.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:



SECTION 1: That Chapter 74, Article IV *is amended by deleting said Article in its entirety and substituting in lieu thereof the following:*

ARTICLE IV. NOISE CONTROL

Section 74-129. Title.

This article shall be known and may be referred to as the "Atlanta Noise Control Code" or the "Atlanta Noise Ordinance".

Section 74-131. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Ambient Sound Level means the total Sound Pressure Level in the area of interest excluding the Noise Source of interest (see, also, "Background Sound Level," this section).

A-weighting means 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 (see also, "Ambient Sound Level," this section).

Commercial Area means a group of commercial facilities and the abutting Public Right-of-Way and Public Property.

Commercial Property means any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- (1) Banking and other financial institutions;
- (2) Dining establishments;
- (3) Establishments for providing retail or wholesale services;
- (4) Establishments for recreation and entertainment;
- (5) Office buildings;
- (6) Transportation; and
- (7) Warehouses.



Construction means any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

C-weighting means the electronic filtering in Sound Level Meters that models a flat response (output equals input) over the range of maximum human hearing frequency sensitivity.

dBA means an A-weighted unit of Sound Level.

dB C means a C-weighted unit of Sound Level.

Daytime Hours means the hours between 7:01 a.m. and 9:00 p.m.

Decibel (dB) means the unit of measurement for a Sound Pressure Level and is equal to ten times the common logarithm of the ratio of two like quantities (see "Sound Pressure Level").

Emergency Work means any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.

Equivalent Sound Level (Leq) means the non-varying Sound Level that would contain the equivalent amount of energy as a varying Sound Level. Note that Leq can be weighted or unweighted and can be integrated over durations ranging from less than a second to many hours. The notation should indicate weighting used and duration, e.g., 85 dBC Leq (six min.) is a C weighted 85 Decibel Equivalent Sound Level, integrated over a six-minute period.

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

Industrial Facility means any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods.

Maximum Sound Level (Lmax) means the maximum root mean square Sound Level measured or not to be exceeded by time varying sounds.

Motor Vehicle means any vehicle that is propelled or drawn on land by an engine or motor.

Muffler means a sound-dissipative device or system for lessening the sound of the exhaust of an internal combustion engine.

Multidwelling Unit Building means any building wherein there are two or more dwelling units.

The Municipality means the City of Atlanta, Georgia.

Nighttime Hours means the hours between 9:01 p.m. of any given day, and 7:00 a.m. of the following day.



means any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the city or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazard within the confines of a place of employment.

Noise Control Administrator (NCA) means the individual designated by the Chief of Police as the official liaison with all municipal departments, who shall be empowered to grant permits for temporary variances. The NCA shall not be permitted to issue citations under this Article.

Noise Control Officer (NCO) means any police officer or officially designated employee of The Municipality who has received training in the standards for the measurement of Ambient Sound Level or absolute Sound Level and is empowered to issue a summons for violations of this article, based upon the use of Ambient Sound Levels or absolute Sound Levels.

Noise Disturbance means any sound that endangers the health, safety or welfare of any Person, is detrimental to the peaceful enjoyment of private property, or endangers personal or real property.

Noise Source means the point of origin of any Noise, excluding Noise emanating from any sound making device or instrument from within a Motor Vehicle as covered by O.C.G.A § 40-6-14.

Peak Sound Level (Lpk) means the absolute positive or negative value (not the root mean square value) of the sound energy in a discrete event typically of very short duration.

Person means any individual, corporation, company, association, society, firm partnership, joint stock company, The Municipality any political subdivision, agency or instrumentality of The Municipality.

Plainly Audible means any sound produced by a Noise Source, which can be heard by any Person at prescribed distances. Measurement standards shall be the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and low frequency sound reverberations are included.

Public Right-of-Way means any street, avenue, boulevard, road, highway sidewalk, or alley that is leased, owned, or controlled by a governmental entity.

Public Property means any real property or structures thereon that is own leased, or controlled by a governmental entity.

Pure Tone means a sound dominated by energy in a single frequency.

Real Property Line is either (a) the imaginary line, including vertical extension, that separates one parcel of real property from another, or (b) the vertical and horizontal boundaries of a dwell unit that is one in a Multidwelling Unit Building.



Residential Area means a group of residential properties and the abutting public rights-of-way and Public Property.

Residential Property means property used for human habitation, including but not limited to: a. Private property used for human habitation; b. Commercial living accommodations and commercial property used for human habitation; c. Recreational and entertainment property used for human habitation; and d. Community service property used for human habitation.

Sound Amplification Device means any radio, tape player, compact disc player, loudspeaker or other electronic or digital device used for the amplification of the human voice, music or other sounds.

Sound Level (per ASTM C 634) means a Sound Pressure Level obtained using a signal to which standard weighting has been applied.

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 S 1.4-1983 or the latest version thereof.

Sound Pressure Level (SPL) means the ratio in Decibels of the square of the root mean square sound pressure divided by the square of the standard reference sound pressure of $20\mu\text{Pa}$. Mathematically, this is expressed as $10 \cdot \log p^2/P^2_{\text{ref}}$, $= 20 \cdot \log P/P_{\text{ref}}$, $P_{\text{ref}} = 20 \mu\text{Pa}$.

Tonal Sound means a sound dominated by energy in a narrow band of frequencies.

Weekday means the time period of each week that begins at 11:00 p.m. on each Sunday and ends at 5:00 p.m. on each Friday.

Weekend means the time period of each week that begins at 5:00 p.m. on each Friday and ends at 11:00 p.m. on each Sunday.

Section 74-132. Scope.

The provisions of this article shall apply to the control of all Noise originating within the geographical limits of the city and outside the city limits, within all territory to which the jurisdiction of the City of Atlanta, Georgia extends.

Section 74-133. Declaration of policy.

The provisions hereinafter contained are enacted for the purpose of preventing Noise Disturbances. Above certain levels, Noise or Noise Disturbance is detrimental to the health and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. Therefore, it is hereby declared to be the policy of the city to prohibit Noise Disturbances from all sources, subject to its police power in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of Atlanta. Nothing in this article is intended to deter individuals from lawfully exercising the individual right to freedom of speech



or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.

Section 74-134. Powers, duties, and qualifications of the Noise Control Officers and administrators; duties and responsibilities of other departments.

- (a) The Noise Control Officers (NCOs), who shall be city police officers or other individuals as delegated in section 74-134 (b)(3), shall enforce the provisions of this article.
- (b) The Noise Control Administrator (NCA) shall have the power to:
 - (1) Coordinate the noise control activities of all municipal departments and cooperate with all other public bodies and agencies to the extent practicable;
 - (2) Review the actions of other municipal departments and advise such departments of the effect, if any, of such actions on Noise control;
 - (3) Delegate the duties of the NCO to any duly qualified individual according to the provisions of section 74-134(c); and
 - (4) Grant permits for temporary variances according to the provisions of section 74-139.
- (c) A person shall be qualified to be an NCO if the person has satisfactorily completed any of the following:
 - (1) An instructional program in community noise from a certified noise control engineer, as evidenced by certification from the Institute of Noise Control Engineering (INCE); or
 - (2) A registered professional engineer practicing in the field of acoustics; or
 - (3) An instructional program in community Noise from another NCO; or
 - (4) Education or experience or a combination thereof certified by the NCA as equivalent to the provisions of (1) or (2) of this subsection.
- (d) Noise measurements taken by a NCO shall be taken in accordance with the procedures specified in this article.
- (e) The provisions of this article shall not apply to any department or agency of the city engaged in any emergency activities or as otherwise excluded under section 74-138 of this article. However, all city departments and agencies shall carry out their programs according to the law and shall cooperate with the assessment and consideration of the possible impact of their activities with regard to the reduction of Noise Disturbances and the other purposes of this article.

Section 74-135. Sound measurement procedures.

- (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 Noise article. When instrumentation cannot be placed at or within the property line, the



measurement shall be made as close thereto as is reasonable. However, Noise measurements shall not be made at a distance of less than 25 feet from the edge of a Noise Source. For the purposes of this article, Noise measurements are measured on the A- or C-weighting scale, as applicable, of a Sound Level Meter (SLM) of standard design and quality having characteristics established by the American National Standards Institute (ANSI).

(b) All tests shall be conducted in accordance with the following procedures:

- (1) The NCO shall, to the extent practicable, identify all sources contributing sound to the point of measurement.
- (2) Measurements shall be taken at or within the property line of the affected person or persons.
- (3) The SLM must be calibrated using a calibrator recommended by the SLM manufacturer before and after each series of readings and at least once each hour.
- (4) The SLM must be recertified and the calibrator must be recalibrated at least once each year by the manufacturer or by a person that has been approved by the NCA. A copy of written documentation of such recertification and recalibration, in a form approved by the NCA, shall be kept with the equipment to which it refers.
- (5) No outdoor measurements shall be taken:
 - a. During periods when wind speeds (including gusts) exceed 15 mph;
 - b. Without a windscreen, recommended by the SLM manufacturer, properly attached to the SLM;
 - c. Under any condition that allows the SLM to become wet; or
 - d. When the ambient temperature is out of the range of the tolerance of the SLM.

(c) The report for each measurement session shall include:

- (1) The date, day of the week, and times at which measurements are taken;
- (2) The times of calibration;
- (3) The weather conditions;
- (4) The identification of all monitoring equipment by manufacturer, model number, and serial number;
- (5) The normal operating cycle of the sources in question with a description of the sources;
- (6) The Ambient Sound Level, in dBA, with the sources in question operating;
- (7) The Background Sound Level, in dBA, without the sources in question operating; and
- (8) A sketch of the measurement site, including measurement locations and relevant distances, containing sufficient information for another investigator to repeat the measurements under similar conditions.

(d) Prior to taking Noise measurements, the investigator shall explore the vicinity of the source in question to identify any other sound sources that could affect measurements, to establish the approximate location and character of the principal sound source, and to select suitable locations from which to measure the sound from the source in question.



When measuring continuous sound, or sound that is sustained for more than one second at a time, the SLM shall be set for A-weighting, slow meter response speed, and the range (if the SLM is designed to read levels over different ranges of SPLs) shall be set to that range in which the meter reads closest to the maximum end of the scale. When the measured Sound Level is variable or fluctuating over a range greater than ± 3 DBA, using the slow meter response speed, the fast meter response speed shall be used. In either case, both the minimum and maximum readings shall be recorded to indicate the range of monitored values.

- (f) The SLM shall be placed at a minimum height of three feet above the ground or from any reflective surface. When handheld, the microphone shall be held at arm's length and pointed at the source at the angle recommended by the SLM manufacturer.
- (g) If extraneous sound sources, such as aircraft flyovers or barking dogs, that are unrelated to the measurements increase the monitored Sound Levels, the measurements should be postponed until these extraneous sounds have become of such a level as not to increase the monitored Sound Levels of interest.
- (h) The monitoring session should last for a period of time sufficient to ensure that the Sound Levels measured are typical of the source in question, but in no event shall the duration of testing be less than five minutes.
- (i) The Background Sound Levels shall be subtracted from the measured Sound Levels of the source of interest by using Table 1 to determine the Sound Levels from the source of interest alone. If the Ambient Sound Level is less than three DBA higher than the Background Sound Level, the source level cannot be derived and a violation of the article cannot be substantiated.

Table 1: Correction for background levels
(in dBA).

<i>Difference between ambient and Background Sound Levels</i>	<i>Correction factor to be subtracted from Ambient Sound Level for source level</i>
3	3
4, 5	2
6--9	1
10 or more	0

Section 74-136. Sound Level limitations.

It shall be unlawful and a violation of this code to exceed the following Sound Level limitations:



No Person shall cause, suffer, allow, or permit the operation of any Noise Source on a particular category of property or any Public Property or right-of-way in such a manner as to create a Sound Level that exceeds the Ambient Sound Level by ten dBA or more during Daytime Hours or five dBA or more during Nighttime Hours when measured at or within the Real Property Line of the receiving property, except as provided in section 74-138. Such a Noise Source would constitute a Noise Disturbance if it continues in excess of six minutes, unless otherwise provided herein.

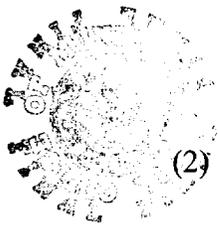
- (1) If the Ambient Sound Level cannot be determined, the absolute Sound Level limits set forth in Table 2 shall be used.

Table 2: Maximum permissible Sound Levels Leq dB (A) - Averaged over six minutes

Receiving property	Daytime Hours	Nighttime Hours
Zoning classification R1--R5 or RG	55	50
Commercial	70	65
Industrial	75	70

At no time shall Noise levels be produced that exceed 65 dB(C) Leq (one second) at a residential receiving property line.

- (2) If the Noise Source in question is a Pure Tone, then the Sound Level limitations as set forth in subsection 74-136(a) shall be reduced by five dB.
 - (3) Non-repetitive Impulsive Sound sources shall not exceed 100 dB(C) at or within a residential Real Property Line, using the fast meter response speed.
 - (4) Inside multi-family dwelling unit buildings, if the Ambient Sound Level cannot be determined, the limit during Daytime Hours is 45 dBC and the limit during Nighttime Hours is 35 dBC for sounds originating in another dwelling within the same building.
- (b) At the discretion of a police officer and as an alternative to making a determination based upon the Ambient Sound Level or absolute sound level, the following standards shall be used for sounds emanating from any Noise Source located on any Residential Property, Commercial Property, or public property:
- (1) During Daytime Hours, sound emanating from any Noise Source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any Person at a distance of two-hundred (200) or more feet from the Real Property Line of any private property on which the Noise Source is located, or from any Noise Source located on any public property or Public Right-of-Way.



- (2) During Nighttime Hours, sound emanating from any Noise Source shall be limited in volume, tone and intensity so that the sound shall not be Plainly Audible to any Person at a distance of fifty (50) or more feet from the Real Property Line of any private property on which the Noise Source is located, or from any Noise Source located on any public property or Public Right-of-Way.

Section 74-137. Specific prohibited acts.

- (a) It is unlawful and a violation of this Code for any Person to cause, suffer, allow, or permit any of the following acts:

- (1) Owning, possessing, or harboring any animal or bird that, for a continued duration in excess of fifteen (15) minutes, generates Noise that is Plainly Audible at a distance of five feet or more from the Real Property Line of a Residential Property;
- (2) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, between 9:00 p.m. and 5:00 a.m. the following day on a Weekday and between 9:00 p.m. and 9:00 a.m. the following day on a Weekend day or legal holiday, except by permit, when the Noise Source is located fifty (50) feet or less from the nearest Residential Property line;
- (3) Operating or permitting the operation of any Motor Vehicle or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or Emergency Work, and where such vehicle's manufacturer's gross weight rating is in excess of 10,000 lbs., on a Public Right-of-Way or Public Property within 150 feet of a Residential Area during Nighttime Hours;
- (4) Operating or permitting the operation of any power tools or other motorized equipment used in Construction, drilling, earthmoving, excavating, or demolition work between 7:00 p.m. and 7:00 a.m. the following day on a Weekday or between 7:00 p.m. and 9:00 a.m. on a Weekend day or legal holiday, except for Emergency Work or by permit for temporary variance pursuant to section 74-139.
- (5) Compacting or collecting of refuse by Persons engaged in the business of scavenging or garbage collection, whether private or municipal, during nighttime hours and between 9:00 p.m. and 7:00 a.m. the following day on a Weekend day or legal holiday, except by permit.

- (b) *Loud Sound Amplification Devices.*

- (1) Upon or within any public property or Public Right-of-Way, no Person shall play, use or operate, or permit to be played, used, or operated, any Sound Amplification Device, so that the sound is Plainly Audible to any Person, at a distance proscribed by the provisions of section 74-136(b). The proscribed distance shall be measured from the Noise Source.
- (2) No person shall play, use or operate, or permit to be played, used, or operated, any Sound Amplification Device on or within any private property, so that the sound is Plainly Audible to any Person according to the provisions of section 74-136(b).



It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the Sound Amplification Device, and that any of the following apply:

- a. The Sound Amplification Device was being operated to request medical or emergency assistance or to warn of a hazardous road condition;
- b. The Sound Amplification Device was being operated to provide emergency information or to warn of an emergency condition;
- c. The Sound Amplification Device was authorized or permitted to be used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any Persons or assemblages of Persons;
- d. The loud Sound Amplification Device was used in authorized or permitted public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

Section 74-138. Exemptions.

- (a) The provisions of this article shall not apply to the generation of Noise by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting Persons to the existence of any emergency.
- (b) Noise from an exterior burglar alarm of any building shall be exempt from the provisions of this article, provided such burglar alarm shall terminate its operation within 15 minutes of its activation.
- (c) Noises from any automobile alarm shall be exempt from the provisions of this article, provided such burglar alarm shall terminate its operation within ten minutes of its activation.
- (d) Noise from domestic power tools, lawn mowers, and agricultural equipment when operated between 8:00 a.m. and 8:00 p.m. on Weekdays and between 9:00 a.m. and 8:00 p.m. on Weekends and legal holidays shall be exempt from the provisions of this article, provided they generate less than 85 dBA at or within any Real Property Line of a Residential Property outside of the property where the Noise in question originates, and all Noises from tools and lawn mowers operated in association with the upkeep and maintenance of any public or private golf course shall be exempt from the provisions of this article, provided that all such tools and lawn mowers are equipped with Mufflers or are operated in conjunction with a device or system for lessening the sounds produced;
- (e) Noise from church bells and chimes when a part of a religious observance or service shall be exempt from the provisions of this article during Daytime Hours;
- (f) Noise from permitted Construction activity shall be exempt from the provisions of this article, provided all motorized equipment used in such activity is equipped with functioning Mufflers, except as provided in section 74-137(a)(4).



Noise from snow blowers, snow throwers, and snowplows when operated with a Muffler for the purpose of snow removal shall be exempt from the provisions of this article.

- (h) The generation of Noise in the performance of Emergency Work shall be exempt from the provisions of this article.
- (i) The generation of Noise in situations within the jurisdiction of the Federal Occupational Safety and Health Administration shall be exempt from the provisions of this article.
- (j) Noise generated from celebrations, outdoor festivals or events municipally sponsored or approved, whether by contract, permit or otherwise, shall be exempt from the provisions of this article.
- (k) Noises resulting from the operation of the Hartsfield Atlanta International Airport shall be exempt from the provisions of this article.
- (l) Any Noise resulting from activities of a temporary duration, for which a permit for temporary variance has been granted pursuant to this article, and which conforms to the conditions and limits stated thereon shall be exempt from the provisions of this article.
- (m) Noises 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 shall be exempt from the provisions of this article.
- (n) Noises that result from or arise out of or stem from the occurrence of a professional sporting event or organized sports league shall be exempt from the provisions of this article.
- (o) Any temporary Noise arising out of maintenance, renovation or Construction activities related to the Metropolitan Atlanta Rapid Transit Authority (MARTA) rail system shall be exempt from the provisions of this article. Said exemption will expire seven years after the effective date of this amendment.
 - (1) MARTA will develop and implement procedures by which NPUs affected by planned maintenance activities will be notified prior to the commencement of work.
 - (2) MARTA will develop and implement procedures by which any nuisances created by planned maintenance activities and reported by citizens are forwarded to the chair of the public safety and legal administration committee and the administration.
 - (3) MARTA will develop and implement procedures by which contractors conducting planned maintenance on the rail system will be monitored so as to ensure that all work is performed in a manner that will result in the creation of the least amount of Noise Disturbance.

Section 74-139. Conditions for permits for temporary variance; Notice of approval or denial; Hearings and appeals.



Any Person who owns or operates any Noise Source may apply to the NCA for a temporary variance from one or more of the provisions of this article, unless such Noise Source is specifically exempted according to the provisions of section 74-138. Applications for a permit of temporary variance shall supply information including, but not limited to:

- (1) The nature and location of the Noise Source for which such application is made;
- (2) The reason for which the permit of temporary variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the permit of temporary variance is not granted;
- (3) The level of Noise that will occur during the period of the temporary variance;
- (4) The section or sections of this ordinance for which the permit of temporary variance shall apply;
- (5) A description of interim Noise control measures to be taken for the applicant to minimize Noise and the impacts occurring therefrom; and
- (6) A specific schedule of the Noise control measures that shall be taken to bring the source into compliance with this article within a reasonable time.

(a1) Failure to supply the information required by the NCA shall be cause for rejection of the application.

(a2) A copy of the permit of temporary variance must be kept on file by the municipal clerk for public inspection.

(b) The NCA shall charge the applicant a fee of \$25.00 to cover expenses resulting from the processing of the application for a permit of temporary variance.

(c) The NCA shall limit the duration of the permit of temporary variance, which, in any event, shall be effective no longer than 45 days. Any Person holding a permit of temporary variance and requesting an extension of time shall apply for a new permit of temporary variance according to the provisions of this section.

(d) No temporary variance shall be approved unless the applicant presents adequate proof that:

- (1) Noise levels occurring during the period of the temporary variance will not constitute a danger to public health; and
- (2) Compliance with the article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.

(e) In making the determination of granting a temporary variance, the NCA shall consider the following factors:

- (1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;
- (2) The social and economic value of the activity for which the temporary variance is sought; and
- (3) The ability of the applicant to apply the best practical Noise control measures.



The NCA shall notify the applicant in writing of his or her determination on the application within 14 days after receipt of the application. This notification shall inform the applicant of whether a permit for temporary variance has been approved or denied; and, if approved, shall set forth the location, dates and times of temporary variance.

- (h) In the event a permit for temporary variance shall be denied, the aggrieved applicant shall have the right to a hearing before the Chief of Police or his or her designee, who may be a hearing officer appointed for that purpose, provided that the request for such hearing is made to the NCA within five (5) days after receipt of the notice. Notices that are given only by mail shall be presumed to have been received three (3) days after the mailing. Notices given in Person, hand-delivered to the address of the applicant or sent by facsimile transmission or electronic mail shall be presumed to have been delivered on the date given or sent.
 - (1) Hearings contesting the matters in the NCA's notice shall be held before the Chief of Police or the designee, shall be informal, and shall be scheduled within five (5) business days after receipt of the request for a hearing by the NCA. The hearing may be continued at the request of the applicant or to allow the attendance of any necessary party or witness, but only from day to day. The determination on such hearing shall be made at the conclusion of the hearing, and the Chief of Police or the designee shall issue a written determination within one (1) business day thereafter, which determination shall affirm or reverse the decision of the NCA.
 - (2) The hearing under this section shall be *de novo* and shall be informal. Such hearing shall evaluate the decision of the NCA and the application in accordance with the criteria of this article.
 - (3) The written determination of the Chief of Police or the designee upon the conclusion of the hearing as provide in this section shall be the final decision of the City in the matter, and such a determination shall be subject to review by the Superior Court of Fulton County by a petition setting forth an appeal and naming the City of Atlanta as the defending party.
- (i) The permit of temporary variance may be revoked by the NCA if the terms of the permit of temporary variance are violated.

Section 74-140. Enforcement procedures.

