

ORDINANCE NO. _____

**AN ORDINANCE TO DELETE AND REPLACE CHAPTER 33, ARTICLE VI
RELATING TO NOISE CONTROL OF THE CODE OF THE CITY OF CANTON
GEORGIA**

WHEREAS, the City Council desires to adopt a new noise control ordinance;

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING
AUTHORITY OF THE CITY OF CANTON as follows:

1. Chapter 33, Article VI is deleted and the following substituted in its place:

ARTICLE VI. NOISE CONTROL

Sec. 33-127. Noise; creating unnecessary noise.

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

Sec. 33-128. Definitions.

All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. The following words and terms, when used in this chapter, shall have the following meanings:

"A-weighting" means the electronic filtering in sound level meters that models human hearing frequency sensitivity.

"Background sound level" means the total sound pressure level in the area of interest excluding the noise source of interest.

"Boom car" means any vehicle with loudspeakers, amplifiers, radio receiving sets, musical instruments, phonographs or other equipment capable of producing, reproducing or emitting noise or sound which is cast upon public property or private property.

"Commercial or business property" means all property which is used primarily for the sale of merchandise or goods, or for the performances of service, or for office or clerical work.

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

"C-weighting" means the electronic filtering in sound level meters that minimally attenuates very low frequencies.

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

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

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

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

"Emergency work" means any work or action performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

"Human-produced sound" means yelling, shouting, hooting, whistling, or singing produced by one's voice.

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

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

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

"Legal holidays" recognized by Canton include New Years Day, Martin Luther King Jr. Day, Spring Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, day after Thanksgiving, Christmas Eve, and Christmas Day.

"Sound-making device" means any radio receiving device, television, stereo, musical instrument, phonograph, loudspeaker, sound amplifier, bull horn, or other mechanical or electronic equipment capable of sound amplification or reproduction, including such devices that are self-contained, portable, hand-held, worn on one's person or utilized wirelessly.

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used in the transportation of passengers or property, or any combination thereof, including, but not limited to, motorcycles, motor-driven cycles, multipurpose vehicles and mopeds, upon the public roads within the city limits.

"Muffler" means a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine where such a device is part of the normal configuration of the equipment.

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

"Noise disturbance" means any sound that:

- 1. Endangers the safety or health of any person;*
- 2. Disturbs a reasonable person of normal sensitivities; or*
- 3. Endangers personal or real property or violates this chapter.*

"Noise sensitive facility" means any facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include, but are not limited to, schools, hospitals, and places of worship.

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

"Plainly audible" means any sound emanating from the specific sound-producing sources, including, but not limited to, sound-making devices and human-produced sounds, set forth herein which can be heard from the applicable distances set forth herein using the described sound measurement standards. Measurement shall be by the auditory senses of a person standing at a distance no less than the required minimum distance from the source of the sound. For music and other noise, words and phrases need not be discernable, and bass reverberations are included.

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

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

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

"Sound level meter (SLM)" means an instrument used to measure sound pressure levels conforming to Class 1 or Class 2 standards as specified in ANSI Standard S 1.4—2014 or the latest version thereof.

"Sound pressure level (SPL)" means 20 multiplied by the logarithm, to the base ten, of the measured sound pressure in question divided by the sound pressure associated with the threshold of human hearing, in units of decibels. An A-weighted or C-weighted filter should be applied to the measurement as required. The sound pressure level measured value should be designated with the suffix dB(A) or dB(C) as required.

"Weekday" means any day, Monday through Friday, that is not a legal holiday.

Sec. 33-129. Sound level limitations.

No person shall cause, suffer, allow, or permit a domestic animal or the operation of any sound source, including, but not limited to, any sound-making device or human-produced sound, in such a manner as to create a sound level that exceeds the sound level limits set forth in Table 1 when measured at or within the real property line of the receiving property using the slow response setting unless otherwise noted. Such a sound source would constitute a noise disturbance.

*TABLE 1
SOUND LEVEL LIMITS
BY RECEIVING PROPERTY*

<i>Receiving Property Category</i>	<i>Time</i>	<i>Sound Level Limit (dBA)</i>	<i>Sound Level Limit (dBC)</i>
<i>Residential, public space, institutional, or noise sensitive facility</i>	<i>9:00 a.m. to 9:00 p.m. on Sunday-Thursday</i>	<i>65</i>	<i>84</i>
	<i>9:00 a.m. to 10:00 p.m. on Friday and Saturday</i>		
	<i>All other times</i>	<i>60</i>	<i>79</i>
<i>Commercial or business</i>	<i>7:00 a.m. to 11:00 p.m.</i>	<i>65</i>	<i>84</i>
	<i>11:00 p.m. to 7:00 a.m.</i>	<i>60</i>	<i>79</i>
<i>Industrial or manufacturing</i>	<i>At all times</i>	<i>70</i>	<i>89</i>

If the noise is an impulsive sound, the fast response setting shall be used and the daytime limits of Table 1 shall be increased by ten dBA.

Sec. 33-130. Exemptions.