- (a) Violation of any provision of this article shall be cause for a citation to be issued by a police officer or NCO according to procedures set forth in the City Code of Ordinances.
- (b) In lieu of issuing a citation, a police officer or NCO may issue an order requiring abatement of any sound source alleged to be in violation of this article within a reasonable time period and according to guidelines that the NCO may prescribe.
- (c) *Penalties.* Any Person convicted of a violation of any provision of this article shall be subject to the following penalties:



A fine not more than \$ 1,000.00, or a period of confinement in the city jail not to exceed ten (10) days and a probationary period not to exceed one-hundred eighty (180) days, or both.

(2) In addition to any other penalties provided in this section, the judge may issue an order requiring abatement of any Noise Source found to be in violation of this article within a reasonable time period, not to exceed sixty (60) days, and according to any guidelines that the city may prescribe.

a. Any Person ordered to abate any Noise Source found to be in violation of any provision of this article shall demonstrate to the city compliance with any order requiring abatement and any further guidelines they city may prescribe.

b. Any Person failing to abate any Noise Source found to be in violation of any provision of this article shall be liable to the city for all costs and expenses incurred by the city in abating a violation.

(3) Each day during which any violation occurs shall constitute an additional, separate, and distinct offense.

(d) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any Person for injury or damage arising from any violation of this article or from other law.

Section 74-141. Inconsistent provisions.

Insofar as the provisions of this Code are inconsistent with any provision of any other title of the Code, or any rule or regulation of any government agency of the city, then the provisions of this Noise control code shall be controlling.

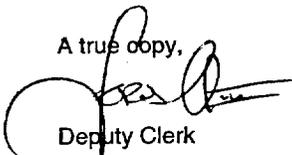
Section 74-142. Severability.

If any provision, clause, sentence or paragraph of this Article, or the application thereof to any Person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this article which can be given effect without the invalid provisions or application and, to this end, the provisions of this Article are hereby declared to be severable.

Sections 74-143—74-160. Reserved.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

A true copy,



Deputy Clerk

ADOPTED by the City Council
APPROVED by the Mayor

May 5, 2003
May 13, 2003

RCS# 4692
5/05/03
5:52 PM

Atlanta City Council

Regular Session

03-O-0119

Amend Code to Provide a more Effective
means of enforcing Noise Control Code
ADOPT ON SUB

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 4
EXCUSED: 0
ABSENT 0

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	NV Norwood
Y Young	Y Shook	NV Maddox	NV Willis
Y Winslow	Y Muller	Y Boazman	NV Woolard

03-O-0119

COUNCIL FLOOR AMENDMENT FORM

COUNCIL MEMBER: shook DATE: 5/5, 2003

ORDINANCE I.D. #: _____ RESOLUTION I.D. #: 03-0-0119

PAGE #: 12/E SECTION: 74-138

PARAGRAPH: _____ LINE: _____

CAPTIONS': Blue Back Legislation

AMENDMENT:

Doing Daytime hours

Failed due to
lack of Majority
vote.

AN ORDINANCE

**BY COUNCILMEMBERS CLAIR MULLER, HOWARD SHOOK AND ANNE FAUVER
AS SUBSTITUTED BY THE PUBLIC SAFETY/ LEGAL ADMINISTRATION
COMMITTEE**

**AN ORDINANCE TO AMEND ARTICLE IV, SECTION 74
OF THE CITY OF ATLANTA CODE OF ORDINANCES, TO
PROVIDE FOR A MORE EFFECTIVE MEANS OF
ENFORCING PROVISIONS OF THE NOISE CONTROL
CODE; AND FOR OTHER PURPOSES.**

WHEREAS, it is clear that government has a substantial interest in protecting its citizens from unwelcome noise; and

WHEREAS, it is declared to be the policy of the City of Atlanta to prohibit noise disturbances from all sources in order to secure and promote the public health, comfort, safety, welfare and prosperity of the citizens of Atlanta, as well as the value of property, quality of life, and the environment; and

WHEREAS, the City has created standards and prohibitions regulating the level, volume and tone of noise emanating from various sources in an effort to balance the sometimes competing interests of commerce, an individual's right to freedom of speech and the free exercise of religion, and the public's right to peace and quiet; and

WHEREAS, it is the stated purpose of these standards and prohibitions to prevent noise disturbances; and

WHEREAS, the enforcement of these standards and prohibitions is subject to the power of its police; and

WHEREAS, the current technical standards within the Code of Ordinances create certain obstacles for the police in enforcing these ordinances in a variety of circumstances; and

WHEREAS, the Atlanta Police Department receives numerous calls concerning noise complaints, in addition to self-initiated calls; and

WHEREAS, the City must create more readily enforceable standards to allow its police to properly enforce the stated purpose of these ordinances; and

WHEREAS, in an effort to narrowly tailor the City's efforts to protect the citizens of Atlanta from excessive noise, the City has relied upon information gathered at public hearings, and the evidence generated by comparable cities which have imposed distance standards for the enforcement of noise violations; and

WHEREAS, the City has selected the least restrictive standard available to exercise its police power with regard to noise violations by selecting distance standards which take into account the reasonable needs of businesses as expressed at the public hearings as well as the needs of citizens to enjoy the quiet of their homes and other places by noting the distances of conduct which is the subject of individual noise complaints; and

WHEREAS, the City has selected distance standards which are the same or less restrictive than comparable cities, including Orlando, Florida; Honolulu, Hawaii; Indianapolis, Indiana; Cincinnati, Ohio; Toledo, Ohio; and Portland, Oregon.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:

SECTION 1: That Chapter 74, Article IV *is amended by deleting said Article in its entirety and substituting in lieu thereof the following:*

ARTICLE IV. NOISE CONTROL

Section 74-129. Title.

This article shall be known and may be referred to as the "Atlanta Noise Control Code" or the "Atlanta Noise Ordinance".

Section 74-131. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Ambient Sound Level means the total Sound Pressure Level in the area of interest excluding the Noise Source of interest (see, also, "Background Sound Level," this section).

A-weighting means 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 (see also, "Ambient Sound Level," this section).

Commercial Area means a group of commercial facilities and the abutting Public Right-of-Way and Public Property.

Commercial Property means any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- (1) Banking and other financial institutions;
- (2) Dining establishments;
- (3) Establishments for providing retail or wholesale services;
- (4) Establishments for recreation and entertainment;
- (5) Office buildings;
- (6) Transportation; and
- (7) Warehouses.

Construction means any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

C-weighting means the electronic filtering in Sound Level Meters that models a flat response (output equals input) over the range of maximum human hearing frequency sensitivity.

dBA means an A-weighted unit of Sound Level.

dB C means a C-weighted unit of Sound Level.

Daytime Hours means the hours between 7:01 a.m. and 9:00 p.m.

Decibel (dB) means the unit of measurement for a Sound Pressure Level and is equal to ten times the common logarithm of the ratio of two like quantities (see "Sound Pressure Level").

Emergency Work means any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.

Equivalent Sound Level (Leq) means the non-varying Sound Level that would contain the equivalent amount of energy as a varying Sound Level. Note that Leq can be weighted or unweighted and can be integrated over durations ranging from less than a second to many hours. The notation should indicate weighting used and duration, e.g., 85 dB C Leq (six min.) is a C weighted 85 Decibel Equivalent Sound Level, integrated over a six-minute period.

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

Industrial Facility means any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods.

Maximum Sound Level (Lmax) means the maximum root mean square Sound Level measured or not to be exceeded by time varying sounds.

Motor Vehicle means any vehicle that is propelled or drawn on land by an engine or motor.

Muffler means a sound-dissipative device or system for lessening the sound of the exhaust of an internal combustion engine.

Multidwelling Unit Building means any building wherein there are two or more dwelling units.

The Municipality means the City of Atlanta, Georgia.

Nighttime Hours means the hours between 9:01 p.m. of any given day, and 7:00 a.m. of the following day.

Noise means any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the city or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazard within the confines of a place of employment.

Noise Control Administrator (NCA) means the individual designated by the Chief of Police as the official liaison with all municipal departments, who shall be empowered to grant permits for temporary variances. The NCA shall not be permitted to issue citations under this Article.

Noise Control Officer (NCO) means any police officer or officially designated employee of The Municipality who has received training in the standards for the measurement of Ambient Sound Level or absolute Sound Level and is empowered to issue a summons for violations of this article, based upon the use of Ambient Sound Levels or absolute Sound Levels.

Noise Disturbance means any sound that endangers the health, safety or welfare of any Person, is detrimental to the peaceful enjoyment of private property, or endangers personal or real property.

Noise Source means the point of origin of any Noise, excluding Noise emanating from any sound making device or instrument from within a Motor Vehicle as covered by O.C.G.A § 40-6-14.

Peak Sound Level (Lpk) means the absolute positive or negative value (not the root mean square value) of the sound energy in a discrete event typically of very short duration.

Person means any individual, corporation, company, association, society, firm partnership, joint stock company, The Municipality any political subdivision, agency or instrumentality of The Municipality.

Plainly Audible means any sound produced by a Noise Source, which can be heard by any Person at prescribed distances. Measurement standards shall be the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and low frequency sound reverberations are included.

Public Right-of-Way means any street, avenue, boulevard, road, highway sidewalk, or alley that is leased, owned, or controlled by a governmental entity.

Public Property means any real property or structures thereon that is own leased, or controlled by a governmental entity.

Pure Tone means a sound dominated by energy in a single frequency.

Real Property Line is either (a) the imaginary line, including vertical extension, that separates one parcel of real property from another, or (b) the vertical and horizontal boundaries of a dwell unit that is one in a Multidwelling Unit Building.

Residential Area means a group of residential properties and the abutting public rights-of-way and Public Property.

Residential Property means property used for human habitation, including but not limited to: a. Private property used for human habitation; b. Commercial living accommodations and commercial property used for human habitation; c. Recreational and entertainment property used for human habitation; and d. Community service property used for human habitation.

Sound Amplification Device means any radio, tape player, compact disc player, loudspeaker or other electronic or digital device used for the amplification of the human voice, music or other sounds.

Sound Level (per ASTM C 634) means a Sound Pressure Level obtained using a signal to which standard weighting has been applied.

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 S 1.4-1983 or the latest version thereof.

Sound Pressure Level (SPL) means the ratio in Decibels of the square of the root mean square sound pressure divided by the square of the standard reference sound pressure of 20 μ Pa. Mathematically, this is expressed as $10 \cdot \log p^2/P^2_{ref} = 20 \cdot \log P/P_{ref}$, $P_{ref} = 20 \mu Pa$.

Tonal Sound means a sound dominated by energy in a narrow band of frequencies.

Weekday means the time period of each week that begins at 11:00 p.m. on each Sunday and ends at 5:00 p.m. on each Friday.

Weekend means the time period of each week that begins at 5:00 p.m. on each Friday and ends at 11:00 p.m. on each Sunday.

Section 74-132. Scope.

The provisions of this article shall apply to the control of all Noise originating within the geographical limits of the city and outside the city limits, within all territory to which the jurisdiction of the City of Atlanta, Georgia extends.

Section 74-133. Declaration of policy.

The provisions hereinafter contained are enacted for the purpose of preventing Noise Disturbances. Above certain levels, Noise or Noise Disturbance is detrimental to the health and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. Therefore, it is hereby declared to be the policy of the city to prohibit Noise Disturbances from all sources, subject to its police power in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of Atlanta. Nothing in this article is intended to deter individuals from lawfully exercising the individual right to freedom of speech

or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.

Section 74-134. Powers, duties, and qualifications of the Noise Control Officers and administrators; duties and responsibilities of other departments.

- (a) The Noise Control Officers (NCOs), who shall be city police officers or other individuals as delegated in section 74-134 (b)(3), shall enforce the provisions of this article.
- (b) The Noise Control Administrator (NCA) shall have the power to:
 - (1) Coordinate the noise control activities of all municipal departments and cooperate with all other public bodies and agencies to the extent practicable;
 - (2) Review the actions of other municipal departments and advise such departments of the effect, if any, of such actions on Noise control;
 - (3) Delegate the duties of the NCO to any duly qualified individual according to the provisions of section 74-134(c); and
 - (4) Grant permits for temporary variances according to the provisions of section 74-139.
- (c) A person shall be qualified to be an NCO if the person has satisfactorily completed any of the following:
 - (1) An instructional program in community noise from a certified noise control engineer, as evidenced by certification from the Institute of Noise Control Engineering (INCE); or
 - (2) A registered professional engineer practicing in the field of acoustics; or
 - (3) An instructional program in community Noise from another NCO; or
 - (4) Education or experience or a combination thereof certified by the NCA as equivalent to the provisions of (1) or (2) of this subsection.
- (d) Noise measurements taken by a NCO shall be taken in accordance with the procedures specified in this article.
- (e) The provisions of this article shall not apply to any department or agency of the city engaged in any emergency activities or as otherwise excluded under section 74-138 of this article. However, all city departments and agencies shall carry out their programs according to the law and shall cooperate with the assessment and consideration of the possible impact of their activities with regard to the reduction of Noise Disturbances and the other purposes of this article.

Section 74-135. Sound measurement procedures.

- (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 Noise article. When instrumentation cannot be placed at or within the property line, the

measurement shall be made as close thereto as is reasonable. However, Noise measurements shall not be made at a distance of less than 25 feet from the edge of a Noise Source. For the purposes of this article, Noise measurements are measured on the A- or C-weighting scale, as applicable, of a Sound Level Meter (SLM) of standard design and quality having characteristics established by the American National Standards Institute (ANSI).

(b) All tests shall be conducted in accordance with the following procedures:

- (1) The NCO shall, to the extent practicable, identify all sources contributing sound to the point of measurement.
- (2) Measurements shall be taken at or within the property line of the affected person or persons.
- (3) The SLM must be calibrated using a calibrator recommended by the SLM manufacturer before and after each series of readings and at least once each hour.
- (4) The SLM must be recertified and the calibrator must be recalibrated at least once each year by the manufacturer or by a person that has been approved by the NCA. A copy of written documentation of such recertification and recalibration, in a form approved by the NCA, shall be kept with the equipment to which it refers.
- (5) No outdoor measurements shall be taken:
 - a. During periods when wind speeds (including gusts) exceed 15 mph;
 - b. Without a windscreen, recommended by the SLM manufacturer, properly attached to the SLM;
 - c. Under any condition that allows the SLM to become wet; or
 - d. When the ambient temperature is out of the range of the tolerance of the SLM.

(c) The report for each measurement session shall include:

- (1) The date, day of the week, and times at which measurements are taken;
- (2) The times of calibration;
- (3) The weather conditions;
- (4) The identification of all monitoring equipment by manufacturer, model number, and serial number;
- (5) The normal operating cycle of the sources in question with a description of the sources;
- (6) The Ambient Sound Level, in dBA, with the sources in question operating;
- (7) The Background Sound Level, in dBA, without the sources in question operating; and
- (8) A sketch of the measurement site, including measurement locations and relevant distances, containing sufficient information for another investigator to repeat the measurements under similar conditions.

(d) Prior to taking Noise measurements, the investigator shall explore the vicinity of the source in question to identify any other sound sources that could affect measurements, to establish the approximate location and character of the principal sound source, and to select suitable locations from which to measure the sound from the source in question.

- (e) When measuring continuous sound, or sound that is sustained for more than one second at a time, the SLM shall be set for A-weighting, slow meter response speed, and the range (if the SLM is designed to read levels over different ranges of SPLs) shall be set to that range in which the meter reads closest to the maximum end of the scale. When the measured Sound Level is variable or fluctuating over a range greater than ± 3 DBA, using the slow meter response speed, the fast meter response speed shall be used. In either case, both the minimum and maximum readings shall be recorded to indicate the range of monitored values.
- (f) The SLM shall be placed at a minimum height of three feet above the ground or from any reflective surface. When handheld, the microphone shall be held at arm's length and pointed at the source at the angle recommended by the SLM manufacturer.
- (g) If extraneous sound sources, such as aircraft flyovers or barking dogs, that are unrelated to the measurements increase the monitored Sound Levels, the measurements should be postponed until these extraneous sounds have become of such a level as not to increase the monitored Sound Levels of interest.
- (h) The monitoring session should last for a period of time sufficient to ensure that the Sound Levels measured are typical of the source in question, but in no event shall the duration of testing be less than five minutes.
- (i) The Background Sound Levels shall be subtracted from the measured Sound Levels of the source of interest by using Table 1 to determine the Sound Levels from the source of interest alone. If the Ambient Sound Level is less than three DBA higher than the Background Sound Level, the source level cannot be derived and a violation of the article cannot be substantiated.

Table 1: Correction for background levels
(in dBA).

<i>Difference between ambient and Background Sound Levels</i>	<i>Correction factor to be subtracted from Ambient Sound Level for source level</i>
3	3
4, 5	2
6--9	1
10 or more	0

Section 74-136. Sound Level limitations.

It shall be unlawful and a violation of this code to exceed the following Sound Level limitations:

(a) No Person shall cause, suffer, allow, or permit the operation of any Noise Source on a particular category of property or any Public Property or right-of-way in such a manner as to create a Sound Level that exceeds the Ambient Sound Level by ten dBA or more during Daytime Hours or five dBA or more during Nighttime Hours when measured at or within the Real Property Line of the receiving property, except as provided in section 74-138. Such a Noise Source would constitute a Noise Disturbance if it continues in excess of six minutes, unless otherwise provided herein.

(1) If the Ambient Sound Level cannot be determined, the absolute Sound Level limits set forth in Table 2 shall be used.

Table 2: Maximum permissible Sound Levels Leq dB (A) - Averaged over six minutes

Receiving property	Daytime Hours	Nighttime Hours
Zoning classification R1--R5 or RG	55	50
Commercial	70	65
Industrial	75	70

At no time shall Noise levels be produced that exceed 65 dB(C) Leq (one second) at a residential receiving property line.

- (2) If the Noise Source in question is a Pure Tone, then the Sound Level limitations as set forth in subsection 74-136(a) shall be reduced by five dB.
- (3) Non-repetitive Impulsive Sound sources shall not exceed 100 dB(C) at or within a residential Real Property Line, using the fast meter response speed.
- (4) Inside multi-family dwelling unit buildings, if the Ambient Sound Level cannot be determined, the limit during Daytime Hours is 45 dBC and the limit during Nighttime Hours is 35 dBC for sounds originating in another dwelling within the same building.

(b) At the discretion of a police officer and as an alternative to making a determination based upon the Ambient Sound Level or absolute sound level, the following standards shall be used for sounds emanating from any Noise Source located on any Residential Property, Commercial Property, or public property:

- (1) During Daytime Hours, sound emanating from any Noise Source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any Person at a distance of two-hundred (200) or more feet from the Real Property Line of any private property on which the Noise Source is located, or from any Noise Source located on any public property or Public Right-of-Way.

- (2) During Nighttime Hours, sound emanating from any Noise Source shall be limited in volume, tone and intensity so that the sound shall not be Plainly Audible to any Person at a distance of fifty (50) or more feet from the Real Property Line of any private property on which the Noise Source is located, or from any Noise Source located on any public property or Public Right-of-Way.

Section 74-137. Specific prohibited acts.

- (a) It is unlawful and a violation of this Code for any Person to cause, suffer, allow, or permit any of the following acts:

- (1) Owning, possessing, or harboring any animal or bird that, for a continued duration in excess of fifteen (15) minutes, generates Noise that is Plainly Audible at a distance of five feet or more from the Real Property Line of a Residential Property;
- (2) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, between 9:00 p.m. and 5:00 a.m. the following day on a Weekday and between 9:00 p.m. and 9:00 a.m. the following day on a Weekend day or legal holiday, except by permit, when the Noise Source is located fifty (50) feet or less from the nearest Residential Property line;
- (3) Operating or permitting the operation of any Motor Vehicle or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or Emergency Work, and where such vehicle's manufacturer's gross weight rating is in excess of 10,000 lbs., on a Public Right-of-Way or Public Property within 150 feet of a Residential Area during Nighttime Hours;
- (4) Operating or permitting the operation of any power tools or other motorized equipment used in Construction, drilling, earthmoving, excavating, or demolition work between 7:00 p.m. and 7:00 a.m. the following day on a Weekday or between 7:00 p.m. and 9:00 a.m. on a Weekend day or legal holiday, except for Emergency Work or by permit for temporary variance pursuant to section 74-139.
- (5) Compacting or collecting of refuse by Persons engaged in the business of scavenging or garbage collection, whether private or municipal, between 9:00 p.m. and 7:00 a.m. the following day on a Weekend day or legal holiday, except by permit.

- (b) *Loud Sound Amplification Devices.*

- (1) Upon or within any public property or Public Right-of-Way, no Person shall play, use or operate, or permit to be played, used, or operated, any Sound Amplification Device, so that the sound is Plainly Audible to any Person, at a distance proscribed by the provisions of section 74-136(b). The proscribed distance shall be measured from the Noise Source.
- (2) No person shall play, use or operate, or permit to be played, used, or operated, any Sound Amplification Device on or within any private property, so that the sound is Plainly Audible to any Person according to the provisions of section 74-136(b).

- (3) It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the Sound Amplification Device, and that any of the following apply:
- a. The Sound Amplification Device was being operated to request medical or emergency assistance or to warn of a hazardous road condition;
 - b. The Sound Amplification Device was being operated to provide emergency information or to warn of an emergency condition;
 - c. The Sound Amplification Device was authorized or permitted to be used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any Persons or assemblages of Persons;
 - d. The loud Sound Amplification Device was used in authorized or permitted public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

Section 74-138. Exemptions.

- (a) The provisions of this article shall not apply to the generation of Noise by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting Persons to the existence of any emergency.
- (b) Noise from an exterior burglar alarm of any building shall be exempt from the provisions of this article, provided such burglar alarm shall terminate its operation within 15 minutes of its activation.
- (c) Noises from any automobile alarm shall be exempt from the provisions of this article, provided such burglar alarm shall terminate its operation within ten minutes of its activation.
- (d) Noise from domestic power tools, lawn mowers, and agricultural equipment when operated between 8:00 a.m. and 8:00 p.m. on Weekdays and between 9:00 a.m. and 8:00 p.m. on Weekends and legal holidays shall be exempt from the provisions of this article, provided they generate less than 85 dBA at or within any Real Property Line of a Residential Property outside of the property where the Noise in question originates, and all Noises from tools and lawn mowers operated in association with the upkeep and maintenance of any public or private golf course shall be exempt from the provisions of this article, provided that all such tools and lawn mowers are equipped with Mufflers or are operated in conjunction with a device or system for lessening the sounds produced;
- (e) Noise from church bells and chimes when a part of a religious observance or service shall be exempt from the provisions of this article during Daytime Hours;
- (f) Noise from permitted Construction activity shall be exempt from the provisions of this article, provided all motorized equipment used in such activity is equipped with functioning Mufflers, except as provided in section 74-137(a)(4).

- (g) Noise from snow blowers, snow throwers, and snowplows when operated with a Muffler for the purpose of snow removal shall be exempt from the provisions of this article.
- (h) The generation of Noise in the performance of Emergency Work shall be exempt from the provisions of this article.
- (i) The generation of Noise in situations within the jurisdiction of the Federal Occupational Safety and Health Administration shall be exempt from the provisions of this article.
- (j) Noise generated from celebrations, outdoor festivals or events municipally sponsored or approved, whether by contract, permit or otherwise, shall be exempt from the provisions of this article.
- (k) Noises resulting from the operation of the Hartsfield Atlanta International Airport shall be exempt from the provisions of this article.
- (l) Any Noise resulting from activities of a temporary duration, for which a permit for temporary variance has been granted pursuant to this article, and which conforms to the conditions and limits stated thereon shall be exempt from the provisions of this article.
- (m) Noises 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 shall be exempt from the provisions of this article.
- (n) Noises that result from or arise out of or stem from the occurrence of a professional sporting event or organized sports league shall be exempt from the provisions of this article.
- (o) Any temporary Noise arising out of maintenance, renovation or Construction activities related to the Metropolitan Atlanta Rapid Transit Authority (MARTA) rail system shall be exempt from the provisions of this article. Said exemption will expire seven years after the effective date of this amendment.
 - (1) MARTA will develop and implement procedures by which NPUs affected by planned maintenance activities will be notified prior to the commencement of work.
 - (2) MARTA will develop and implement procedures by which any nuisances created by planned maintenance activities and reported by citizens are forwarded to the chair of the public safety and legal administration committee and the administration.
 - (3) MARTA will develop and implement procedures by which contractors conducting planned maintenance on the rail system will be monitored so as to ensure that all work is performed in a manner that will result in the creation of the least amount of Noise Disturbance.

Section 74-139. Conditions for permits for temporary variance; Notice of approval or denial; Hearings and appeals.

(a) Any Person who owns or operates any Noise Source may apply to the NCA for a temporary variance from one or more of the provisions of this article, unless such Noise Source is specifically exempted according to the provisions of section 74-138. Applications for a permit of temporary variance shall supply information including, but not limited to:

- (1) The nature and location of the Noise Source for which such application is made;
- (2) The reason for which the permit of temporary variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the permit of temporary variance is not granted;
- (3) The level of Noise that will occur during the period of the temporary variance;
- (4) The section or sections of this ordinance for which the permit of temporary variance shall apply;
- (5) A description of interim Noise control measures to be taken for the applicant to minimize Noise and the impacts occurring therefrom; and
- (6) A specific schedule of the Noise control measures that shall be taken to bring the source into compliance with this article within a reasonable time.

(a1) Failure to supply the information required by the NCA shall be cause for rejection of the application.

(a2) A copy of the permit of temporary variance must be kept on file by the municipal clerk for public inspection.

(b) The NCA shall charge the applicant a fee of \$25.00 to cover expenses resulting from the processing of the application for a permit of temporary variance.

(c) The NCA shall limit the duration of the permit of temporary variance, which, in any event, shall be effective no longer than 45 days. Any Person holding a permit of temporary variance and requesting an extension of time shall apply for a new permit of temporary variance according to the provisions of this section.

(d) No temporary variance shall be approved unless the applicant presents adequate proof that:

- (1) Noise levels occurring during the period of the temporary variance will not constitute a danger to public health; and
- (2) Compliance with the article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.

(e) In making the determination of granting a temporary variance, the NCA shall consider the following factors:

- (1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;
- (2) The social and economic value of the activity for which the temporary variance is sought; and
- (3) The ability of the applicant to apply the best practical Noise control measures.

- (g) The NCA shall notify the applicant in writing of his or her determination on the application within 14 days after receipt of the application. This notification shall inform the applicant of whether a permit for temporary variance has been approved or denied; and, if approved, shall set forth the location, dates and times of temporary variance.
- (h) In the event a permit for temporary variance shall be denied, the aggrieved applicant shall have the right to a hearing before the Chief of Police or his or her designee, who may be a hearing officer appointed for that purpose, provided that the request for such hearing is made to the NCA within five (5) days after receipt of the notice. Notices that are given only by mail shall be presumed to have been received three (3) days after the mailing. Notices given in Person, hand-delivered to the address of the applicant or sent by facsimile transmission or electronic mail shall be presumed to have been delivered on the date given or sent.
 - (1) Hearings contesting the matters in the NCA's notice shall be held before the Chief of Police or the designee, shall be informal, and shall be scheduled within five (5) business days after receipt of the request for a hearing by the NCA. The hearing may be continued at the request of the applicant or to allow the attendance of any necessary party or witness, but only from day to day. The determination on such hearing shall be made at the conclusion of the hearing, and the Chief of Police or the designee shall issue a written determination within one (1) business day thereafter, which determination shall affirm or reverse the decision of the NCA.
 - (2) The hearing under this section shall be *de novo* and shall be informal. Such hearing shall evaluate the decision of the NCA and the application in accordance with the criteria of this article.
 - (3) The written determination of the Chief of Police or the designee upon the conclusion of the hearing as provide in this section shall be the final decision of the City in the matter, and such a determination shall be subject to review by the Superior Court of Fulton County by a petition setting forth an appeal and naming the City of Atlanta as the defending party.
- (i) The permit of temporary variance may be revoked by the NCA if the terms of the permit of temporary variance are violated.

Section 74-140. Enforcement procedures.

- (a) Violation of any provision of this article shall be cause for a citation to be issued by a police officer or NCO according to procedures set forth in the City Code of Ordinances.
- (b) In lieu of issuing a citation, a police officer or NCO may issue an order requiring abatement of any sound source alleged to be in violation of this article within a reasonable time period and according to guidelines that the NCO may prescribe.
- (c) *Penalties.* Any Person convicted of a violation of any provision of this article shall be subject to the following penalties:

- (1) A fine not more than \$ 1,000.00, or a period of confinement in the city jail not to exceed ten (10) days and a probationary period not to exceed one-hundred eighty (180) days, or both.
- (2) In addition to any other penalties provided in this section, the judge may issue an order requiring abatement of any Noise Source found to be in violation of this article within a reasonable time period, not to exceed sixty (60) days, and according to any guidelines that the city may prescribe.
 - a. Any Person ordered to abate any Noise Source found to be in violation of any provision of this article shall demonstrate to the city compliance with any order requiring abatement and any further guidelines they city may prescribe.
 - b. Any Person failing to abate any Noise Source found to be in violation of any provision of this article shall be liable to the city for all costs and expenses incurred by the city in abating a violation.
- (3) Each day during which any violation occurs shall constitute an additional, separate, and distinct offense.
- (d) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any Person for injury or damage arising from any violation of this article or from other law.

Section 74-141. Inconsistent provisions.

Insofar as the provisions of this Code are inconsistent with any provision of any other title of the Code, or any rule or regulation of any government agency of the city, then the provisions of this Noise control code shall be controlling.

Section 74-142. Severability.

If any provision, clause, sentence or paragraph of this Article, or the application thereof to any Person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this article which can be given effect without the invalid provisions or application and, to this end, the provisions of this Article are hereby declared to be severable.

Sections 74-143—74-160. Reserved.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**CITY COUNCIL
ATLANTA, GEORGIA**

03-O-0119

**AN ORDINANCE
BY COUNCILMEMBERS CLAIR MULLER, HOWARD SHOOK AND ANNE FAUVER
AS SUBSTITUTED BY THE FULL COUNCIL**

**AN ORDINANCE TO AMEND ARTICLE IV, SECTION 74
OF THE CITY OF ATLANTA CODE OF ORDINANCES, TO
PROVIDE FOR A MORE EFFECTIVE MEANS OF
ENFORCING PROVISIONS OF THE NOISE CONTROL
CODE; AND FOR OTHER PURPOSES.**

WHEREAS, it is declared to be the policy of the City of Atlanta to prohibit noise disturbances or unreasonable noise from all sources in order to secure and promote the public health, comfort, convenience, safety, welfare and prosperity of the citizens of Atlanta; and

WHEREAS, the City has created standards and prohibitions regulating the level, volume and tone of sound emanating from various sources; and

WHEREAS, it is the stated purpose of these standards and prohibitions to prevent noise disturbances or unreasonable noise; and

WHEREAS, the enforcement of these standards and prohibitions is subject to the power of its police; and

WHEREAS, the current technical standards within the Code of Ordinances create certain obstacles for the police in enforcing these ordinances; and

WHEREAS, the City must create more readily enforceable standards to allow its police to properly enforce the stated purpose of these ordinances.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA,
HEREBY ORDAINS as follows:**

SECTION 1: That Section 74-131 be amended to include the following words, terms and phrases, so that the new Section 74-131 shall include:

Noise control administrator (NCA) means the noise control officer, as designated by the Chief of Police as the official liaison with all municipal departments, who shall be empowered to grant permits for temporary variances.

Noise control officer (NCO) means any police officer or officially designated employee of the municipality who has received training in the standards for the measurement of ambient sound level or absolute sound level and is empowered to issue a summons for violations of this article based upon use of ambient sound level or absolute sound level standards.

Noise source means the point of origin of any noise disturbance, excluding noise emanating from any sound making device or instrument from within a motor vehicle, as covered by O.C.G.A § 40-6-14.

Plainly audible means any sound produced by a noise source, which can be heard by any person at prescribed distances in any direction. Measurement standards shall be the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and low frequency sound reverberations are included.

Sound amplification system means any radio, tape player, compact disc player, loudspeaker or other electronic or digital device used for the amplification of the human voice, music or other sounds.

Stationary noise source means any permanent or temporary noise source, including but not limited to any sound amplification system, which is fixed in a station, position, location, course, or mode, or is unchanging in nature.

SECTION 2: That Section 74-133 shall be amended, so that the new Section 74-133 shall read:

Sec. 74-133. Declaration of policy.

The provisions hereinafter contained are enacted for the purpose of preventing noise disturbances. Above certain levels, noise or noise disturbances are detrimental to the health and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. Therefore, it is hereby declared to be the policy of the city to prohibit noise disturbances from all sources, subject to its police power in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of Atlanta. Nothing in this article is intended to deter individuals from lawfully exercising the individual right to freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.

SECTION 3: That Section 74-134 shall be amended so that the new Section 74-134 shall read as follows:

Sec. 74-134. Powers, duties, and qualifications of the noise control officers and administrators; duties and responsibilities of other departments.

- (a) The noise control officers (NCOs), who shall be city police officers or other individuals as delegated under in section 74-134 (b)(3), shall enforce the provisions of this article.
- (b) The noise control administrator (NCA) have the power to:
 - (1) Coordinate the noise control activities of all municipal departments and cooperate with all other public bodies and agencies to the extent practicable;
 - (2) Review the actions of other municipal departments and advise such departments of the effect, if any, of such actions on noise control;
 - (3) Delegate the duties of the NCO to any duly qualified individual according to the provisions of section 74-134(c); and
 - (4) Grant permits for temporary variances according to the provisions of section 74-139.
- (c) A person shall be qualified to be an NCO if the person has satisfactorily completed any of the following:
 - (1) An instructional program in community noise from a certified noise control engineer, as evidenced by certification from the Institute of Noise Control Engineering (INCE); or
 - (2) A registered professional engineer practicing in the field of acoustics; or
 - (3) An instructional program in community noise from another NCO; or
 - (4) Education or experience or a combination thereof certified by the NCA as equivalent to the provisions of (1) or (2) of this subsection.
- (d) Noise measurements taken by a NCO shall be taken in accordance with the procedures specified in this article.
- (e) The provisions of this article shall not apply to any department or agency of the city engaged in any emergency activities or as otherwise excluded under section 74-138 of this article. However, all city departments and agencies shall carry out their programs according to the law and shall cooperate with the assessment and consideration of the possible impact of their activities with regard to the reduction of noise disturbances and the other purposes of this article.

SECTION 4: That Section 74-136. Sound level limitations. shall retain (a) and (b) as currently written, and be amended to include (c), so that the new (c) shall read:

Sec. 74-136. Sound level limitations.

- (a) No person shall cause, suffer, allow, or permit the operation of any noise source on a particular category of property or any public space or right-of-way in such a manner as to

create a sound level that exceeds the ambient sound level by ten dBA or more during daytime hours (9:01 a.m.--10:00 p.m.) or five dBA or more during nighttime hours (10:01 p.m.--9:00 a.m.) when measured at or within the real property line of the receiving property, except as provided in section 74-138. Such a noise source would constitute a noise disturbance if it continues in excess of six minutes, unless otherwise provided herein.

- (1) If the ambient sound level cannot be determined, the absolute sound level limits set forth in Table 2 shall be used.

Table 2: Maximum permissible sound levels Leq dB (A) - Averaged over six minutes

Receiving property	Daytime (9:01 a.m.--10:00 p.m.)	Nighttime (10:01 p.m.--9:00 a.m.)
Zoning classification R1--R5 or RG	55	50
Commercial	70	65
Industrial	75	70

At no time shall noise levels be produced that exceed 65 dB(C) Leq (one second) at a residential receiving property line.

- (2) If the sound source in question is a pure tone, then the sound level limitations as set forth in subsection 74-136(a) shall be reduced by five dB.
 - (3) Non-repetitive impulsive sound sources shall not exceed 100 dB(C) at or within a residential real property line, using the fast meter response speed.
- (b) Inside multi-family dwelling unit buildings, if the ambient sound level cannot be determined, the daytime limit is 45 dBC and the nighttime limit is 35 dBC for sounds originating in another dwelling within the same building.
 - (c) At the discretion of a police officer and as an alternative to making a determination based upon the ambient sound level or absolute sound level, the following standards shall be used for sounds emanating from any noise source located on any residential property, commercial property, or public property:
 - (1) Between the hours of 8:00 a.m. and 9:00 p.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of one-hundred fifty (150) or more feet from the real property line of any private property on which the noise source is located, or from any noise source located on any public property or public right-of-way.
 - (2) Between the hours of 9:00 p.m. and 8:00 a.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of fifty (50) or more feet from the real property line of

of any private property on which the noise source is located, or from any noise source located on any public property or public right-of-way.

SECTION 5: That Section 74-137 shall be amended, so that the new Section 74-137 shall read:

Sec. 74-137. Specific prohibited acts.

- (a) It is unlawful and a violation of this Code for any person to cause, suffer, allow, or permit to be made verbally or mechanically any noise disturbance, according to the provisions of section 74-136.
- (b) No person shall cause, suffer, allow, or permit the following acts:
 - (1) Owning, possessing, or harboring any animal or bird that, for a continued duration in excess of 15 minutes, generates sounds that create a noise disturbance across a residential real property line;
 - (2) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, garbage cans, refuse, or similar objects, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, or the compacting of refuse by persons engaged in the business of scavenging or garbage collection, whether private or municipal, between 9:00 p.m. and 7:00 a.m. the following day on a weekday and between 9:00 p.m. and 9:00 a.m. the following day on a weekend day or legal holiday, except by permit, when the sound therefrom creates a noise disturbance across a residential property line;
 - (3) Operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, and where such vehicle's manufacturer's gross weight rating is in excess of 10,000 lbs., on a public right-of-way or public space within 150 feet of a residential area between 8:00 p.m. and 8:00 a.m. the following day;
 - (4) Operating or permitting the operation of any power tools or other motorized equipment used in construction, drilling, earthmoving, excavating, or demolition work between 7:00 p.m. and 7:00 a.m. the following day on a weekday or between 7:00 p.m. and 9:00 a.m. on a weekend day or legal holiday, except for emergency work by permit for temporary variance pursuant to section 74-139.
- (c) *Loud sound amplification systems.*
 - (1) Upon or within any public property or right-of-way, no person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system, so that the sound is plainly audible to any person, at a distance proscribed by the provisions of section 74-136(c). The proscribed distance shall be measured from the noise source.

- (2) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system on or within any private property, so that the sound is plainly audible according to the provisions of section 74-136(c).
- (3) It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:
 - a. The system was being operated to request medical or emergency assistance or to warn of a hazardous road condition;
 - b. The system was being operated to provide emergency information or to warn of an emergency condition;
 - c. The system was authorized or permitted to be used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons;
 - d. The system was used in authorized or permitted public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

SECTION 6: That Section 74-138 (j) shall be amended, so that the new Section 74-138 (j) shall read:

(j) Noise generated from municipally sponsored or approved celebrations, outdoor festivals or events shall be exempt from the provisions of this article.

SECTION 7: That Section 74-138 (l) shall be amended, so that the new Section 74-138 (l) shall read:

(l) Any noise resulting from activities of a temporary duration, for which a permit for temporary variance has been granted pursuant to this article, and which conforms to the conditions and limits stated thereon shall be exempt from the provisions of this article.

SECTION 8: That Section 74-139 shall be amended, so that the new Section 74-139 shall read:

Sec. 74-139. Conditions for permits for temporary variance; Notice of approval or denial; hearings and appeals.

(a) Effective March 31, 2003, the NCA shall be designated by the Chief of Police, and he or she shall not be permitted to issue citations under this ordinance.

- (b) Any person who owns or operates any stationary noise source may apply to the NCA for a temporary variance from one or more of the provisions of this article, unless such noise source is specifically exempted according to the provisions of section 74-138. Applications for a permit of temporary variance shall supply information including, but not limited to:
- (1) The nature and location of the noise source for which such application is made;
 - (2) The reason for which the permit of temporary variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the permit of temporary variance is not granted;
 - (3) The level of noise that will occur during the period of the temporary variance;
 - (4) The section or sections of this ordinance for which the permit of temporary variance shall apply;
 - (5) A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom; and
 - (6) A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this article within a reasonable time.
- (b1) Failure to supply the information required by the NCA shall be cause for rejection of the application.
- (b2) A copy of the permit of temporary variance must be kept on file by the municipal clerk for public inspection.
- (c) The NCA shall collect from the applicant a fee of \$25.00 to cover expenses resulting from the processing of the application for a permit of temporary variance.
- (d) The NCA shall limit the duration of the permit of temporary variance, which, in any event, shall be effective no longer than forty-five (45) days. Any person holding a permit of temporary variance and requesting an extension of time shall apply for a new permit of temporary variance under the provisions of this section, provided however, that no further permit of temporary variance shall be issued for any particular location, activity or event if the sum of the number of days that previous permits of temporary variance for such particular location, activity or event were in effect, plus the number of days requested for the new permit or extension of an existing permit shall exceed forty-five (45) days in any calendar year.
- (e) No temporary variance shall be approved unless the applicant presents adequate proof that:
- (1) Noise levels occurring during the period of the temporary variance will not constitute a danger to public health; and
 - (2) Compliance with the article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.
- (f) In making the determination of granting a temporary variance, the NCA shall consider the following factors:

- (1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;
 - (2) The social and economic value of the activity for which the temporary variance is sought; and
 - (3) The ability of the applicant to apply the best practical noise control measures.
- (g) The NCA shall notify the applicant in writing of his or her determination on the application within 14 days after receipt of the application. This notification shall inform the applicant of whether a permit for temporary variance has been approved or denied; and, if approved, shall set forth the location, dates and times of temporary variance.
- (h) In the event a permit for temporary variance shall be denied, the aggrieved applicant shall have the right to a hearing before the Chief of Police or his or her designee, who may be a hearing officer appointed for that purpose, provided that the request for such hearing is made to the NCA within five (5) days after receipt of the notice. Notices which are given only by mail shall be presumed to have been received three (3) days after the mailing. Notices given in person, hand-delivered to the address of the applicant or sent by facsimile transmission or electronic mail shall be presumed to have been delivered on the date given or sent.
- (1) Hearings contesting the matters in the NCA's notice shall be held before the Chief of Police or the designee, shall be informal, and shall be scheduled within five (5) business days after receipt of the request for a hearing by the NCA. The hearing may be continued at the request of the applicant or to allow the attendance of any necessary party or witness, but only from day to day. The determination on such hearing shall be made at the conclusion of the hearing, and the Chief of Police or the designee shall issue a written determination within one (1) business day thereafter, which determination shall affirm or reverse the decision of the NCA.
 - (2) The hearing under this section shall be *de novo* and shall be informal. Such hearing shall evaluate the NCA's decision and the application in accordance with the criteria of this article.
 - (3) The written determination of the Chief of Police or the designee upon the conclusion of the hearing as provided in this section shall be the final decision of the City in the matter, and such a determination shall be subject to review by the Superior Court of Fulton County by a petition setting forth an appeal and naming the City of Atlanta as the defending party.
- (i) The permit of temporary variance may be revoked by the NCA if the terms of the permit of temporary variance are violated.
- (j) A temporary variance permit may be revoked by the NCA if there is:
- (1) Violation of one or more conditions of the temporary variance;
 - (2) Material misrepresentation of fact in the temporary variance application; or
 - (3) Material change in any of the circumstances relied on by the NCA in granting the temporary variance.

SECTION 9: That Section 74-140 shall be amended, so that the new Section 74-140 shall read:

Sec. 74-140. Enforcement procedures.

- (a) Violation of any provision of this article shall be cause for a citation to be issued by a police officer or NCO according to procedures set forth in the City Code of Ordinances.
- (b) In lieu of issuing a citation, a police officer or NCO may issue an order requiring abatement of any sound source alleged to be in violation of this article within a reasonable time period and according to guidelines that the police officer or NCO may prescribe.
- (c) *Penalties.* Any person convicted of a violation of any provision of this article shall be subject to the following penalties:
 - (1) A fine not more than \$ 1,000.00, or a period of confinement in the city jail not to exceed ten (10) days and a probationary period not to exceed one-hundred eighty (180) days, or both.
 - (2) In addition to any other penalties provided in this section, upon conviction, the judge may issue an order requiring abatement of any sound source found to be in violation of this article within a reasonable time period, not to exceed sixty (60) days, and according to any guidelines that the city may prescribe.
 - a. Within the time period provided by the judge or the city for the abatement of any sound source found to be in violation of any provision of this article, any person or business ordered to abate any sound source found to be in violation of any provision of this article shall demonstrate to the city full compliance with any order requiring abatement according to any further guidelines the city may prescribe.
 - b. During any given time period provided by a judge or the city for the abatement of any sound source found in violation of this article, no citation or notice of violation shall be issued for that sound source.
 - c. Any person failing to abate any sound source found to be in violation of any provision of this article shall be liable to the city for the amount of all costs and expenses incurred by the city in abating a nuisance.
 - (3) Each day or portion thereof during which any violation occurs shall constitute an additional, separate, and distinct offense.
- (d) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article or from other law.

SECTION 10: That Section 74-142 shall be amended so that the new Section 74-142 shall read as follows:

Section 74-142. Severability.

If any provision, clause, sentence or paragraph of this Article, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this article which can be given effect without the invalid provisions or application and, to this end, the provisions of this Article are hereby declared to be severable.

SECTION 11: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

RCS# 4691
5/05/03
5:37 PM

Atlanta City Council

Regular Session

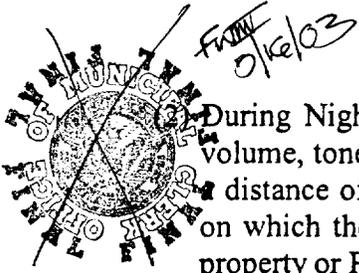
03-O-0119

Amend Code to Provide a more Effective
means of enforcing Noise Control Code
AMEND#1/SHOOK

YEAS: 5
NAYS: 7
ABSTENTIONS: 0
NOT VOTING: 4
EXCUSED: 0
ABSENT 0

FAILED

Y Smith	N Archibong	N Mcore	N Mitchell
N Starnes	N Fauver	NV Martin	NV Norwood
Y Young	Y Shook	NV Maddox	Y Willis
N Winslow	N Muller	Y Bcazman	NV Woolard



During Nighttime Hours, sound emanating from any Noise Source shall be limited in volume, tone and intensity so that the sound shall not be Plainly Audible to any Person at a distance of fifty (50) or more feet from the Real Property Line of any private property on which the Noise Source is located, or from any Noise Source located on any public property or Public Right-of-Way.

Section 74-137. Specific prohibited acts.

(a) It is unlawful and a violation of this Code for any Person to cause, suffer, allow, or permit any of the following acts:

- (1) Owning, possessing, or harboring any animal or bird that, for a continued duration in excess of fifteen (15) minutes, generates Noise that is Plainly Audible at a distance of five feet or more from the Real Property Line of a Residential Property;
- (2) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, between 9:00 p.m. and 5:00 a.m. the following day on a Weekday and between 9:00 p.m. and 9:00 a.m. the following day on a Weekend day or legal holiday, except by permit, when the Noise Source is located fifty (50) feet or less from the nearest Residential Property line;
- (3) Operating or permitting the operation of any Motor Vehicle or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or Emergency Work, and where such vehicle's manufacturer's gross weight rating is in excess of 10,000 lbs., on a Public Right-of-Way or Public Property within 150 feet of a Residential Area during Nighttime Hours;
- (4) Operating or permitting the operation of any power tools or other motorized equipment used in Construction, drilling, earthmoving, excavating, or demolition work between 7:00 p.m. and 7:00 a.m. the following day on a Weekday or between 7:00 p.m. and 9:00 a.m. on a Weekend day or legal holiday, except for Emergency Work or by permit for temporary variance pursuant to section 74-139.
- (5) Compacting or collecting of refuse by Persons engaged in the business of scavenging or garbage collection, whether private or municipal, between 9:00 p.m. and 7:00 a.m. the following day on a Weekend day or legal holiday, except by permit.

(b) *Loud Sound Amplification Devices.*

- (1) Upon or within any public property or Public Right-of-Way, no Person shall play, use or operate, or permit to be played, used, or operated, any Sound Amplification Device, so that the sound is Plainly Audible to any Person, at a distance proscribed by the provisions of section 74-136(b). The proscribed distance shall be measured from the Noise Source.
- (2) No person shall play, use or operate, or permit to be played, used, or operated, any Sound Amplification Device on or within any private property, so that the sound is Plainly Audible to any Person according to the provisions of section 74-136(b).

Final Council Action

Consent Voice Vote

Role Call Vote

Authors Miller, Shook
Fawcett

Legislation Summary Sheet

Legislation Number 03-0-0119

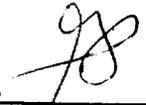
Comments

NOISE ORDINANCE UPGRADE

- more enforceable standards

Recommended Action

Approval	No Signature	Veto
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Submitted by: 

Date: 5/12/03



A fine not more than \$ 1,000.00, or a period of confinement in the city jail not to exceed ten (10) days and a probationary period not to exceed one-hundred eighty (180) days, or both.

(2) In addition to any other penalties provided in this section, the judge may issue an order requiring abatement of any Noise Source found to be in violation of this article within a reasonable time period, not to exceed sixty (60) days, and according to any guidelines that the city may prescribe.

- a. Any Person ordered to abate any Noise Source found to be in violation of any provision of this article shall demonstrate to the city compliance with any order requiring abatement and any further guidelines they city may prescribe.
- b. Any Person failing to abate any Noise Source found to be in violation of any provision of this article shall be liable to the city for all costs and expenses incurred by the city in abating a violation.

(3) Each day during which any violation occurs shall constitute an additional, separate, and distinct offense.

(d) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any Person for injury or damage arising from any violation of this article or from other law.

Section 74-141. Inconsistent provisions.

Insofar as the provisions of this Code are inconsistent with any provision of any other title of the Code, or any rule or regulation of any government agency of the city, then the provisions of this Noise control code shall be controlling.

Section 74-142. Severability.

If any provision, clause, sentence or paragraph of this Article, or the application thereof to any Person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this article which can be given effect without the invalid provisions or application and, to this end, the provisions of this Article are hereby declared to be severable.

Sections 74-143—74-160. Reserved.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

ARTICLE IV. NOISE CONTROL*

*Editor's note--Ord. No. 2000-64, § 1, approved Dec. 13, 2000, repealed §§ 74-131--74-136 in their entirety. Formerly, said sections pertained to noise control regulations. Further, said ordinance section provided for noise control regulations to read as herein set out. See the Code Comparative Table.
Cross reference(s)--Offenses and miscellaneous provisions, ch. 106.

[Sec. 74-129. Title.]

This article shall be known and may be referred to as the "Atlanta Noise Control Code" or the "Atlanta Noise Ordinance".

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-131. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Ambient sound level means the total sound pressure level in the area of interest excluding the noise source of interest (see, also, "background sound level," this section).

A-weighting means 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 (see also, "ambient sound level," this section).

Commercial area means a group of commercial facilities and the abutting public right-of-way and public spaces.

Commercial facility means any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- (1) Banking and other financial institutions;
- (2) Dining establishments;
- (3) Establishments for providing retail or wholesale services;
- (4) Establishments for recreation and entertainment;
- (5) Office buildings;

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

(6) Transportation; and

(7) Warehouses.

Construction means any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

C-weighting means the electronic filtering in sound level meters that models a flat response (output equals input) over the range of maximum human hearing frequency sensitivity.

dBA means an A-weighted unit of sound level.

dB means a C-weighted unit of sound level.

Decibel (dB) means the unit of measurement for a sound pressure level and is equal to ten times the common logarithm of the ratio of two like quantities (see "sound pressure level").

Emergency work means any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.

Equivalent sound level (Leq) means the non-varying sound level that would contain the equivalent amount of energy as a varying sound level. Note that Leq can be weighted or unweighted and can be integrated over durations ranging from less than a second to many hours. The notation should indicate weighting used and duration, e.g., 85 dBC Leq (six min.) is a C weighted 85 decibel equivalent sound level, integrated over a six-minute period.

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

Industrial facility means any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods.

Maximum sound level (Lmax) means the maximum root mean square sound level measured or not to be exceeded by time varying sounds.

Motor vehicle means any vehicle that is propelled or drawn on land by an engine or motor.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

Muffler means a sound-dissipative device or system for lessening the sound of the exhaust of an internal combustion engine.

Multidwelling unit building means any building wherein there are two or more dwelling units.

The municipality means the City of Atlanta, Georgia.

Noise means any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the city or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazard within the confines of a place of employment.

Noise control administrator (NCA) means the noise control officer, as designated by the Chief of Police as the official liaison with all municipal departments, who shall be empowered to grant permits for temporary variances.

Noise control officer (NCO) means any police officer ~~an~~ or officially designated employee the municipality who has received training in the standards for the measurement of ambient sound level or absolute sound level ~~sound~~ and is empowered to issue a summons for violations of this article, based upon the use of ambient sound levels or absolute sound levels.

Noise disturbance means 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.

Noise source means the point of origin of any noise disturbance, excluding noise emanating from any sound making device or instrument from within a motor vehicle, as covered by O.C.G.A § 40-6-14.

Peak sound level (Lpk) means the absolute positive or negative value (not the root mean square value) of the sound energy in a discrete event typically of very short duration.

Person means any individual, corporation, company, association, society, firm partnership, joint stock company, the municipality any political subdivision, agency or instrumentality of the municipality.

Plainly audible means any sound produced by a noise source, which can be heard by any person at prescribed distances. Measurement standards shall be the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and ~~base~~ low frequency sound reverberations are included.

Public right-of-way means any street, avenue, boulevard, road, highway sidewalk, or alley that is leased, owned, or controlled by a governmental entity.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

Public space means any real property or structures thereon that is own leased, or controlled by a governmental entity.

Pure tone means a sound dominated by energy in a single frequency.

Real property line is either (a) the imaginary line, including vertical extension, that separates one parcel of real property from another, or (b) the vertical and horizontal boundaries of a dwell unit that is one in a multidwelling unit building.

Residential area means a group of residential properties and the abutting public rights-of-way and public spaces.

Residential property means property used for human habitation, including but not limited to: a. Private property used for human habitation; b. Commercial living accommodations and commercial property used for human habitation; c. Recreational and entertainment property used for human habitation; and d. Community service property used for human habitation.

Sound amplification device means any radio, tape player, compact disc player, loudspeaker or other electronic or digital device used for the amplification of the human voice, music or other sounds.

Sound level (per ASTM C 634) means a sound pressure level obtained using a signal to which standard weighting has been applied.

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 S 1.4-1983 or the latest version thereof.

Sound pressure level (SPL) means the ratio in decibels of the square of the root mean square sound pressure divided by the square of the standard reference sound pressure of $20\mu\text{Pa}$. Mathematically, this is expressed as $10 \cdot \log p^2/P^2_{\text{ref}} = 20 \cdot \log P/P_{\text{ref}}$, $P_{\text{ref}} = 20 \mu\text{Pa}$.

Stationary noise source means any permanent or temporary noise source, including but not limited to any sound amplification system, which is fixed in a station, position, location, course, or mode, or is unchanging in nature.

Tonal sound means a sound dominated by energy in a narrow band of frequencies.

Weekday means the time period of each week that begins at 11:00 p.m. on each Sunday and ends at 5:00 p.m. on each Friday.

Weekend means the time period of each week that begins at 5:00 p.m. on each Friday and ends at 11:00 p.m. on each Sunday.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-132. Scope.

The provisions of this article shall apply to the control of all noise originating within the geographical limits of the city and outside the city limits, within all territory to which the jurisdiction of the City of Atlanta, Georgia extends.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-133. Declaration of policy.

The provisions hereinafter contained are enacted for the purpose of preventing noise disturbances ~~or unreasonable noise~~. Above certain levels, ~~unreasonable~~ noise or noise disturbance is detrimental to the health and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. Therefore, it is hereby declared to be the policy of the city to prohibit noise disturbances ~~or unreasonable noise~~ from all sources, subject to its police power in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of Atlanta. Nothing in this article is intended to deter individuals from lawfully exercising the individual right to freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-134. Powers, duties, and qualifications of the noise control officers and administrators; duties and responsibilities of other departments.

- (a) The noise control officers (NCOs), who shall be city police officers or other individuals as delegated under in section 74-134 (b)(3), shall enforce the provisions of this article.
- (b) The noise control administrator (NCA) ~~shall be the commissioner of the department of public works or his designee and~~ shall have the power to:
 - (1) Coordinate the noise control activities of all municipal departments and cooperate with all other public bodies and agencies to the extent practicable;
 - (2) Review the actions of other municipal departments and advise such departments of the effect, if any, of such actions on noise control;
 - (3) delegate the duties of the NCO to any duly qualified individual according to the provisions of section 74-134(c); and
 - (4) Grant permits for temporary variances according to the provisions of section 74-139.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (c) A person shall be qualified to be an NCO if the person has satisfactorily completed any of the following:
 - (1) An instructional program in community noise from a certified noise control engineer, as evidenced by certification from the Institute of Noise Control Engineering (INCE); or
 - (2) A registered professional engineer practicing in the field of acoustics; or
 - (3) An instructional program in community noise from another NCO; or
 - (4) Education or experience or a combination thereof certified by the NCA as equivalent to the provisions of (1) or (2) of this subsection.
- (d) Noise measurements taken by a NCO shall be taken in accordance with the procedures specified in this article.
- (e) The provisions of this article shall not apply to any department or agency of the city engaged in any emergency activities or as otherwise excluded under section 74-138 of this article. However, all city departments and agencies shall carry out their programs according to the law and shall cooperate with the assessment and consideration of the possible impact of their activities with regard to the reduction of noise disturbances and the other purposes of this article.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-135. Sound measurement procedures.

- (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 noise article. When instrumentation cannot be placed at or within the property line, the measurement shall be made as close thereto as is reasonable. However, noise measurements shall not be made at a distance of less than 25 feet from the edge of a noise source. For the purposes of this article, noise measurements are measured on the A- or C-weighting scale, as applicable, of a sound level meter (SLM) of standard design and quality having characteristics established by the American National Standards Institute (ANSI).
- (b) All tests shall be conducted in accordance with the following procedures:
 - (1) The NCO shall, to the extent practicable, identify all sources contributing sound to the point of measurement.
 - (2) Measurements shall be taken at or within the property line of the affected person or persons.
 - (3) The SLM must be calibrated using a calibrator recommended by the SLM manufacturer before and after each series of readings and at least once each hour.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (4) The SLM must be recertified and the calibrator must be recalibrated at least once each year by the manufacturer or by a person that has been approved by the NCA. A copy of written documentation of such recertification and recalibration, in a form approved by the NCA, shall be kept with the equipment to which it refers.
- (5) No outdoor measurements shall be taken:
 - a. During periods when wind speeds (including gusts) exceed 15 mph;
 - b. Without a windscreen, recommended by the SLM manufacturer, properly attached to the SLM;
 - c. Under any condition that allows the SLM to become wet; or
 - d. When the ambient temperature is out of the range of the tolerance of the SLM.
- (c) The report for each measurement session shall include:
 - (1) The date, day of the week, and times at which measurements are taken;
 - (2) The times of calibration;
 - (3) The weather conditions;
 - (4) The identification of all monitoring equipment by manufacturer, model number, and serial number;
 - (5) The normal operating cycle of the sources in question with a description of the sources;
 - (6) The ambient sound level, in dBA, with the sources in question operating;
 - (7) The background sound level, in dBA, without the sources in question operating; and
 - (8) A sketch of the measurement site, including measurement locations and relevant distances, containing sufficient information for another investigator to repeat the measurements under similar conditions.
- (d) Prior to taking noise measurements, the investigator shall explore the vicinity of the source in question to identify any other sound sources that could affect measurements, to establish the approximate location and character of the principal sound source, and to select suitable locations from which to measure the sound from the source in question.
- (e) When measuring continuous sound, or sound that is sustained for more than one second at a time, the SLM shall be set for A-weighting, slow meter response speed, and the range (if the SLM is designed to read levels over different ranges of SPLs) shall be set to that range in which the meter reads closest to the maximum end of the scale. When the measured sound level is variable or fluctuating over a range greater than ± 3 DBA, using the slow meter response speed, the fast meter response speed shall be used. In either case, both the minimum and maximum readings shall be recorded to indicate the range of monitored values.
- (f) The SLM shall be placed at a minimum height of three feet above the ground or from any reflective surface. When handheld, the microphone shall be held at arm's length and pointed at the source at the angle recommended by the SLM manufacturer.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (g) If extraneous sound sources, such as aircraft flyovers or barking dogs, that are unrelated to the measurements increase the monitored sound levels, the measurements should be postponed until these extraneous sounds have become of such a level as not to increase the monitored sound levels of interest.
- (h) The monitoring session should last for a period of time sufficient to ensure that the sound levels measured are typical of the source in question, but in no event shall the duration of testing be less than five minutes.
- (i) The background sound levels shall be subtracted from the measured sound levels of the source of interest by using Table 1 to determine the sound levels from the source of interest alone. If the ambient sound level is less than three dBA higher than the background sound level, the source level cannot be derived and a violation of the article cannot be substantiated.

Table 1: Correction for background levels
(in dBA).

<i>Difference between ambient and background sound levels</i>	<i>Correction factor to be subtracted from ambient level for source level</i>
3	3
4, 5	2
6--9	1
10 or more	0

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-136. Sound level limitations.

- (a) No person shall cause, suffer, allow, or permit the operation of any noise source on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the ambient sound level by ten dBA or more during daytime hours (9:01 a.m.--10:00 p.m.) or five dBA or more during nighttime hours (10:01 p.m.--9:00 a.m.) when measured at or within the real property line of the receiving property, except as provided in section 74-138. Such a noise source would constitute a noise disturbance if it continues in excess of six minutes, unless otherwise provided herein.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (1) If the ambient sound level cannot be determined, the absolute sound level limits set forth in Table 2 shall be used.

Table 2: Maximum permissible sound levels Leq dB (A) - Averaged over six minutes

Receiving property	Daytime (9:01 a.m.--10:00 p.m.)	Nighttime (10:01 p.m.--9:00 a.m.)
Zoning classification R1--R5 or RG	55	50
Commercial	70	65
Industrial	75	70

At no time shall noise levels be produced that exceed 65 dB(C) Leq (one second) at a residential receiving property line.

- (2) If the sound source in question is a pure tone, then the sound level limitations as set forth in subsection 74-136(a) shall be reduced by five dB.
- (3) Non-repetitive impulsive sound sources shall not exceed 100 dB(C) at or within a residential real property line, using the fast meter response speed.
- (b) Inside multi-family dwelling unit buildings, if the ambient sound level cannot be determined, the daytime limit is 45 dBC and the nighttime limit is 35 dBC for sounds originating in another dwelling within the same building.
- (c) At the discretion of a ~~arresting~~ police officer and as an alternative to making a determination based upon the ambient sound level or absolute sound level, the following standards shall be used for sounds emanating from any noise source located on any residential property, commercial property, or public property:

- (1) Between the hours of 8:00 a.m. and 9:00 p.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of one-hundred fifty (150) or more feet from the real property line of any private property on which the noise source is located, or from any noise source located on any public property or public right-or-way.
- (2) Between the hours of 9:00 p.m. and 8:00 a.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of fifty (50) or more feet from the real property line of of any private property on which the noise source is located, or from any noise source located on any public property or public right-or-way.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (50) or more feet from the noise source at a distance proscribed by the provisions of section 74-136(c). The proscribed distance shall be measured from the noise source.
- (2) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system on or within any private property, so that the sound is plainly audible to any person at a distance of fifty (50) or more feet from the real property line of the property on which the noise source is located according to the provisions of section 74-136(c).
- (3) It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:
- a. The system was being operated to request medical or emergency assistance or to warn of a hazardous road condition;
 - b. The system was being operated to provide emergency information or to warn of an emergency condition;
 - c. The system was authorized or permitted to be used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons;
 - d. The loud sound amplification system was used in authorized and or permitted public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-138. Exemptions.

- (a) The provisions of this article shall not apply to the generation of sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of any emergency.
- (b) Noise from an exterior burglar alarm of any building shall be exempt from the provisions of this article, provided such burglar alarm shall terminate its operation within 15 minutes of its activation.
- (c) Noises from any automobile alarm shall be exempt from the provisions of this article, provided such burglar alarm shall terminate its operation within ten minutes of its activation.
- (d) Noise from domestic power tools, lawn mowers, and agricultural equipment when operated between 8:00 a.m. and 8:00 p.m. on weekdays and between 9:00 a.m. and 8:00 p.m. on weekends and legal holidays shall be exempt from the provisions of this article, provided they generate less than 85 dBA at or within any real property line of a residential property outside of the property where the noise in question originates,

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

and all noises from tools and lawn mowers operated in association with the upkeep and maintenance of any public or private golf course shall be exempt from the provisions of this article, provided that all such tools and lawn mowers are equipped with mufflers or are operated in conjunction with a device or system for lessening the sounds produced;

- (e) Sound from church bells and chimes when a part of a religious observance or service shall be exempt from the provisions of this article during daytime hours (9:01 a.m.-- 10:00 p.m.);
- (f) Noise from permitted construction activity shall be exempt from the provisions of this article, provided all motorized equipment used in such activity is equipped with functioning mufflers, except as provided in section 74-137(b)(6).
- (g) Noise from snow blowers, snow throwers, and snowplows when operated with a muffler for the purpose of snow removal shall be exempt from the provisions of this article.
- (h) The generation of sound in the performance of emergency work shall be exempt from the provisions of this article.
- (i) The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration shall be exempt from the provisions of this article.
- (j) Noise generated from municipally sponsored or approved ~~celebrations or events that are open to the public without charge for admission~~ celebrations, outdoor festivals or events shall be exempt from the provisions of this article.
- (k) Noises resulting from the operation of the Hartsfield Atlanta International Airport shall be exempt from the provisions of this article.
- (l) Any noise resulting from activities of a temporary duration, for which a ~~special permit for temporary variance~~ has been granted pursuant to this article, and which conforms to the conditions and limits stated thereon shall be exempt from the provisions of this article.
- (m) Noises 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 shall be exempt from the provisions of this article.
- (n) Noises that result from or arise out of or stem from the occurrence of a professional sporting event or organized sports league shall be exempt from the provisions of this article.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

(o) Any temporary noise arising out of maintenance, renovation or construction activities related to the Metropolitan Atlanta Rapid Transit Authority (MARTA) rail system shall be exempt from the provisions of this article. Said exemption will expire seven years after the effective date of this amendment.

(1) MARTA will develop and implement procedures by which NPUs affected by planned maintenance activities will be notified prior to the commencement of work.

(2) MARTA will develop and implement procedures by which any nuisances created by planned maintenance activities and reported by citizens are forwarded to the chair of the public safety and legal administration committee and the administration.

(3) MARTA will develop and implement procedures by which contractors conducting planned maintenance on the rail system will be monitored so as to ensure that all work is performed in a manner that will result in the creation of the least amount of noise disturbance.

(Ord. No. 2000-64, § 1, 12-13-00; Ord. No. 2002-5, § 1, 2-13-02)

Sec. 74-139. Conditions for permits for temporary variance; Notice of approval or denial; Hearings and appeals.

(a) Effective March 31, 2003, the Chief of Police shall designate the NCA for the City of Atlanta. The NCA shall not be permitted to issue citations under this Article.

(b) Any person who owns or operates any stationary noise source may apply to the NCA City of Atlanta for a temporary variance from one or more of the provisions of this article, unless such noise source is specifically exempted according to the provisions of section 74-138. Applications for a permit of temporary variance shall supply information including, but not limited to:

- (1) The nature and location of the noise source for which such application is made;
- (2) The reason for which the permit of temporary variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the permit of temporary variance is not granted;
- (3) The level of noise that will occur during the period of the temporary variance;
- (4) The section or sections of this ordinance for which the permit of temporary variance shall apply;
- (5) A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom; and
- (6) A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this article within a reasonable time.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

(b1) Failure to supply the information required by the NCA City of Atlanta shall be cause for rejection of the application.

(b2) A copy of the permit of temporary variance must be kept on file by the municipal clerk for public inspection.

(c) The NCA City of Atlanta shall charge the applicant a fee of \$25.00 to cover expenses resulting from the processing of the application for a permit of temporary variance.

(d) The NCA City of Atlanta ~~may, at his/her discretion,~~ shall limit the duration of the permit of temporary variance, which, in any event, shall be effective no longer than 45 days. Any person holding a permit of temporary variance and requesting an extension of time shall apply for a new permit of temporary variance under the provisions of this section, provided however, that no further permit of temporary variance shall be issued for any particular location, activity or event if the sum of the number of days that previous permits of temporary variance for such particular location, activity or event were in effect, plus the number of days requested for the new permit or extension of an existing permit shall exceed forty-five (45) days in any calendar year.

(e) No temporary variance shall be approved unless the applicant presents adequate proof that:

- (1) Noise levels occurring during the period of the temporary variance will not constitute a danger to public health; and
- (2) Compliance with the article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.

(f) In making the determination of granting a temporary variance, the NCA City of Atlanta shall consider the following factors:

- (1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;
- (2) The social and economic value of the activity for which the temporary variance is sought; and
- (3) The ability of the applicant to apply the best practical noise control measures.

~~(e) The permit of temporary variance may be revoked by the NCA City of Atlanta if the terms of the permit of temporary variance are violated.~~

~~(d) A temporary variance permit may be revoked by the NCA City of Atlanta if there is:~~

- ~~(1) Violation of one or more conditions of the temporary variance;~~
- ~~(2) Material misrepresentation of fact in the temporary variance application; or~~
- ~~(3) Material change in any of the circumstances relied on by the NCA City of Atlanta in granting the temporary variance.~~

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (g) The NCA shall notify the applicant in writing of his or her determination on the application within 14 days after receipt of the application. This notification shall inform the applicant of whether a permit for temporary variance has been approved or denied; and, if approved, shall set forth the location, dates and times of temporary variance.
- (h) In the event a permit for temporary variance shall be denied, the aggrieved applicant shall have the right to a hearing before the Chief of Police or his or her designee, who may be a hearing officer appointed for that purpose, provided that the request for such hearing is made to the NCA within five (5) days after receipt of the notice. Notices which are given only by mail shall be presumed to have been received three (3) days after the mailing. Notices given in person, hand-delivered to the address of the applicant or sent by facsimile transmission or electronic mail shall be presumed to have been delivered on the date given or sent.
- (1) Hearings contesting the matters in the NCA's notice shall be held before the Chief of Police or the designee, shall be informal, and shall be scheduled within five (5) business days after receipt of the request for a hearing by the NCA. The hearing may be continued at the request of the applicant or to allow the attendance of any necessary party or witness, but only from day to day. The determination on such hearing shall be made at the conclusion of the hearing, and the Chief of Police or the designee shall issue a written determination within one (1) business day thereafter, which determination shall affirm or reverse the decision of the NCA.
- (2) The hearing under this section shall be *de novo* and shall be informal. Such hearing shall evaluate the decision of the NCA and the application in accordance with the criteria of this article.
- (3) The written determination of the Chief of Police or the designee upon the conclusion of the hearing as provide in this section shall be the final decision of the City in the matter, and such a determination shall be subject to review by the Superior Court of Fulton County by a petition setting forth an appeal and naming the City of Atlanta as the defending party.
- (i) The permit of temporary variance may be revoked by the NCA if the terms of the permit of temporary variance are violated.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-140. Enforcement procedures.

- (a) Violation of any provision of this article shall be cause for a citation to be issued by the a police officer or NCO according to procedures set forth in the City Code of Ordinances.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

(b) In lieu of issuing a citation, ~~the~~ a police officer or NCO may issue an order requiring abatement of any sound source alleged to be in violation of this article within a reasonable time period and according to guidelines that the NCO may prescribe.

(c) Penalties. Any person convicted of a violation of any provision of this article shall be subject to the following penalties:

(1) A fine not more than \$ 1,000.00, or a period of confinement in the city jail not to exceed ten (10) days and a probationary period not to exceed one-hundred eighty (180) days, or both.

(2) In addition to any other penalties provided in this section, the judge may issue an order requiring abatement of any sound source found to be in violation of this article within a reasonable time period, not to exceed sixty (60) days, and according to any guidelines that the city may prescribe.

a. Any person ordered to abate any sound source found to be in violation of any provision of this article shall demonstrate to the city compliance with any order requiring abatement and any further guidelines they city may prescribe.

b. Any person failing to abate any sound source found to be in violation of any provision of this article shall be liable to the city for up to three times the amount of all costs and expenses incurred by the city in abating a nuisance.

(3) Each day during which any violation occurs shall constitute an additional, separate, and distinct offense.

(d) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article or from other law.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-141. Inconsistent provisions.

Insofar as the provisions of this Code are inconsistent with any provision of any other title of the Code, or any rule or regulation of any government agency of the city, then the provisions of this noise control code shall be controlling.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-142. Severability.

If any provision, clause, sentence or paragraph of this Article Code, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this article which can be given effect without the invalid provisions or application and, to this end, the provisions of this Article Code are hereby declared to be severable.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

(Ord. No. 2000-64, § 1, 12-13-00)

Secs. ~~74-143--74-160~~. Reserved.

RCS# 4574
3/17/03
5:41 PM

Atlanta City Council

Regular Session

03-O-0119

Amend Code to provide more effective
means of enforcing Noise Control Code
REFER SUB PSLA

YEAS: 8
NAYS: 4
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
N Starnes	N Fauver	B Martin	N Norwood
Y Young	Y Shook	Y Maddox	NV Willis
NV Winslow	N Muller	Y Boazman	NV Woolard

03-O-0119

RCS# 4573
3/17/03
5:25 PM

Atlanta City Council

Regular Session

03-O-0119

Amend Code to provide more effective
means of enforcing Noise Control Code
SUB FORWARD

YEAS: 10
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 4
EXCUSED: 0
ABSENT 1

NV Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	B Martin	Y Norwood
Y Young	Y Shook	Y Maddox	NV Willis
Y Winslow	NV Muller	N Boazman	NV Woolard

03-O-0119

RCS# 4572
3/17/03
5:22 PM

Atlanta City Council

Regular Session

03-O-0119

Amend Code to provide more effective
means of enforcing Noise Control Code
TABLE

YEAS: 7
NAYS: 6
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

NV Smith	Y Archibong	Y Moore	Y Mitchell
N Starnes	N Fauver	B Martin	N Norwood
Y Young	N Shook	Y Maddox	NV Willis
N Winslow	N Muller	Y Boazman	Y Woolard

03-O-0119

RCS# 4571
3/17/03
5:21 PM

Atlanta City Council

Regular Session

03-O-0119

Amend Code to provide more effective
means of enforcing Noise Control Code
REFER PSLA

YEAS: 3
NAYS: 7
ABSTENTIONS: 0
NOT VOTING: 5
EXCUSED: 0
ABSENT 1

NV Smith	NV Archibong	N Moore	N Mitchell
NV Starnes	N Fauver	B Martin	N Norwood
Y Young	N Shook	Y Maddox	NV Willis
N Winslow	N Muller	Y Boazman	NV Woolard

03-O-0119

RCS# 4595
3/17/03
8:27 PM

Atlanta City Council

Regular Session

03-O-0119

Amend Code to provide more effective
means of enforcing Noise Control Code
RECONSIDER

YEAS: 6
NAYS: 5
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 2
ABSENT 1

FAILED

E Smith	N Archibong	Y Moore	N Mitchell
Y Starnes	Y Fauver	B Martin	Y Norwood
N Young	E Shook	N Maddox	NV Willis
Y Winslow	Y Muller	N Bcazman	NV Woolard

**CITY COUNCIL
ATLANTA, GEORGIA**

03-O-0119

**AN ORDINANCE
BY COUNCILMEMBERS CLAIR MULLER, HOWARD SHOOK AND ANNE FAUVER
AS SUBSTITUTED BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION
COMMITTEE**

**AN ORDINANCE AS SUBSTITUTED TO AMEND ARTICLE
IV, SECTION 74 OF THE CITY OF ATLANTA CODE OF
ORDINANCES, TO PROVIDE FOR A MORE EFFECTIVE
MEANS OF ENFORCING PROVISIONS OF THE NOISE
CONTROL CODE; AND FOR OTHER PURPOSES.**

WHEREAS, it is declared to be the policy of the City of Atlanta to prohibit noise disturbances or unreasonable noise from all sources in order to secure and promote the public health, comfort, convenience, safety, welfare and prosperity of the citizens of Atlanta; and

WHEREAS, the City has created standards and prohibitions regulating the level, volume and tone of sound emanating from various sources; and

WHEREAS, it is the stated purpose of these standards and prohibitions to prevent noise disturbances or unreasonable noise; and

WHEREAS, the enforcement of these standards and prohibitions is subject to the power of its police; and

WHEREAS, the current technical standards within the Code of Ordinances create certain obstacles for the police in enforcing these ordinances; and

WHEREAS, the City must create more readily enforceable standards to allow its police to properly enforce the stated purpose of these ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
ATLANTA, GEORGIA as follows:**

SECTION 1: That Section 74-131 be amended to include the following words, terms and phrases, so that the new Section 74-131 shall include:

Noise control officer (NCO) means any police officer or officially designated employee the municipality has trained in the standards for the measurement of sound and empowered to issue a summons for violations of this article.

Plainly audible means any sound produced by a noise source, which can be heard by any person at prescribed distances. Measurement standards shall be the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and low frequency sound reverberations are included.

Sound amplification system means any radio, tape player, compact disc player, loudspeaker or other electronic or digital device used for the amplification of the human voice, music or other sounds.

Stationary noise source means any permanent or temporary noise source, including but not limited to any sound amplification system, which is fixed in a station, position, location, course, or mode, or is unchanging in nature.

SECTION 2: That Section 74-133 shall be amended, so that the new Section 74-133 shall read:

Sec. 74-133. Declaration of policy.

The provisions hereinafter contained are enacted for the purpose of preventing noise disturbances. Above certain levels, noise or noise disturbances are detrimental to the health and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. Therefore, it is hereby declared to be the policy of the city to prohibit noise disturbances from all sources, subject to its police power in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of Atlanta. Nothing in this article is intended to deter individuals from lawfully exercising the individual right to freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.

SECTION 3: That Section 74-136. Sound level limitations. shall retain (a) and (b) as currently written, and be amended to include (c), so that the new (c) shall read:

Sec. 74-136. Sound level limitations.

(a) No person shall cause, suffer, allow, or permit the operation of any noise source on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the ambient sound level by ten dBA or more during daytime hours (9:01 a.m.--10:00 p.m.) or five dBA or more during nighttime hours (10:01 p.m.--9:00 a.m.) when measured at or within the real property line of the receiving property, except as provided in section 74-138. Such a noise source would constitute a noise disturbance if it continues in excess of six minutes, unless otherwise provided herein.

(1) If the ambient sound level cannot be determined, the absolute sound level limits set forth in Table 2 shall be used.

Table 2: Maximum permissible sound levels Leq dB (A) - Averaged over six minutes

Receiving property	Daytime (9:01 a.m.--10:00 p.m.)	Nighttime (10:01 p.m.--9:00 a.m.)
Zoning classification R1--R5 or RG	55	50
Commercial	70	65
Industrial	75	70

At no time shall noise levels be produced that exceed 65 dB(C) Leq (one second) at a residential receiving property line.

- (2) If the sound source in question is a pure tone, then the sound level limitations as set forth in subsection 74-136(a) shall be reduced by five dB.
- (3) Non-repetitive impulsive sound sources shall not exceed 100 dB(C) at or within a residential real property line, using the fast meter response speed.

(b) Inside multi-family dwelling unit buildings, if the ambient sound level cannot be determined, the daytime limit is 45 dBC and the nighttime limit is 35 dBC for sounds originating in another dwelling within the same building.

(c) At the discretion of the arresting officer and as an alternative to making a determination based upon the ambient sound level or absolute sound level, the following standards shall be used for sounds emanating from any noise source located on any residential property, commercial property, or public property:

- (1) Between the hours of 8:00 a.m. and 9:00 p.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of two-hundred (200) or more feet from the real property line of the property on which the noise source is located.
- (2) Between the hours of 9:00 p.m. and 8:00 a.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of fifty (50) or more feet from the real property line of the property on which the noise source is located.

SECTION 4: That Section 74-137 shall be amended, so that the new Section 74-137 shall read:

Sec. 74-137. Specific prohibited acts.

- (a) It is unlawful and a violation of this Code for any person to cause, suffer, allow, or permit to be made verbally or mechanically any noise disturbance, according to the provisions of section 74-136.

(b) No person shall cause, suffer, allow, or permit the following acts:

- (1) Owning, possessing, or harboring any animal or bird that, for a continued duration in excess of 15 minutes, generates sounds that create a noise disturbance across a residential real property line;
- (2) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, garbage cans, refuse, or similar objects, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, or the compacting of refuse by persons engaged in the business of scavenging or garbage collection, whether private or municipal, between 9:00 p.m. and 7:00 a.m. the following day on a weekday and between 9:00 p.m. and 9:00 a.m. the following day on a weekend day or legal holiday, except by permit, when the sound therefrom creates a noise disturbance across a residential property line;
- (3) Operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, and where such vehicle's manufacturer's gross weight rating is in excess of 10,000 lbs., on a public right-of-way or public space within 150 feet of a residential area between 8:00 p.m. and 8:00 a.m. the following day;
- (4) Operating or permitting the operation of any power tools or other motorized equipment used in construction, drilling, earthmoving, excavating, or demolition work between 7:00 p.m. and 7:00 a.m. the following day on a weekday or between 7:00 p.m. and 9:00 a.m. on a weekend day or legal holiday, except for emergency work by permit for temporary variance pursuant to section 74-139.

(c) *Loud sound amplification systems.*

- (1) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system, so that the sound is plainly audible to any person at a distance of fifty (50) or more feet from the noise source.
- (2) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system on or within any private property, so that the sound is plainly audible to any person at a distance of fifty (50) or more feet from the real property line of the property on which the noise source is located.
- (3) It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:
 - a. The system was being operated to request medical or emergency assistance or to warn of a hazardous road condition;
 - b. The system was being operated to provide emergency information or to warn of an emergency condition;
 - c. A temporary variance was granted according to the provisions of Section 74-139, and the system was otherwise permitted to be used for the purpose of giving instructions,

directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons;

- d. A temporary variance was granted according to the provisions of Section 74-139, and the loud sound amplification system was used in otherwise authorized and permitted public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

SECTION 5: That Section 74-138 (j) shall be amended, so that the new Section 74-138 (j) shall read:

(j) Noise generated from municipally sponsored or approved celebrations or events that are open to the public without charge for admission shall be exempt from the provisions of this article.

SECTION 6: That Section 74-138 (l) shall be amended, so that the new Section 74-138 (l) shall read:

(l) Any noise resulting from activities of a temporary duration, for which a permit for temporary variance has been granted pursuant to this article, and which conforms to the conditions and limits stated thereon shall be exempt from the provisions of this article.

SECTION 7: That Section 74-139 shall be amended, so that the new Section 74-139 shall read:

Sec. 74-139. Conditions for permits for temporary variance.

(a) Any person who owns or operates any stationary noise source may apply to the City of Atlanta for a temporary variance from one or more of the provisions of this article. Applications for a permit of temporary variance shall supply information including, but not limited to:

- (1) The nature and location of the noise source for which such application is made;
- (2) The reason for which the permit of temporary variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the permit of temporary variance is not granted;
- (3) The level of noise that will occur during the period of the temporary variance;
- (4) The section or sections of this ordinance for which the permit of temporary variance shall apply;
- (5) A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom; and
- (6) A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this article within a reasonable time.

(a1) Failure to supply the information required by the City of Atlanta shall be cause for rejection of the application.

(a2) A copy of the permit of temporary variance must be kept on file by the municipal clerk for public inspection.

(b) The City of Atlanta shall charge the applicant a fee of \$25.00 to cover expenses resulting from the processing of the application for a permit of temporary variance.

(c) The City of Atlanta may, at its discretion, limit the duration of the permit of temporary variance, which, in any event, shall be effective no longer than forty-five (45) days. Any person holding a permit of temporary variance and requesting an extension of time shall apply for a new permit of temporary variance under the provisions of this section, provided however, that no further permit of temporary variance shall be issued for any particular location, activity or event if the sum of the number of days that previous permits of temporary variance for such particular location, activity or event were in effect, plus the number of days requested for the new permit or extension of an existing permit shall exceed forty-five (45) days in any calendar year.

(d) No temporary variance shall be approved unless the applicant presents adequate proof that:

(1) Noise levels occurring during the period of the temporary variance will not constitute a danger to public health; and

(2) Compliance with the article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.

(e) In making the determination of granting a temporary variance, the City of Atlanta shall consider the following factors:

(1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;

(2) The social and economic value of the activity for which the temporary variance is sought; and

(3) The ability of the applicant to apply the best practical noise control measures.

(f) The permit of temporary variance may be revoked by the City of Atlanta if the terms of the permit of temporary variance are violated.

(g) A temporary variance permit may be revoked by the City of Atlanta if there is:

(1) Violation of one or more conditions of the temporary variance;

(2) Material misrepresentation of fact in the temporary variance application; or

(3) Material change in any of the circumstances relied on by the City of Atlanta in granting the temporary variance.

SECTION 8: That Section 74-140 shall be amended, so that the new Section 74-140 shall read:

Sec. 74-140. Enforcement procedures.

- (a) Violation of any provision of this article shall be cause for a citation to be issued by an NCO according to procedures set forth in the City Code of Ordinances.
- (b) In lieu of issuing a citation, an NCO may issue an order requiring abatement of any sound source alleged to be in violation of this article within a reasonable time period and according to guidelines that the NCO may prescribe.
- (c) *Penalties.* Any person convicted of a violation of any provision of this article shall be subject to the following penalties:
 - (1) A fine not more than \$ 1,000.00, or a period of confinement in the city jail not to exceed ten (10) days and a probationary period not to exceed one-hundred eighty (180) days, or both.
 - (2) In addition to any other penalties provided in this section, upon conviction, the judge may issue an order requiring abatement of any sound source found to be in violation of this article within a reasonable time period, not to exceed sixty (60) days, and according to any guidelines that the city may prescribe.
 - a. Within the time period provided by the judge or the city for the abatement of any sound source found to be in violation of any provision of this article, any person or business ordered to abate any sound source found to be in violation of any provision of this article shall demonstrate to the city full compliance with any order requiring abatement according to any further guidelines the city may prescribe.
 - b. During any given time period provided by a judge or the city for the abatement of any sound source found in violation of this article, no citation or notice of violation shall be issued for that sound source.
 - c. Any person failing to abate any sound source found to be in violation of any provision of this article shall be liable to the city for the amount of all costs and expenses incurred by the city in abating a nuisance.
 - (3) Each day or portion thereof during which any violation occurs shall constitute an additional, separate, and distinct offense.
- (d) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article or from other law.

SECTION 9: That Section 74-142 shall be amended so that the new Section 74-142 shall read as follows:

Section 74-142. Severability.

If any provision, clause, sentence or paragraph of this Article, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this article which can be given effect without the invalid provisions or application and, to this end, the provisions of this Article are hereby declared to be severable.

SECTION 10: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**A SUBSTITUTE ORDINANCE
BY COUNCILMEMBERS CLAIR MULLER, HOWARD SHOOK AND ANNE FAUVER**

**AN ORDINANCE AS SUBSTITUTED TO AMEND ARTICLE
IV, SECTION 74 OF THE CITY OF ATLANTA CODE OF
ORDINANCES, TO PROVIDE FOR A MORE EFFECTIVE
MEANS OF ENFORCING PROVISIONS OF THE NOISE
CONTROL CODE; AND FOR OTHER PURPOSES.**

WHEREAS, it is declared to be the policy of the City of Atlanta to prohibit noise disturbances or unreasonable noise from all sources in order to secure and promote the public health, comfort, convenience, safety, welfare and prosperity of the citizens of Atlanta; and

WHEREAS, the City has created standards and prohibitions regulating the level, volume and tone of sound emanating from various sources; and

WHEREAS, it is the stated purpose of these standards and prohibitions to prevent noise disturbances or unreasonable noise; and

WHEREAS, the enforcement of these standards and prohibitions is subject to the power of its police; and

WHEREAS, the current technical standards within the Code of Ordinances create certain obstacles for the police in enforcing these ordinances; and

WHEREAS, the City must create more readily enforceable standards to allow its police to properly enforce the stated purpose of these ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1: That Section 74-131 be amended to include the following words, terms and phrases, so that the new Section 74-131 shall include:

Noise control officer (NCO) means any police officer or officially designated employee the municipality has trained in the standards for the measurement of sound and empowered to issue a summons for violations of this article.

Plainly audible means any sound produced by a noise source, which can be heard by any person at prescribed distances. Measurement standards shall be the auditory senses, based upon direct

line of sight. Words or phrases need not be discernible and low frequency sound reverberations are included.

Sound amplification system means any radio, tape player, compact disc player, loudspeaker or other electronic or digital device used for the amplification of the human voice, music or other sounds.

Stationary noise source means any permanent or temporary noise source, including but not limited to any sound amplification system, which is fixed in a station, position, location, course, or mode, or is unchanging in nature.

SECTION 2: That Section 74-133 shall be amended, so that the new Section 74-133 shall read:

Sec. 74-133. Declaration of policy.

The provisions hereinafter contained are enacted for the purpose of preventing noise disturbances. Above certain levels, noise or noise disturbances are detrimental to the health and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. Therefore, it is hereby declared to be the policy of the city to prohibit noise disturbances from all sources, subject to its police power in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of Atlanta. Nothing in this article is intended to deter individuals from lawfully exercising the individual right to freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.

SECTION 3: That Section 74-136. Sound level limitations. shall retain (a) and (b) as currently written, and be amended to include (c), so that the new (c) shall read:

Sec. 74-136. Sound level limitations.

(a) No person shall cause, suffer, allow, or permit the operation of any noise source on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the ambient sound level by ten dBA or more during daytime hours (9:01 a.m.--10:00 p.m.) or five dBA or more during nighttime hours (10:01 p.m.--9:00 a.m.) when measured at or within the real property line of the receiving property, except as provided in section 74-138. Such a noise source would constitute a noise disturbance if it continues in excess of six minutes, unless otherwise provided herein.

(1) If the ambient sound level cannot be determined, the absolute sound level limits set forth in Table 2 shall be used.

Table 2: Maximum permissible sound levels Leq dB (A) - Averaged over six minutes

Receiving property	Daytime (9:01 a.m.--10:00 p.m.)	Nighttime (10:01 p.m.--9:00 a.m.)
--------------------	---------------------------------	-----------------------------------

Zoning classification	55	50
R1--R5 or RG		
Commercial	70	65
Industrial	75	70

At no time shall noise levels be produced that exceed 65 dB(C) Leq (one second) at a residential receiving property line.

- (2) If the sound source in question is a pure tone, then the sound level limitations as set forth in subsection 74-136(a) shall be reduced by five dB.
- (3) Non-repetitive impulsive sound sources shall not exceed 100 dB(C) at or within a residential real property line, using the fast meter response speed.

(b) Inside multi-family dwelling unit buildings, if the ambient sound level cannot be determined, the daytime limit is 45 dBC and the nighttime limit is 35 dBC for sounds originating in another dwelling within the same building.

(c) At the discretion of the arresting officer and as an alternative to making a determination based upon the ambient sound level or absolute sound level, the following standards shall be used for sounds emanating from any noise source located on any residential property, commercial property, or public property:

- (1) Between the hours of 8:00 a.m. and 9:00 p.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of two-hundred (200) or more feet from the real property line of the property on which the noise source is located.
- (2) Between the hours of 9:00 p.m. and 8:00 a.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of fifty (50) or more feet from the real property line of the property on which the noise source is located.

SECTION 4: That Section 74-137 shall be amended, so that the new Section 74-137 shall read:

Sec. 74-137. Specific prohibited acts.

- (a) It is unlawful and a violation of this Code for any person to cause, suffer, allow, or permit to be made verbally or mechanically any noise disturbance, according to the provisions of section 74-136.
- (b) No person shall cause, suffer, allow, or permit the following acts:

- (1) Owning, possessing, or harboring any animal or bird that, for a continued duration in excess of 15 minutes, generates sounds that create a noise disturbance across a residential real property line;
- (2) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, garbage cans, refuse, or similar objects, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, or the compacting of refuse by persons engaged in the business of scavenging or garbage collection, whether private or municipal, between 9:00 p.m. and 7:00 a.m. the following day on a weekday and between 9:00 p.m. and 9:00 a.m. the following day on a weekend day or legal holiday, except by permit, when the sound therefrom creates a noise disturbance across a residential property line;
- (3) Operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, and where such vehicle's manufacturer's gross weight rating is in excess of 10,000 lbs., on a public right-of-way or public space within 150 feet of a residential area between 8:00 p.m. and 8:00 a.m. the following day;
- (4) Operating or permitting the operation of any power tools or other motorized equipment used in construction, drilling, earthmoving, excavating, or demolition work between 7:00 p.m. and 7:00 a.m. the following day on a weekday or between 7:00 p.m. and 9:00 a.m. on a weekend day or legal holiday, except for emergency work by permit for temporary variance pursuant to section 74-139.

(c) *Loud sound amplification systems.*

- (1) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system, so that the sound is plainly audible to any person at a distance of fifty (50) or more feet from the noise source.
- (2) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system on or within any private property, so that the sound is plainly audible to any person at a distance of fifty (50) or more feet from the real property line of the property on which the noise source is located.
- (3) It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:
 - a. The system was being operated to request medical or emergency assistance or to warn of a hazardous road condition;
 - b. The system was being operated to provide emergency information or to warn of an emergency condition;
 - c. The system was permitted to be used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons;

- d. The loud sound amplification system was used in authorized and permitted public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

(d) *Loud sound amplification systems and motor vehicles.*

- (1) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system in or on a motor vehicle, so that the sound is plainly audible to any person at a distance of one-hundred (100) or more feet from the stopped, standing, parked or moving vehicle, if it is located in or on any of the following:
 - a. Any public property, including any public street, highway, building, sidewalk, park, thoroughfare, or public or private parking lot; or
 - b. Within the motor vehicular area of any public or private parking lot or park.
- (2) It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:
 - a. The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;
 - b. The vehicle was an emergency or public safety vehicle;
 - c. The vehicle was owned and operated by the City or a gas, electric, communications or refuse company;
 - d. The system was permitted to be used for the purpose of giving permitted instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons;
 - e. The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

SECTION 5: That Section 74-138 (j) shall be amended, so that the new Section 74-138 (j) shall read:

(j) Noise generated from municipally sponsored or approved celebrations or events that are open to the public without charge for admission shall be exempt from the provisions of this article.

SECTION 6: That Section 74-138 (l) shall be amended, so that the new Section 74-138 (l) shall read:

(l) Any noise resulting from activities of a temporary duration, for which a permit for temporary variance has been granted pursuant to this article, and which conforms to the conditions and limits stated thereon shall be exempt from the provisions of this article.

SECTION 7: That Section 74-139 shall be amended, so that the new Section 74-139 shall read:

Sec. 74-139. Conditions for permits for temporary variance.

(a) Any person who owns or operates any stationary noise source may apply to the City of Atlanta for a temporary variance from one or more of the provisions of this article. Applications for a permit of temporary variance shall supply information including, but not limited to:

- (1) The nature and location of the noise source for which such application is made;
- (2) The reason for which the permit of temporary variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the permit of temporary variance is not granted;
- (3) The level of noise that will occur during the period of the temporary variance;
- (4) The section or sections of this ordinance for which the permit of temporary variance shall apply;
- (5) A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom; and
- (6) A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this article within a reasonable time.

(a1) Failure to supply the information required by the City of Atlanta shall be cause for rejection of the application.

(a2) A copy of the permit of temporary variance must be kept on file by the municipal clerk for public inspection.

(b) The City of Atlanta shall charge the applicant a fee of \$25.00 to cover expenses resulting from the processing of the application for a permit of temporary variance.

(c) The City of Atlanta may, at its discretion, limit the duration of the permit of temporary variance, which, in any event, shall be effective no longer than forty-five (45) days. Any person holding a permit of temporary variance and requesting an extension of time shall apply for a new permit of temporary variance under the provisions of this section, provided however, that no further permit of temporary variance shall be issued for any particular location, activity or event if the sum of the number of days that previous permits of temporary variance for such particular location, activity or event were in effect, plus the number of days requested for the new permit or extension of an existing permit shall exceed forty-five (45) days in any calendar year.

(d) No temporary variance shall be approved unless the applicant presents adequate proof that:

- (1) Noise levels occurring during the period of the temporary variance will not constitute a danger to public health; and
- (2) Compliance with the article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.

- (e) In making the determination of granting a temporary variance, the City of Atlanta shall consider the following factors:
 - (1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;
 - (2) The social and economic value of the activity for which the temporary variance is sought; and
 - (3) The ability of the applicant to apply the best practical noise control measures.
- (f) The permit of temporary variance may be revoked by the City of Atlanta if the terms of the permit of temporary variance are violated.
- (g) A temporary variance permit may be revoked by the City of Atlanta if there is:
 - (1) Violation of one or more conditions of the temporary variance;
 - (2) Material misrepresentation of fact in the temporary variance application; or
 - (3) Material change in any of the circumstances relied on by the City of Atlanta in granting the temporary variance.

SECTION 8: That Section 74-140 (b) shall be amended, so that the new Section 74-140 (b) shall read:

(b) In lieu of issuing a citation, a NCO may issue an order requiring abatement of any sound source alleged to be in violation of this ordinance within a time period not to exceed ten (10) days according to guidelines that the NCO may prescribe.

SECTION 9: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

ARTICLE IV. NOISE CONTROL*

*Editor's note--Ord. No. 2000-64, § 1, approved Dec. 13, 2000, repealed §§ 74-131--74-136 in their entirety. Formerly, said sections pertained to noise control regulations. Further, said ordinance section provided for noise control regulations to read as herein set out. See the Code Comparative Table.
Cross reference(s)--Offenses and miscellaneous provisions, ch. 106.

[Sec. 74-129. Title.]

This article shall be known and may be referred to as the "Atlanta Noise Control Code" or the "Atlanta Noise Ordinance".

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-131. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Ambient sound level means the total sound pressure level in the area of interest excluding the noise source of interest (see, also, "background sound level," this section).

A-weighting means 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 (see also, "ambient sound level," this section).

Commercial area means a group of commercial facilities and the abutting public right-of-way and public spaces.

Commercial facility means any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- (1) Banking and other financial institutions;
- (2) Dining establishments;
- (3) Establishments for providing retail or wholesale services;
- (4) Establishments for recreation and entertainment;
- (5) Office buildings;

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

(6) Transportation; and

(7) Warehouses.

Construction means any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

C-weighting means the electronic filtering in sound level meters that models a flat response (output equals input) over the range of maximum human hearing frequency sensitivity.

dBA means an A-weighted unit of sound level.

dBC means a C-weighted unit of sound level.

Decibel (dB) means the unit of measurement for a sound pressure level and is equal to ten times the common logarithm of the ratio of two like quantities (see "sound pressure level").

Emergency work means any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.

Equivalent sound level (Leq) means the non-varying sound level that would contain the equivalent amount of energy as a varying sound level. Note that Leq can be weighted or unweighted and can be integrated over durations ranging from less than a second to many hours. The notation should indicate weighting used and duration, e.g., 85 dBC Leq (six min.) is a C weighted 85 decibel equivalent sound level, integrated over a six-minute period.

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

Industrial facility means any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods.

Maximum sound level (Lmax) means the maximum root mean square sound level measured or not to be exceeded by time varying sounds.

Motor vehicle means any vehicle that is propelled or drawn on land by an engine or motor.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

Muffler means a sound-dissipative device or system for lessening the sound of the exhaust of an internal combustion engine.

Multidwelling unit building means any building wherein there are two or more dwelling units.

The municipality means the City of Atlanta, Georgia.

Noise means any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the city or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazard within the confines of a place of employment.

Noise control administrator (NCA) means the noise control office designated as the official liaison with all municipal department empowered to grant permits for temporary variances.

Noise control officer (NCO) means any police officer or officially designated employee the municipality has trained in the standards for the measurement of sound and empowered to issue a summons for violations of this article.

Noise disturbance means 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.

Peak sound level (Lpk) means the absolute positive or negative value (not the root mean square value) of the sound energy in a discrete event typically of very short duration.

Person means any individual, corporation, company, association, society, firm partnership, joint stock company, the municipality any political subdivision, agency or instrumentality of the municipality.

Plainly audible means any sound produced by a noise source, which can be heard by any person at prescribed distances. Measurement standards shall be the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and base low frequency sound reverberations are included.

Public right-of-way means any street, avenue, boulevard, road, highway sidewalk, or alley that is leased, owned, or controlled by a governmental entity.

Public space means any real property or structures thereon that is own leased, or controlled by a governmental entity.

Pure tone means a sound dominated by energy in a single frequency.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

Real property line is either (a) the imaginary line, including vertical extension, that separates one parcel of real property from another, or (b) the vertical and horizontal boundaries of a dwell unit that is one in a multidwelling unit building.

Residential area means a group of residential properties and the abutting public rights-of-way and public spaces.

Residential property means property used for human habitation, including but not limited to: a. Private property used for human habitation; b. Commercial living accommodations and commercial property used for human habitation; c. Recreational and entertainment property used for human habitation; and d. Community service property used for human habitation.

Sound amplification device means any radio, tape player, compact disc player, loudspeaker or other electronic or digital device used for the amplification of the human voice, music or other sounds.

Sound level (per ASTM C 634) means a sound pressure level obtained using a signal to which standard weighting has been applied.

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 S 1.4-1983 or the latest version thereof.

Sound pressure level (SPL) means the ratio in decibels of the square of the root mean square sound pressure divided by the square of the standard reference sound pressure of $20\mu\text{Pa}$. Mathematically, this is expressed as $10 \cdot \log p^2/P^2_{\text{ref}}$, $= 20 \cdot \log P/P_{\text{ref}}$, $P_{\text{ref}} = 20 \mu\text{Pa}$.

Stationary noise source means any permanent or temporary noise source, including but not limited to any sound amplification system, which is fixed in a station, position, location, course, or mode, or is unchanging in nature.

Tonal sound means a sound dominated by energy in a narrow band of frequencies.

Weekday means the time period of each week that begins at 11:00 p.m. on each Sunday and ends at 5:00 p.m. on each Friday.

Weekend means the time period of each week that begins at 5:00 p.m. on each Friday and ends at 11:00 p.m. on each Sunday.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-132. Scope.

The provisions of this article shall apply to the control of all noise originating within the geographical limits of the city and outside the city limits, within all territory to which the jurisdiction of the City of Atlanta, Georgia extends.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-133. Declaration of policy.

The provisions hereinafter contained are enacted for the purpose of preventing noise disturbances ~~or unreasonable noise~~. Above certain levels, ~~unreasonable~~ noise or noise disturbance is detrimental to the health and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. Therefore, it is hereby declared to be the policy of the city to prohibit noise disturbances ~~or unreasonable noise~~ from all sources, subject to its police power in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of Atlanta. Nothing in this article is intended to deter individuals from lawfully exercising the individual right to freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-134. Powers, duties, and qualifications of the noise control officers and administrators; duties and responsibilities of other departments.

- (a) The noise control officers (NCOs), who shall be city police officers or other individuals as delegated under in section 74-134 (b)(3), shall enforce the provisions of this article.
- (b) The noise control administrator (NCA) shall be the commissioner of the department of public works or his designee and shall have the power to:
 - (1) Coordinate the noise control activities of all municipal departments and cooperate with all other public bodies and agencies to the extent practicable;
 - (2) Review the actions of other municipal departments and advise such departments of the effect, if any, of such actions on noise control;
 - (3) delegate the duties of the NCO to any duly qualified individual according to the provisions of section 74-134(c); and
 - (4) Grant permits for temporary variances according to the provisions of section 74-139.
- (c) A person shall be qualified to be an NCO if the person has satisfactorily completed any of the following:
 - (1) An instructional program in community noise from a certified noise control engineer, as evidenced by certification from the Institute of Noise Control Engineering (INCE); or
 - (2) A registered professional engineer practicing in the field of acoustics; or
 - (3) An instructional program in community noise from another NCO; or

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (4) Education or experience or a combination thereof certified by the NCA as equivalent to the provisions of (1) or (2) of this section.
- (d) Noise measurements taken by a NCO shall be taken in accordance with the procedures specified in this article.
- (e) The provisions of this article shall not apply to any department or agency of the city engaged in any emergency activities or as otherwise excluded under section 74-138 of this article. However, all city departments and agencies shall carry out their programs according to the law and shall cooperate with the assessment and consideration of the possible impact of their activities with regard to the reduction of noise disturbances and the other purposes of this article.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-135. Sound measurement procedures.

- (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 noise article. When instrumentation cannot be placed at or within the property line, the measurement shall be made as close thereto as is reasonable. However, noise measurements shall not be made at a distance of less than 25 feet from the edge of a noise source. For the purposes of this article, noise measurements are measured on the A- or C-weighting scale, as applicable, of a sound level meter (SLM) of standard design and quality having characteristics established by the American National Standards Institute (ANSI).
- (b) All tests shall be conducted in accordance with the following procedures:
 - (1) The NCO shall, to the extent practicable, identify all sources contributing sound to the point of measurement.
 - (2) Measurements shall be taken at or within the property line of the affected person or persons.
 - (3) The SLM must be calibrated using a calibrator recommended by the SLM manufacturer before and after each series of readings and at least once each hour.
 - (4) The SLM must be recertified and the calibrator must be recalibrated at least once each year by the manufacturer or by a person that has been approved by the NCA. A copy of written documentation of such recertification and recalibration, in a form approved by the NCA, shall be kept with the equipment to which it refers.
 - (5) No outdoor measurements shall be taken:
 - a. During periods when wind speeds (including gusts) exceed 15 mph;
 - b. Without a windscreen, recommended by the SLM manufacturer, properly attached to the SLM;
 - c. Under any condition that allows the SLM to become wet; or

- d. When the ambient temperature is out of the range of the tolerance of the SLM.
- (c) The report for each measurement session shall include:
- (1) The date, day of the week, and times at which measurements are taken;
 - (2) The times of calibration;
 - (3) The weather conditions;
 - (4) The identification of all monitoring equipment by manufacturer, model number, and serial number;
 - (5) The normal operating cycle of the sources in question with a description of the sources;
 - (6) The ambient sound level, in dBA, with the sources in question operating;
 - (7) The background sound level, in dBA, without the sources in question operating; and
 - (8) A sketch of the measurement site, including measurement locations and relevant distances, containing sufficient information for another investigator to repeat the measurements under similar conditions.
- (d) Prior to taking noise measurements, the investigator shall explore the vicinity of the source in question to identify any other sound sources that could affect measurements, to establish the approximate location and character of the principal sound source, and to select suitable locations from which to measure the sound from the source in question.
- (e) When measuring continuous sound, or sound that is sustained for more than one second at a time, the SLM shall be set for A-weighting, slow meter response speed, and the range (if the SLM is designed to read levels over different ranges of SPLs) shall be set to that range in which the meter reads closest to the maximum end of the scale. When the measured sound level is variable or fluctuating over a range greater than ± 3 DBA, using the slow meter response speed, the fast meter response speed shall be used. In either case, both the minimum and maximum readings shall be recorded to indicate the range of monitored values.
- (f) The SLM shall be placed at a minimum height of three feet above the ground or from any reflective surface. When handheld, the microphone shall be held at arm's length and pointed at the source at the angle recommended by the SLM manufacturer.
- (g) If extraneous sound sources, such as aircraft flyovers or barking dogs, that are unrelated to the measurements increase the monitored sound levels, the measurements should be postponed until these extraneous sounds have become of such a level as not to increase the monitored sound levels of interest.
- (h) The monitoring session should last for a period of time sufficient to ensure that the sound levels measured are typical of the source in question, but in no event shall the duration of testing be less than five minutes.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (i) The background sound levels shall be subtracted from the measured sound levels of the source of interest by using Table 1 to determine the sound levels from the source of interest alone. If the ambient sound level is less than three DBA higher than the background sound level, the source level cannot be derived and a violation of the article cannot be substantiated.

Table 1: Correction for background levels (in dBA).

<i>Difference between ambient and background sound levels</i>	<i>Correction factor to be subtracted from ambient level for source level</i>
3	3
4, 5	2
6--9	1
10 or more	0

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-136. Sound level limitations.

- (a) No person shall cause, suffer, allow, or permit the operation of any noise source on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the ambient sound level by ten dBA or more during daytime hours (9:01 a.m.--10:00 p.m.) or five dBA or more during nighttime hours (10:01 p.m.--9:00 a.m.) when measured at or within the real property line of the receiving property, except as provided in section 74-138. Such a noise source would constitute a noise disturbance if it continues in excess of six minutes, unless otherwise provided herein.

- (1) If the ambient sound level cannot be determined, the absolute sound level limits set forth in Table 2 shall be used.

Table 2: Maximum permissible sound levels Leq dB (A) - Averaged over six minutes

Receiving property	Daytime (9:01 a.m.--10:00 p.m.)	Nighttime (10:01 p.m.--9:00 a.m.)
Zoning classification R1--R5 or RG	55	50

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

Commercial	70	65
Industrial	75	70

At no time shall noise levels be produced that exceed 65 dB(C) Leq (one second) at a residential receiving property line.

- (2) If the sound source in question is a pure tone, then the sound level limitations as set forth in subsection 74-136(a) shall be reduced by five dB.
- (3) Non-repetitive impulsive sound sources shall not exceed 100 dB(C) at or within a residential real property line, using the fast meter response speed.

(b) Inside multi-family dwelling unit buildings, if the ambient sound level cannot be determined, the daytime limit is 45 dBC and the nighttime limit is 35 dBC for sounds originating in another dwelling within the same building.

(c) At the discretion of the arresting officer and as an alternative to making a determination based upon the ambient sound level or absolute sound level, the following standards shall be used for sounds emanating from any noise source located on any residential property, commercial property, or public property:

(1) Between the hours of 8:00 a.m. and 9:00 p.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of two-hundred (200) or more feet from the real property line of the property on which the noise source is located.

(2) Between the hours of 9:00 p.m. and 8:00 a.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of fifty (50) or more feet from the real property line of the property on which the noise source is located.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-137. Specific prohibited acts.

(a) It is unlawful and a violation of this Code for any person to cause, suffer, allow, or permit to be made verbally or mechanically any noise disturbance, according to the provisions of -as defined in section 74-136(a).

(b) No person shall cause, suffer, allow, or permit the following acts:

~~(1) Operating, playing, or permitting the operation or playing of any radio, television, phonograph, or voice amplification device that reproduces or amplifies sound~~

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- ~~(including devices in motor vehicles) in such a manner as to create a noise disturbance for any person other than the operator of the device;~~
- ~~(2) Using or operating any loudspeaker, public address system, or similar voice amplification device, unless participating in a specifically permitted activity.~~
- (1) Owning, possessing, or harboring any animal or bird that, for a continued duration in excess of 15 minutes, generates sounds that create a noise disturbance across a residential real property line;
- (2) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, garbage cans, refuse, or similar objects, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, or the compacting of refuse by persons engaged in the business of scavenging or garbage collection, whether private or municipal, between 9:00 p.m. and 7:00 a.m. the following day on a weekday and between 9:00 p.m. and 9:00 a.m. the following day on a weekend day or legal holiday, except by permit, when the sound therefrom creates a noise disturbance across a residential property line;
- (3) Operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, and where such vehicle's manufacturer's gross weight rating is in excess of 10,000 lbs., on a public right-of-way or public space within 150 feet of a residential area between 8:00 p.m. and 8:00 a.m. the following day;
- (4) Operating or permitting the operation of any power tools or other motorized equipment used in construction, drilling, earthmoving, excavating, or demolition work between 7:00 p.m. and 7:00 a.m. the following day on a weekday or between 7:00 p.m. and 9:00 a.m. on a weekend day or legal holiday, except for emergency work by permit for temporary variance pursuant to section 74-139.

(c) Loud sound amplification systems.

- (1) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system, so that the sound is plainly audible to any person at a distance of fifty (50) or more feet from the noise source.
- (2) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system on or within any private property, so that the sound is plainly audible to any person at a distance of fifty (50) or more feet from the real property line of the property on which the noise source is located.
- (3) It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- a. The system was being operated to request medical or emergency assistance or to warn of a hazardous road condition;
- b. The system was being operated to provide emergency information or to warn of an emergency condition;
- c. The system was permitted to be used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons;
- d. The loud sound amplification system was used in authorized and permitted public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

(d) Loud sound amplification systems and motor vehicles.

(1) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system in or on a motor vehicle, so that the sound is plainly audible to any person at a distance of one-hundred (100) or more feet from the stopped, standing, parked or moving vehicle, if it is located in or on any of the following:

- a. Any public property, including any public street, highway, building, sidewalk, park, thoroughfare, or public or private parking lot; or
- b. Within the motor vehicular area of any public or private parking lot or park.

(2) It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

- a. The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;
- b. The vehicle was an emergency or public safety vehicle;
- c. The vehicle was owned and operated by the City or a gas, electric, communications or refuse company;
- d. The system was permitted to be used for the purpose of giving permitted instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons;
- e. The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-138. Exemptions.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (a) The provisions of this article shall not apply to the generation of sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of any emergency.
- (b) Noise from an exterior burglar alarm of any building shall be exempt from the provisions of this article, provided such burglar alarm shall terminate its operation within 15 minutes of its activation.
- (c) Noises from any automobile alarm shall be exempt from the provisions of this article, provided such burglar alarm shall terminate its operation within ten minutes of its activation.
- (d) Noise from domestic power tools, lawn mowers, and agricultural equipment when operated between 8:00 a.m. and 8:00 p.m. on weekdays and between 9:00 a.m. and 8:00 p.m. on weekends and legal holidays shall be exempt from the provisions of this article, provided they generate less than 85 dBA at or within any real property line of a residential property outside of the property where the noise in question originates, and all noises from tools and lawn mowers operated in association with the upkeep and maintenance of any public or private golf course shall be exempt from the provisions of this article, provided that all such tools and lawn mowers are equipped with mufflers or are operated in conjunction with a device or system for lessening the sounds produced;
- (e) Sound from church bells and chimes when a part of a religious observance or service shall be exempt from the provisions of this article during daytime hours (9:01 a.m.--10:00 p.m.);
- (f) Noise from permitted construction activity shall be exempt from the provisions of this article, provided all motorized equipment used in such activity is equipped with functioning mufflers, except as provided in section 74-137(b)(6).
- (g) Noise from snow blowers, snow throwers, and snowplows when operated with a muffler for the purpose of snow removal shall be exempt from the provisions of this article.
- (h) The generation of sound in the performance of emergency work shall be exempt from the provisions of this article.
- (i) The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration shall be exempt from the provisions of this article.
- (j) Noise generated from municipally sponsored or approved celebrations or events that are open to the public without charge for admission shall be exempt from the provisions of this article.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (k) Noises resulting from the operation of the Hartsfield Atlanta International Airport shall be exempt from the provisions of this article.
- (l) Any noise resulting from activities of a temporary duration, for which a ~~special permit for temporary variance~~ has been granted pursuant to this article, and which conforms to the conditions and limits stated thereon shall be exempt from the provisions of this article.
- (m) Noises 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 shall be exempt from the provisions of this article.
- (n) Noises that result from or arise out of or stem from the occurrence of a professional sporting event or organized sports league shall be exempt from the provisions of this article.
- (o) Any temporary noise arising out of maintenance, renovation or construction activities related to the Metropolitan Atlanta Rapid Transit Authority (MARTA) rail system shall be exempt from the provisions of this article. Said exemption will expire seven years after the effective date of this amendment.
 - (1) MARTA will develop and implement procedures by which NPU's affected by planned maintenance activities will be notified prior to the commencement of work.
 - (2) MARTA will develop and implement procedures by which any nuisances created by planned maintenance activities and reported by citizens are forwarded to the chair of the public safety and legal administration committee and the administration.
 - (3) MARTA will develop and implement procedures by which contractors conducting planned maintenance on the rail system will be monitored so as to ensure that all work is performed in a manner that will result in the creation of the least amount of noise disturbance.

(Ord. No. 2000-64, § 1, 12-13-00; Ord. No. 2002-5, § 1, 2-13-02)

Sec. 74-139. Conditions for permits for temporary variance.

- (a) Any person who owns or operates any stationary noise source may apply to the ~~NCA~~ City of Atlanta for a temporary variance from one or more of the provisions of this article. Applications for a permit of temporary variance shall supply information including, but not limited to:

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (1) The nature and location of the noise source for which such application is made;
- (2) The reason for which the permit of temporary variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the permit of temporary variance is not granted;
- (3) The level of noise that will occur during the period of the temporary variance;
- (4) The section or sections of this ordinance for which the permit of temporary variance shall apply;
- (5) A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom; and
- (6) A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this article within a reasonable time.

(a1) Failure to supply the information required by the ~~NCA~~City of Atlanta shall be cause for rejection of the application.

(a2) A copy of the permit of temporary variance must be kept on file by the municipal clerk for public inspection.

(b)The ~~NCA~~City of Atlanta shall charge the applicant a fee of \$25.00 to cover expenses resulting from the processing of the application for a permit of temporary variance.

(c) The ~~NCA~~City of Atlanta may, at his/her discretion, limit the duration of the permit of temporary variance, which, in any event, shall be effective no longer than 45 days. Any person holding a permit of temporary variance and requesting an extension of time shall apply for a new permit of temporary variance under the provisions of this section, provided however, that no further permit of temporary variance shall be issued for any particular location, activity or event if the sum of the number of days that previous permits of temporary variance for such particular location, activity or event were in effect, plus the number of days requested for the new permit or extension of an existing permit shall exceed forty-five (45) days in any calendar year.

(d) No temporary variance shall be approved unless the applicant presents adequate proof that:

- (1) Noise levels occurring during the period of the temporary variance will not constitute a danger to public health; and
- (2) Compliance with the article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.

(e) In making the determination of granting a temporary variance, the ~~NCA~~City of Atlanta shall consider the following factors:

- (1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (2) The social and economic value of the activity for which the temporary variance is sought; and
 - (3) The ability of the applicant to apply the best practical noise control measures.
- (f) The permit of temporary variance may be revoked by the ~~NCA~~City of Atlanta if the terms of the permit of temporary variance are violated.
- (g) A temporary variance permit may be revoked by the ~~NCA~~City of Atlanta if there is:
- (1) Violation of one or more conditions of the temporary variance;
 - (2) Material misrepresentation of fact in the temporary variance application; or
 - (3) Material change in any of the circumstances relied on by the ~~NCA~~City of Atlanta in granting the temporary variance.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-140. Enforcement procedures.

- (a) Violation of any provision of this article shall be cause for a citation to be issued by the NCO according to procedures set forth in the City Code of Ordinances.
- (b) In lieu of issuing a citation, the NCO may issue an order requiring abatement of any sound source alleged to be in violation of this article within a reasonable time period and according to guidelines that the NCO may prescribe.
- (c) Any person who violates any provision of this article shall be subject to a fine for each offense of not more than \$ 1,000.00.
 - (1) If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.
- (d) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article or from other law.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-141. Inconsistent provisions.

Insofar as the provisions of this Code are inconsistent with any provision of any other title of the Code, or any rule or regulation of any government agency of the city, then the provisions of this noise control code shall be controlling.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-142. Severability.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

If any provision, clause, sentence or paragraph of this Code, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this article which can be given effect without the invalid provisions or application and, to this end, the provisions of this Code are hereby declared to be severable.

(Ord. No. 2000-64, § 1, 12-13-00)

Secs. 74-143--74-160. Reserved.

AN ORDINANCE

BY COUNCILMEMBERS CLAIR MULLER AND HOWARD SHOOK

Anne Fauver

**AN ORDINANCE TO AMEND ARTICLE IV, SECTION 74
OF THE CITY OF ATLANTA CODE OF ORDINANCES, TO
PROVIDE FOR A MORE EFFECTIVE MEANS OF
ENFORCING PROVISIONS OF THE NOISE CONTROL
CODE; AND FOR OTHER PURPOSES.**

03-0 -0119

WHEREAS, it is declared to be the policy of the City of Atlanta to prohibit noise disturbances or unreasonable noise from all sources in order to secure and promote the public health, comfort, convenience, safety, welfare and prosperity of the citizens of Atlanta; and

WHEREAS, the City has created standards and prohibitions regulating the level, volume and tone of sound emanating from various sources; and

WHEREAS, it is the stated purpose of these standards and prohibitions to prevent noise disturbances or unreasonable noise; and

WHEREAS, the enforcement of these standards and prohibitions is subject to the power of its police; and

WHEREAS, the current technical standards within the Code of Ordinances create certain obstacles for the police in enforcing these ordinances; and

WHEREAS, the City must create more readily enforceable standards to allow its police to properly enforce the stated purpose of these ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

SECTION 1: That Section 74-131 be amended to include the following words, terms and phrases, so that the new Section 74-131 shall include:

Noise control officer (NCO) means any police officer or officially designated employee the municipality has trained in the standards for the measurement of sound and empowered to issue a summons for violations of this article.

Plainly audible means any sound produced by a noise source, which can be heard by any person at prescribed distances. Measurement standards shall be the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and base reverberations are included.

Sound amplification system means any radio, tape player, compact disc player, loudspeaker or other electronic or digital device used for the amplification of the human voice, music or other sounds.

Stationary noise source means any permanent or temporary noise source, including but not limited to any sound amplification system, which is fixed in a station, position, location, course, or mode, or is unchanging in nature.

SECTION 2: That Section 74-133 shall be amended, so that the new Section 74-133 shall read:

Sec. 74-133. Declaration of policy.

The provisions hereinafter contained are enacted for the purpose of preventing noise disturbances. Above certain levels, noise or noise disturbances are detrimental to the health and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. Therefore, it is hereby declared to be the policy of the city to prohibit noise disturbances from all sources, subject to its police power in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of Atlanta. Nothing in this article is intended to deter individuals from lawfully exercising the individual right to freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.

SECTION 3: That Section 74-136. Sound level limitations. shall retain (a) and (b) as currently written, and be amended to include (c), so that the new (c) shall read:

Sec. 74-136. Sound level limitations.

(a) No person shall cause, suffer, allow, or permit the operation of any noise source on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the ambient sound level by ten dBA or more during daytime hours (9:01 a.m.--10:00 p.m.) or five dBA or more during nighttime hours (10:01 p.m.--9:00 a.m.) when measured at or within the real property line of the receiving property, except as provided in section 74-138. Such a noise source would constitute a noise disturbance if it continues in excess of six minutes, unless otherwise provided herein.

(1) If the ambient sound level cannot be determined, the absolute sound level limits set forth in Table 2 shall be used.

Table 2: Maximum permissible sound levels Leq dB (A) - Averaged over six minutes

Receiving property	Daytime (9:01 a.m.--10:00 p.m.)	Nighttime (10:01 p.m.--9:00 a.m.)
Zoning classification R1--R5 or RG	55	50
Commercial	70	65
Industrial	75	70

At no time shall noise levels be produced that exceed 65 dB(C) Leq (one second) at a residential receiving property line.

- (2) If the sound source in question is a pure tone, then the sound level limitations as set forth in subsection 74-136(a) shall be reduced by five dB.
- (3) Non-repetitive impulsive sound sources shall not exceed 100 dB(C) at or within a residential real property line, using the fast meter response speed.

(b) Inside multi-family dwelling unit buildings, if the ambient sound level cannot be determined, the daytime limit is 45 dBC and the nighttime limit is 35 dBC for sounds originating in another dwelling within the same building.

(c) At the discretion of the arresting officer and as an alternative to making a determination based upon the ambient sound level or absolute sound level, the following standards shall be used for sounds emanating from any noise source located on any residential property, commercial property, or public property:

- (1) Between the hours of 8:00 a.m. and 9:00 p.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of two-hundred (200) or more feet from the real property line.
- (2) Between the hours of 9:00 p.m. and 8:00 a.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of fifty (50) or more feet from the real property line.

SECTION 4: That Section 74-137 shall be amended, so that the new Section 74-137 shall read:

Sec. 74-137. Specific prohibited acts.

(a) It is unlawful and a violation of this Code for any person to cause, suffer, allow, or permit to be made verbally or mechanically any noise disturbance, according to the provisions of section 74-136.

(b) No person shall cause, suffer, allow, or permit the following acts:

- (1) Owning, possessing, or harboring any animal or bird that, for a continued duration in excess of 15 minutes, generates sounds that create a noise disturbance across a residential real property line;
- (2) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, garbage cans, refuse, or similar objects, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, or the compacting of refuse by persons engaged in the business of scavenging or garbage collection, whether private or municipal, between 9:00 p.m.

- and 7:00 a.m. the following day on a weekday and between 9:00 p.m. and 9:00 a.m. the following day on a weekend day or legal holiday, except by permit, when the sound therefrom creates a noise disturbance across a residential property line;
- (3) Operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, and where such vehicle's manufacturer's gross weight rating is in excess of 10,000 lbs., on a public right-of-way or public space within 150 feet of a residential area between 8:00 p.m. and 8:00 a.m. the following day;
 - (4) Operating or permitting the operation of any power tools or other motorized equipment used in construction, drilling, earthmoving, excavating, or demolition work between 7:00 p.m. and 7:00 a.m. the following day on a weekday or between 7:00 p.m. and 9:00 a.m. on a weekend day or legal holiday, except for emergency work by permit for temporary variance pursuant to section 74-139.

(c) Loud sound amplification systems.

- (1) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system, so that the sound is plainly audible to any person at a distance of fifty (50) or more feet from the noise source.
- (2) It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:
 - a. The system was being operated to request medical or emergency assistance or to warn of a hazardous road condition;
 - b. The system was being operated to provide emergency information or to warn of an emergency condition;
 - c. The system was permitted to be used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons;
 - d. The loud sound amplification system was used in authorized and permitted public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

(d) Loud sound amplification systems and motor vehicles.

- (1) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system in or on a motor vehicle, so that the sound is plainly audible to any person at a distance of one-hundred (100) or more feet from the stopped, standing, parked or moving vehicle, if it is located in or on any of the following:

- a. Any public property, including any public street, highway, building, sidewalk, park, thoroughfare, or public or private parking lot; or
 - b. Within the motor vehicular area of any public or private parking lot or park.
- (2) It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:
- a. The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;
 - b. The vehicle was an emergency or public safety vehicle;
 - c. The vehicle was owned and operated by the City or a gas, electric, communications or refuse company;
 - d. The system was permitted to be used for the purpose of giving permitted instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons;
 - e. The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

SECTION 5: That Section 74-138 (j) shall be amended, so that the new Section 74-138 (j) shall read:

(j) Noise generated from municipally sponsored or approved celebrations or events that are open to the public without charge for admission shall be exempt from the provisions of this article.

SECTION 6: That Section 74-138 (l) shall be amended, so that the new Section 74-138 (l) shall read:

(l) Any noise resulting from activities of a temporary duration, for which a permit for temporary variance has been granted pursuant to this article, and which conforms to the conditions and limits stated thereon shall be exempt from the provisions of this article.

SECTION 7: That Section 74-139 shall be amended, so that the new Section 74-139 shall read:

Sec. 74-139. Conditions for permits for temporary variance.

- (a) Any person who owns or operates any stationary noise source may apply to the City of Atlanta for a temporary variance from one or more of the provisions of this article. Applications for a permit of temporary variance shall supply information including, but not limited to:
 - (1) The nature and location of the noise source for which such application is made;
 - (2) The reason for which the permit of temporary variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the permit of temporary variance is not granted;

- (3) The level of noise that will occur during the period of the temporary variance;
- (4) The section or sections of this ordinance for which the permit of temporary variance shall apply;
- (5) A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom; and
- (6) A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this article within a reasonable time.

(a1) Failure to supply the information required by the City of Atlanta shall be cause for rejection of the application.

(a2) A copy of the permit of temporary variance must be kept on file by the municipal clerk for public inspection.

(b) The City of Atlanta shall charge the applicant a fee of \$25.00 to cover expenses resulting from the processing of the application for a permit of temporary variance.

(c) The City of Atlanta may, at its discretion, limit the duration of the permit of temporary variance, which, in any event, shall be effective no longer than forty-five (45) days. Any person holding a permit of temporary variance and requesting an extension of time shall apply for a new permit of temporary variance under the provisions of this section, provided however, that no further permit of temporary variance shall be issued for any particular location, activity or event if the sum of the number of days that previous permits of temporary variance for such particular location, activity or event were in effect, plus the number of days requested for the new permit or extension of an existing permit shall exceed forty-five (45) days in any calendar year.

(d) No temporary variance shall be approved unless the applicant presents adequate proof that:

- (1) Noise levels occurring during the period of the temporary variance will not constitute a danger to public health; and
- (2) Compliance with the article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.

(e) In making the determination of granting a temporary variance, the City of Atlanta shall consider the following factors:

- (1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;
- (2) The social and economic value of the activity for which the temporary variance is sought; and
- (3) The ability of the applicant to apply the best practical noise control measures.

(f) The permit of temporary variance may be revoked by the City of Atlanta if the terms of the permit of temporary variance are violated.

(g) A temporary variance permit may be revoked by the City of Atlanta if there is:

- (1) Violation of one or more conditions of the temporary variance;
- (2) Material misrepresentation of fact in the temporary variance application; or
- (3) Material change in any of the circumstances relied on by the City of Atlanta in granting the temporary variance.

SECTION 8: That Section 74-140 (b) shall be amended, so that the new Section 74-140 (b) shall read:

(b) In lieu of issuing a citation, a NCO may issue an order requiring abatement of any sound source alleged to be in violation of this ordinance within a time period not to exceed ten (10) days according to guidelines that the NCO may prescribe.

SECTION 9: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

ARTICLE IV. NOISE CONTROL*

*Editor's note--Ord. No. 2000-64, § 1, approved Dec. 13, 2000, repealed §§ 74-131--74-136 in their entirety. Formerly, said sections pertained to noise control regulations. Further, said ordinance section provided for noise control regulations to read as herein set out. See the Code Comparative Table.

Cross reference(s)--Offenses and miscellaneous provisions, ch. 106.

[Sec. 74-129. Title.]

This article shall be known and may be referred to as the "Atlanta Noise Control Code" or the "Atlanta Noise Ordinance".

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-131. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Ambient sound level means the total sound pressure level in the area of interest excluding the noise source of interest (see, also, "background sound level," this section).

A-weighting means 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 (see also, "ambient sound level," this section).

Commercial area means a group of commercial facilities and the abutting public right-of-way and public spaces.

Commercial facility means any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit, including but not limited to:

- (1) Banking and other financial institutions;
- (2) Dining establishments;
- (3) Establishments for providing retail or wholesale services;
- (4) Establishments for recreation and entertainment;
- (5) Office buildings;

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

(6) Transportation; and

(7) Warehouses.

Construction means any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

C-weighting means the electronic filtering in sound level meters that models a flat response (output equals input) over the range of maximum human hearing frequency sensitivity.

dBA means an A-weighted unit of sound level.

dB C means a C-weighted unit of sound level.

Decibel (dB) means the unit of measurement for a sound pressure level and is equal to ten times the common logarithm of the ratio of two like quantities (see "sound pressure level").

Emergency work means any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, or abating life-threatening conditions.

Equivalent sound level (Leq) means the non-varying sound level that would contain the equivalent amount of energy as a varying sound level. Note that Leq can be weighted or unweighted and can be integrated over durations ranging from less than a second to many hours. The notation should indicate weighting used and duration, e.g., 85 dB C Leq (six min.) is a C weighted 85 decibel equivalent sound level, integrated over a six-minute period.

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

Industrial facility means any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods.

Maximum sound level (Lmax) means the maximum root mean square sound level measured or not to be exceeded by time varying sounds.

Motor vehicle means any vehicle that is propelled or drawn on land by an engine or motor.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

Muffler means a sound-dissipative device or system for lessening the sound of the exhaust of an internal combustion engine.

Multidwelling unit building means any building wherein there are two or more dwelling units.

The municipality means the City of Atlanta, Georgia.

Noise means any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the city or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazard within the confines of a place of employment.

Noise control administrator (NCA) means the noise control office designated as the official liaison with all municipal department empowered to grant permits for temporary variances.

Noise control officer (NCO) means any police officer ~~an~~ or officially designated employee the municipality trained has trained in the standards for the measurement of sound and empowered to issue a summons for violations of this article.

Noise disturbance means 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.

Peak sound level (Lpk) means the absolute positive or negative value (not the root mean square value) of the sound energy in a discrete event typically of very short duration.

Person means any individual, corporation, company, association, society, firm partnership, joint stock company, the municipality any political subdivision, agency or instrumentality of the municipality.

Plainly audible means any sound produced by a noise source, which can be heard by any person at prescribed distances. Measurement standards shall be the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and base reverberations are included.

Public right-of-way means any street, avenue, boulevard, road, highway sidewalk, or alley that is leased, owned, or controlled by a governmental entity.

Public space means any real property or structures thereon that is own leased, or controlled by a governmental entity.

Pure tone means a sound dominated by energy in a single frequency.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

Real property line is either (a) the imaginary line, including vertical extension, that separates one parcel of real property from another, or (b) the vertical and horizontal boundaries of a dwell unit that is one in a multidwelling unit building.

Residential area means a group of residential properties and the abutting public rights-of-way and public spaces.

Residential property means property used for human habitation, including but not limited to: a. Private property used for human habitation; b. Commercial living accommodations and commercial property used for human habitation; c. Recreational and entertainment property used for human habitation; and d. Community service property used for human habitation.

Sound amplification device means any radio, tape player, compact disc player, loudspeaker or other electronic or digital device used for the amplification of the human voice, music or other sounds.

Sound level (per ASTM C 634) means a sound pressure level obtained using a signal to which standard weighting has been applied.

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 S 1.4-1983 or the latest version thereof.

Sound pressure level (SPL) means the ratio in decibels of the square of the root mean square sound pressure divided by the square of the standard reference sound pressure of $20\mu\text{Pa}$. Mathematically, this is expressed as $10*\log p^2/P^2 \text{ ref,} = 20*\log P/P \text{ ref,} P \text{ ref,} = 20 \mu\text{Pa}$.

Stationary noise source means any permanent or temporary noise source, including but not limited to any sound amplification system, which is fixed in a station, position, location, course, or mode, or is unchanging in nature.

Tonal sound means a sound dominated by energy in a narrow band of frequencies.

Weekday means the time period of each week that begins at 11:00 p.m. on each Sunday and ends at 5:00 p.m. on each Friday.

Weekend means the time period of each week that begins at 5:00 p.m. on each Friday and ends at 11:00 p.m. on each Sunday.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-132. Scope.

The provisions of this article shall apply to the control of all noise originating within the geographical limits of the city and outside the city limits, within all territory to which the jurisdiction of the City of Atlanta, Georgia extends.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-133. Declaration of policy.

The provisions hereinafter contained are enacted for the purpose of preventing noise disturbances ~~or unreasonable noise~~. Above certain levels, ~~unreasonable~~ noise or noise disturbance is detrimental to the health and welfare of the citizenry and the individual's right to peaceful and quiet enjoyment. Therefore, it is hereby declared to be the policy of the city to prohibit noise disturbances ~~or unreasonable noise~~ from all sources, subject to its police power in order to secure and promote the public health, comfort, convenience, safety, welfare, and prosperity of the citizens of Atlanta. Nothing in this article is intended to deter individuals from lawfully exercising the individual right to freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-134. Powers, duties, and qualifications of the noise control officers and administrators; duties and responsibilities of other departments.

- (a) The noise control officers (NCOs), who shall be city police officers or other individuals as delegated under in section 74-134 (b)(3), shall enforce the provisions of this article.
- (b) The noise control administrator (NCA) shall be the commissioner of the department of public works or his designee and shall have the power to:
 - (1) Coordinate the noise control activities of all municipal departments and cooperate with all other public bodies and agencies to the extent practicable;
 - (2) Review the actions of other municipal departments and advise such departments of the effect, if any, of such actions on noise control;
 - (3) delegate the duties of the NCO to any duly qualified individual according to the provisions of section 74-134(c); and
 - (4) Grant permits for temporary variances according to the provisions of section 74-139.
- (c) A person shall be qualified to be an NCO if the person has satisfactorily completed any of the following:
 - (1) An instructional program in community noise from a certified noise control engineer, as evidenced by certification from the Institute of Noise Control Engineering (INCE); or
 - (2) A registered professional engineer practicing in the field of acoustics; or
 - (3) An instructional program in community noise from another NCO; or

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (4) Education or experience or a combination thereof certified by the NCA as equivalent to the provisions of (1) or (2) of this section.
 - (d) Noise measurements taken by a NCO shall be taken in accordance with the procedures specified in this article.
 - (e) The provisions of this article shall not apply to any department or agency of the city engaged in any emergency activities or as otherwise excluded under section 74-138 of this article. However, all city departments and agencies shall carry out their programs according to the law and shall cooperate with the assessment and consideration of the possible impact of their activities with regard to the reduction of noise disturbances and the other purposes of this article.
- (Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-135. Sound measurement procedures.

- (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 noise article. When instrumentation cannot be placed at or within the property line, the measurement shall be made as close thereto as is reasonable. However, noise measurements shall not be made at a distance of less than 25 feet from the edge of a noise source. For the purposes of this article, noise measurements are measured on the A- or C-weighting scale, as applicable, of a sound level meter (SLM) of standard design and quality having characteristics established by the American National Standards Institute (ANSI).
- (b) All tests shall be conducted in accordance with the following procedures:
 - (1) The NCO shall, to the extent practicable, identify all sources contributing sound to the point of measurement.
 - (2) Measurements shall be taken at or within the property line of the affected person or persons.
 - (3) The SLM must be calibrated using a calibrator recommended by the SLM manufacturer before and after each series of readings and at least once each hour.
 - (4) The SLM must be recertified and the calibrator must be recalibrated at least once each year by the manufacturer or by a person that has been approved by the NCA. A copy of written documentation of such recertification and recalibration, in a form approved by the NCA, shall be kept with the equipment to which it refers.
 - (5) No outdoor measurements shall be taken:
 - a. During periods when wind speeds (including gusts) exceed 15 mph;
 - b. Without a windscreen, recommended by the SLM manufacturer, properly attached to the SLM;
 - c. Under any condition that allows the SLM to become wet; or

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- d. When the ambient temperature is out of the range of the tolerance of the SLM.
- (c) The report for each measurement session shall include:
- (1) The date, day of the week, and times at which measurements are taken;
 - (2) The times of calibration;
 - (3) The weather conditions;
 - (4) The identification of all monitoring equipment by manufacturer, model number, and serial number;
 - (5) The normal operating cycle of the sources in question with a description of the sources;
 - (6) The ambient sound level, in dBA, with the sources in question operating;
 - (7) The background sound level, in dBA, without the sources in question operating; and
 - (8) A sketch of the measurement site, including measurement locations and relevant distances, containing sufficient information for another investigator to repeat the measurements under similar conditions.
- (d) Prior to taking noise measurements, the investigator shall explore the vicinity of the source in question to identify any other sound sources that could affect measurements, to establish the approximate location and character of the principal sound source, and to select suitable locations from which to measure the sound from the source in question.
- (e) When measuring continuous sound, or sound that is sustained for more than one second at a time, the SLM shall be set for A-weighting, slow meter response speed, and the range (if the SLM is designed to read levels over different ranges of SPLs) shall be set to that range in which the meter reads closest to the maximum end of the scale. When the measured sound level is variable or fluctuating over a range greater than ± 3 DBA, using the slow meter response speed, the fast meter response speed shall be used. In either case, both the minimum and maximum readings shall be recorded to indicate the range of monitored values.
- (f) The SLM shall be placed at a minimum height of three feet above the ground or from any reflective surface. When handheld, the microphone shall be held at arm's length and pointed at the source at the angle recommended by the SLM manufacturer.
- (g) If extraneous sound sources, such as aircraft flyovers or barking dogs, that are unrelated to the measurements increase the monitored sound levels, the measurements should be postponed until these extraneous sounds have become of such a level as not to increase the monitored sound levels of interest.
- (h) The monitoring session should last for a period of time sufficient to ensure that the sound levels measured are typical of the source in question, but in no event shall the duration of testing be less than five minutes.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (i) The background sound levels shall be subtracted from the measured sound levels of the source of interest by using Table 1 to determine the sound levels from the source of interest alone. If the ambient sound level is less than three DBA higher than the background sound level, the source level cannot be derived and a violation of the article cannot be substantiated.

Table 1: Correction for background levels (in dBA).

<i>Difference between ambient and background sound levels</i>	<i>Correction factor to be subtracted from ambient level for source level</i>
3	3
4, 5	2
6--9	1
10 or more	0

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-136. Sound level limitations.

- (a) No person shall cause, suffer, allow, or permit the operation of any noise source on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceeds the ambient sound level by ten dBA or more during daytime hours (9:01 a.m.--10:00 p.m.) or five dBA or more during nighttime hours (10:01 p.m.--9:00 a.m.) when measured at or within the real property line of the receiving property, except as provided in section 74-138. Such a noise source would constitute a noise disturbance if it continues in excess of six minutes, unless otherwise provided herein.

- (1) If the ambient sound level cannot be determined, the absolute sound level limits set forth in Table 2 shall be used.

Table 2: Maximum permissible sound levels Leq dB (A) - Averaged over six minutes

Receiving property	Daytime (9:01 a.m.--10:00 p.m.)	Nighttime (10:01 p.m.--9:00 a.m.)
Zoning classification R1--R5 or RG	55	50

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

Commercial	70	65
Industrial	75	70

At no time shall noise levels be produced that exceed 65 dB(C) Leq (one second) at a residential receiving property line.

- (2) If the sound source in question is a pure tone, then the sound level limitations as set forth in subsection 74-136(a) shall be reduced by five dB.
- (3) Non-repetitive impulsive sound sources shall not exceed 100 dB(C) at or within a residential real property line, using the fast meter response speed.

(b) Inside multi-family dwelling unit buildings, if the ambient sound level cannot be determined, the daytime limit is 45 dBC and the nighttime limit is 35 dBC for sounds originating in another dwelling within the same building.

(c) At the discretion of the arresting officer and as an alternative to making a determination based upon the ambient sound level or absolute sound level, the following standards shall be used for sounds emanating from any noise source located on any residential property, commercial property, or public property:

(1) Between the hours of 8:00 a.m. and 9:00 p.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of two-hundred (200) or more feet from the real property line.

(2) Between the hours of 9:00 p.m. and 8:00 a.m., sound emanating from any noise source shall be limited in volume, tone and intensity so that the sound shall not be plainly audible to any person at a distance of fifty (50) or more feet from the real property line.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-137. Specific prohibited acts.

(a) It is unlawful and a violation of this Code for any person to cause, suffer, allow, or permit to be made verbally or mechanically any noise disturbance, according to the provisions of ~~as defined in section 74-136(a).~~

(b) No person shall cause, suffer, allow, or permit the following acts:

~~(1) Operating, playing, or permitting the operation or playing of any radio, television, phonograph, or voice amplification device that reproduces or amplifies sound (including devices in motor vehicles) in such a manner as to create a noise disturbance for any person other than the operator of the device;~~

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- ~~(2) Using or operating any loudspeaker, public address system, or similar voice amplification device, unless participating in a specifically permitted activity.~~
- (1) Owning, possessing, or harboring any animal or bird that, for a continued duration in excess of 15 minutes, generates sounds that create a noise disturbance across a residential real property line;
 - (2) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, garbage cans, refuse, or similar objects, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, or the compacting of refuse by persons engaged in the business of scavenging or garbage collection, whether private or municipal, between 9:00 p.m. and 7:00 a.m. the following day on a weekday and between 9:00 p.m. and 9:00 a.m. the following day on a weekend day or legal holiday, except by permit, when the sound therefrom creates a noise disturbance across a residential property line;
 - (3) Operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, and where such vehicle's manufacturer's gross weight rating is in excess of 10,000 lbs., on a public right-of-way or public space within 150 feet of a residential area between 8:00 p.m. and 8:00 a.m. the following day;
 - (4) Operating or permitting the operation of any power tools or other motorized equipment used in construction, drilling, earthmoving, excavating, or demolition work between 7:00 p.m. and 7:00 a.m. the following day on a weekday or between 7:00 p.m. and 9:00 a.m. on a weekend day or legal holiday, except for emergency work by permit for temporary variance pursuant to section 74-139.

(c) Loud sound amplification systems.

- (1) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system, so that the sound is plainly audible to any person at a distance of fifty (50) or more feet from the noise source.
- (2) It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:
 - a. The system was being operated to request medical or emergency assistance or to warn of a hazardous road condition;
 - b. The system was being operated to provide emergency information or to warn of an emergency condition;
 - c. The system was permitted to be used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons;
 - d. The loud sound amplification system was used in authorized and permitted public activities, such as parades, fireworks, sports events, musical

productions and other activities which have the approval of the department of the City authorized to grant such approval.

(d) Loud sound amplification systems and motor vehicles.

(1) No person shall play, use or operate, or permit to be played, used, or operated, any sound amplification system in or on a motor vehicle, so that the sound is plainly audible to any person at a distance of fifty (50) or more feet from the stopped, standing, parked or moving vehicle, if it is located in or on any of the following:

- a. Any public property, including any public street, highway, building, sidewalk, park, thoroughfare, or public or private parking lot; or
- b. Within the motor vehicular area of any public or private parking lot or park.

(2) It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

- a. The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;
- b. The vehicle was an emergency or public safety vehicle;
- c. The vehicle was owned and operated by the City or a gas, electric, communications or refuse company;
- d. The system was permitted to be used for the purpose of giving permitted instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons;
- e. The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department of the City authorized to grant such approval.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-138. Exemptions.

- (a) The provisions of this article shall not apply to the generation of sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of any emergency.
- (b) Noise from an exterior burglar alarm of any building shall be exempt from the provisions of this article, provided such burglar alarm shall terminate its operation within 15 minutes of its activation.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (c) Noises from any automobile alarm shall be exempt from the provisions of this article, provided such burglar alarm shall terminate its operation within ten minutes of its activation.
- (d) Noise from domestic power tools, lawn mowers, and agricultural equipment when operated between 8:00 a.m. and 8:00 p.m. on weekdays and between 9:00 a.m. and 8:00 p.m. on weekends and legal holidays shall be exempt from the provisions of this article, provided they generate less than 85 dBA at or within any real property line of a residential property outside of the property where the noise in question originates, and all noises from tools and lawn mowers operated in association with the upkeep and maintenance of any public or private golf course shall be exempt from the provisions of this article, provided that all such tools and lawn mowers are equipped with mufflers or are operated in conjunction with a device or system for lessening the sounds produced;
- (e) Sound from church bells and chimes when a part of a religious observance or service shall be exempt from the provisions of this article during daytime hours (9:01 a.m.-- 10:00 p.m.);
- (f) Noise from permitted construction activity shall be exempt from the provisions of this article, provided all motorized equipment used in such activity is equipped with functioning mufflers, except as provided in section 74-137(b)(6).
- (g) Noise from snow blowers, snow throwers, and snowplows when operated with a muffler for the purpose of snow removal shall be exempt from the provisions of this article.
- (h) The generation of sound in the performance of emergency work shall be exempt from the provisions of this article.
- (i) The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration shall be exempt from the provisions of this article.
- (j) Noise generated from municipally sponsored or approved celebrations or events that are open to the public without charge for admission shall be exempt from the provisions of this article.
- (k) Noises resulting from the operation of the Hartsfield Atlanta International Airport shall be exempt from the provisions of this article.
- (l) Any noise resulting from activities of a temporary duration, for which a ~~special~~ permit for temporary variance has been granted pursuant to this article, and which conforms to the conditions and limits stated thereon shall be exempt from the provisions of this article.

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (m) Noises 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 shall be exempt from the provisions of this article.
- (n) Noises that result from or arise out of or stem from the occurrence of a professional sporting event or organized sports league shall be exempt from the provisions of this article.
- (o) Any temporary noise arising out of maintenance, renovation or construction activities related to the Metropolitan Atlanta Rapid Transit Authority (MARTA) rail system shall be exempt from the provisions of this article. Said exemption will expire seven years after the effective date of this amendment.
 - (1) MARTA will develop and implement procedures by which NPUs affected by planned maintenance activities will be notified prior to the commencement of work.
 - (2) MARTA will develop and implement procedures by which any nuisances created by planned maintenance activities and reported by citizens are forwarded to the chair of the public safety and legal administration committee and the administration.
 - (3) MARTA will develop and implement procedures by which contractors conducting planned maintenance on the rail system will be monitored so as to ensure that all work is performed in a manner that will result in the creation of the least amount of noise disturbance.

(Ord. No. 2000-64, § 1, 12-13-00; Ord. No. 2002-5, § 1, 2-13-02)

Sec. 74-139. Conditions for permits for temporary variance.

- (a) Any person who owns or operates any stationary noise source may apply to the NCA City of Atlanta for a temporary variance from one or more of the provisions of this article. Applications for a permit of temporary variance shall supply information including, but not limited to:
 - (1) The nature and location of the noise source for which such application is made;
 - (2) The reason for which the permit of temporary variance is requested, including the hardship that will result to the applicant, his/her client, or the public if the permit of temporary variance is not granted;
 - (3) The level of noise that will occur during the period of the temporary variance;
 - (4) The section or sections of this ordinance for which the permit of temporary variance shall apply;

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (5) A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring therefrom; and
 - (6) A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this article within a reasonable time.
- (a1) Failure to supply the information required by the ~~NCA~~City of Atlanta shall be cause for rejection of the application.
- (a2) A copy of the permit of temporary variance must be kept on file by the municipal clerk for public inspection.
- (b)The ~~NCA~~City of Atlanta shall charge the applicant a fee of \$25.00 to cover expenses resulting from the processing of the application for a permit of temporary variance.
- (c) The ~~NCA~~City of Atlanta may, at his/her discretion, limit the duration of the permit of temporary variance, which, in any event, shall be effective no longer than 45 days. Any person holding a permit of temporary variance and requesting an extension of time shall apply for a new permit of temporary variance under the provisions of this section, provided however, that no further permit of temporary variance shall be issued for any particular location, activity or event if the sum of the number of days that previous permits of temporary variance for such particular location, activity or event were in effect, plus the number of days requested for the new permit or extension of an existing permit shall exceed forty-five (45) days in any calendar year.
- (d) No temporary variance shall be approved unless the applicant presents adequate proof that:
- (1) Noise levels occurring during the period of the temporary variance will not constitute a danger to public health; and
 - (2) Compliance with the article would impose an unreasonable hardship on the applicant without equal or greater benefits to the public.
- (e) In making the determination of granting a temporary variance, the ~~NCA~~City of Atlanta shall consider the following factors:
- (1) The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;
 - (2) The social and economic value of the activity for which the temporary variance is sought; and
 - (3) The ability of the applicant to apply the best practical noise control measures.
- (f) The permit of temporary variance may be revoked by the ~~NCA~~City of Atlanta if the terms of the permit of temporary variance are violated.
- (g) A temporary variance permit may be revoked by the ~~NCA~~City of Atlanta if there is:

NOISE CONTROL CODE STRIKETHROUGH FOR COMPARISON

- (1) Violation of one or more conditions of the temporary variance;
- (2) Material misrepresentation of fact in the temporary variance application; or
- (3) Material change in any of the circumstances relied on by the ~~NCA~~City of Atlanta in granting the temporary variance.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-140. Enforcement procedures.

- (a) Violation of any provision of this article shall be cause for a citation to be issued by the NCO according to procedures set forth in the City Code of Ordinances.
- (b) In lieu of issuing a citation, the NCO may issue an order requiring abatement of any sound source alleged to be in violation of this article within a reasonable time period and according to guidelines that the NCO may prescribe.
- (c) Any person who violates any provision of this article shall be subject to a fine for each offense of not more than \$ 1,000.00.
 - (1) If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.
- (d) No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article or from other law.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-141. Inconsistent provisions.

Insofar as the provisions of this Code are inconsistent with any provision of any other title of the Code, or any rule or regulation of any government agency of the city, then the provisions of this noise control code shall be controlling.

(Ord. No. 2000-64, § 1, 12-13-00)

Sec. 74-142. Severability.

If any provision, clause, sentence or paragraph of this Code, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this article which can be given effect without the invalid provisions or application and, to this end, the provisions of this Code are hereby declared to be severable.

(Ord. No. 2000-64, § 1, 12-13-00)

Secs. 74-143--74-160. Reserved.

ADMINISTRATIVE CORRECTION TO LEGISLATION
REQUEST FORM

TO:

Rhonda Dauphin Johnson
Municipal Clerk

Re: 03-0-0119
Legislative ID Number (Ordinance/Resolution)

5 May 03
Adoption Date

13 May 03
Approval Date

FROM:

Councilmember

Department Head

Name: Rob Berger

Dept/Bureau: Council Staff

E-Mail Address: rberger@ci.atlanta.ga.us

Telephone No: ext. 6056 Fax No: ext. 6273


Signature(s) of Councilmember and/or Department Head

(Questions 1-5 below and on reverse side of page must be completed.)

1.) What is the requested change/correction? (Give detailed description; Use additional page(s) if necessary; Provide supporting attachments as needed.)

Add the following language to
Section 74-137 (b) after the word
municipal; "during nighttime hours and"

2.) Why is the change/correction necessary? (Give detailed reason; Use additional page(s) if necessary; Provide supporting attachments as needed.)

The language was inadvertently left out of the final Draft of the ordinance.

3.) What Committee(s) has (have) purview over the legislation to be corrected?

Public Safety and Legal Administration

Ally Ray English
Committee of Purview/Research & Policy Analyst(s) Approval Signature(s)

16 May 03
Date

4.) Does request have Finance Department or financial impact? Yes No

Gay Jacobs / Larry Stokes
Finance/Executive Committee(s) Research & Policy Analyst(s) Approval Signature(s)

5-16-03
Date

5.) Have copies of request been distributed to all Councilmembers? Yes No

Submittal to Council 16 May 03 Submittal to Clerk 16 May 03
Date Date

FOR OFFICE OF MUNICIPAL CLERK USE ONLY

()	Description	By	Signature
1)	Correction Completed		
2)	Amended Ordinance	<input type="checkbox"/>	
3)	Council Resolution	<input type="checkbox"/>	
4)	Ordinance Enacted	<input type="checkbox"/>	
5)	Ordinance Repealed	<input type="checkbox"/>	
6)	Ordinance Amended	<input type="checkbox"/>	
7)	Ordinance Repealed	<input type="checkbox"/>	
8)	Ordinance Repealed	<input type="checkbox"/>	
9)	Ordinance Repealed	<input type="checkbox"/>	
10)	Ordinance Repealed	<input type="checkbox"/>	
11)	Ordinance Repealed	<input type="checkbox"/>	
12)	Ordinance Repealed	<input type="checkbox"/>	
13)	Ordinance Repealed	<input type="checkbox"/>	
14)	Ordinance Repealed	<input type="checkbox"/>	
15)	Ordinance Repealed	<input type="checkbox"/>	
16)	Ordinance Repealed	<input type="checkbox"/>	
17)	Ordinance Repealed	<input type="checkbox"/>	
18)	Ordinance Repealed	<input type="checkbox"/>	
19)	Ordinance Repealed	<input type="checkbox"/>	
20)	Ordinance Repealed	<input type="checkbox"/>	
21)	Ordinance Repealed	<input type="checkbox"/>	
22)	Ordinance Repealed	<input type="checkbox"/>	
23)	Ordinance Repealed	<input type="checkbox"/>	
24)	Ordinance Repealed	<input type="checkbox"/>	
25)	Ordinance Repealed	<input type="checkbox"/>	
26)	Ordinance Repealed	<input type="checkbox"/>	
27)	Ordinance Repealed	<input type="checkbox"/>	
28)	Ordinance Repealed	<input type="checkbox"/>	
29)	Ordinance Repealed	<input type="checkbox"/>	
30)	Ordinance Repealed	<input type="checkbox"/>	
31)	Ordinance Repealed	<input type="checkbox"/>	
32)	Ordinance Repealed	<input type="checkbox"/>	
33)	Ordinance Repealed	<input type="checkbox"/>	
34)	Ordinance Repealed	<input type="checkbox"/>	
35)	Ordinance Repealed	<input type="checkbox"/>	
36)	Ordinance Repealed	<input type="checkbox"/>	
37)	Ordinance Repealed	<input type="checkbox"/>	
38)	Ordinance Repealed	<input type="checkbox"/>	
39)	Ordinance Repealed	<input type="checkbox"/>	
40)	Ordinance Repealed	<input type="checkbox"/>	
41)	Ordinance Repealed	<input type="checkbox"/>	
42)	Ordinance Repealed	<input type="checkbox"/>	
43)	Ordinance Repealed	<input type="checkbox"/>	
44)	Ordinance Repealed	<input type="checkbox"/>	
45)	Ordinance Repealed	<input type="checkbox"/>	
46)	Ordinance Repealed	<input type="checkbox"/>	
47)	Ordinance Repealed	<input type="checkbox"/>	
48)	Ordinance Repealed	<input type="checkbox"/>	
49)	Ordinance Repealed	<input type="checkbox"/>	
50)	Ordinance Repealed	<input type="checkbox"/>	

- (2) During Nighttime Hours, sound emanating from any Noise Source shall be limited in volume, tone and intensity so that the sound shall not be Plainly Audible to any Person at a distance of fifty (50) or more feet from the Real Property Line of any private property on which the Noise Source is located, or from any Noise Source located on any public property or Public Right-of-Way.

Section 74-137. Specific prohibited acts.

- (a) It is unlawful and a violation of this Code for any Person to cause, suffer, allow, or permit any of the following acts:

- (1) Owning, possessing, or harboring any animal or bird that, for a continued duration in excess of fifteen (15) minutes, generates Noise that is Plainly Audible at a distance of five feet or more from the Real Property Line of a Residential Property;
- (2) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, between 9:00 p.m. and 5:00 a.m. the following day on a Weekday and between 9:00 p.m. and 9:00 a.m. the following day on a Weekend day or legal holiday, except by permit, when the Noise Source is located fifty (50) feet or less from the nearest Residential Property line;
- (3) Operating or permitting the operation of any Motor Vehicle or any auxiliary equipment attached to such a vehicle, for a period of longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or Emergency Work, and where such vehicle's manufacturer's gross weight rating is in excess of 10,000 lbs., on a Public Right-of-Way or Public Property within 150 feet of a Residential Area during Nighttime Hours;
- (4) Operating or permitting the operation of any power tools or other motorized equipment used in Construction, drilling, earthmoving, excavating, or demolition work between 7:00 p.m. and 7:00 a.m. the following day on a Weekday or between 7:00 p.m. and 9:00 a.m. on a Weekend day or legal holiday, except for Emergency Work or by permit for temporary variance pursuant to section 74-139.
- (5) Compacting or collecting of refuse by Persons engaged in the business of scavenging or garbage collection, whether private or municipal, during nighttime hours and between 9:00 p.m. and 7:00 a.m. the following day on a Weekend day or legal holiday, except by permit.

- (b) *Loud Sound Amplification Devices.*

- (1) Upon or within any public property or Public Right-of-Way, no Person shall play, use or operate, or permit to be played, used, or operated, any Sound Amplification Device, so that the sound is Plainly Audible to any Person, at a distance proscribed by the provisions of section 74-136(b). The proscribed distance shall be measured from the Noise Source.
- (2) No person shall play, use or operate, or permit to be played, used, or operated, any Sound Amplification Device on or within any private property, so that the sound is Plainly Audible to any Person according to the provisions of section 74-136(b).