- A. Noise generated from municipally sponsored or approved celebrations or events shall be exempt from these provisions.*
- B. The following are exempt from the sound level limits:*
 - 1. Sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of an emergency;*
 - 2. Noise from an exterior burglar alarm of any building, provided such burglar alarm shall terminate its operation within five minutes of its activation if the sound is not intermittent or ten minutes if intermittent;*
 - 3. Noise from any automobile alarm, provided such alarm shall terminate its operation within five continuous minutes of its activation if the sound is not intermittent or ten continuous minutes if the sound is intermittent;*
 - 4. The generation of sound in situations within the jurisdiction of a state or federal agency;*
 - 5. Noise resulting from any practice or performance sponsored by or associated with the educational process administered by a recognized institution of learning, including, but not limited to, band, choir, and orchestral performances;*
 - 6. Noise that results from the activities of an organized band or sports league between the hours of 7:00 a.m. and 12:00 a.m.;*

7. *Emergency work;*
8. *Surface carriers engaged in commerce by railroad;*
9. *Events with amplified sound that are operating within the time and volume parameters set forth in an approved special administrative permit.*
10. *Consumer fireworks, as that term is defined in O.C.G.A. §25-10-1, provided that the use of the consumer fireworks is in compliance with O.C.G.A. §25-10-2 and §25-10-2.1. Consumer fireworks may be used from 10:00 a.m. to 9:00 p.m. on any day, except that they may be used up to 11:59 p.m. on January 1, July 3, July 4, and December 31, and from midnight to 1:00 a.m. on January 1.*
11. *Special events which have been permitted by the City of Canton.*

Sec. 33-131. Restricted uses and activities.

Notwithstanding the provisions of Section 33-129 and the exemptions above in Section 133-130, the following standards shall apply to the activities or sources of sound set forth below:

- A. *Noncommercial or nonindustrial power tools used for landscaping and yard maintenance shall not be operated between the hours of 9:00 p.m. and 7:00 a.m., unless such activities can meet the applicable limits set forth in Section 33-129. At all other times, the limits set forth in Section 33-129 do not apply to noncommercial or nonindustrial power tools and landscaping and yard maintenance equipment, provided that all motorized equipment is operated with a functioning muffler.*
- B. *Commercial or industrial power tools used for landscaping and yard maintenance shall be operated with a muffler. All motorized equipment used in these activities shall not be operated on a residential property or within 250 feet of a residential property line, between the hours of 9:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 9:00 p.m. and 9:00 a.m. on weekends, unless:*
 1. *Such activities are deemed emergency work; or*
 2. *Such activities meet the limits set forth in Sec. 33-129.*

At all other times, the limits set forth in Section 33-129 do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.
- C. *1. Construction and demolition activity or the excavation of streets and highways within 500 feet of any residential district or 1,500 feet of an occupied residence shall be allowed only between the hours of 7:00 a.m. and 7:00 p.m. on Monday-Friday, between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays, and is not permitted on Sundays. Construction work associated with the installation of infrastructure associated with a new residential subdivision shall notify all property owners within 500 feet of the project that construction work is beginning. This notification shall be sent to those property owners a minimum of two weeks prior to the commencement of the construction work. A sample notification letter is available at the Canton Community Development Office.*

2. There are times when work must occur outside of the permissible hours. The requirements of this section do not apply to emergency work necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from imminent exposure to danger." For non-emergency work outside of the permitted hours, you may apply for an after hours work permit. The after hours work permit shall go before the Canton City Council and the above notification standards shall be complied with for the after hours work permit. Construction work after hours work permits may be approved if the need is valid and livability impacts are minimal. A fee for the after hours work permit as established by city county [the city] and as amended from time to time by city council shall be paid upon the issuance of the after hours work permit. The after hours work permit application is available at canton community development department.

D. *Commercial Sanitation Collection, Transfer and Dumping.* Commercial sanitation collection, transfer and dumping and/or garbage collection, transfer and dumping by commercial enterprises between the hours of 7:00 p.m. and 7:00 a.m.; provided, however, that if the city manager or his designee determines that the public health and safety will not be impaired by commercial sanitation collection, transfer and dumping or garbage collection, transfer and dumping by commercial enterprises between the hours of 7:00 p.m. and 7:00 a.m., the city manager or his designee may grant permission for such collection, transfer and dumping to be done within the hours of 7:00 p.m. and 7:00 a.m., upon application being made to him or her, and such permit may be issued with such conditions as the city manager, or his or her designee, may determine for the protection of the public.

- E. Owners and the agents of owners of domesticated animals shall not permit any vocalizations (including barking, baying, howling, crying, or making any other noise) for more than ten continuous minutes without interruption or more than 30 minutes if intermittent. Each occurrence will result in a separate offense.
- F. Personal or commercial vehicular music amplification or reproduction equipment, including, but not limited to, boom cars, shall not be operated at such a volume and in such a manner as to create, or cause to be created, any noises or sounds that are plainly audible at a distance of 100 feet in any direction from the equipment or vehicle between the hours of 7:00 a.m. and 11:00 p.m. Between the hours of 11:00 p.m. and 7:00 a.m., such equipment shall not be operated at such a volume and in such a manner as to create, or cause to be created, any noises or sounds that are plainly audible at a distance of 50 feet in any direction from the equipment or vehicle.
- G. *Sound-Making Devices.*
 - 1. Sound-making devices shall not be operated in a public space or public right-of-way at such a volume and in such a manner as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 100 feet in any direction from the sound-making device, or in the case of real property, beyond the property limits in which the device is located, whichever is farthest, between the hours of 7:00 a.m. and 11:00 p.m.

2. *Between the hours of 11:00 p.m. and 7:00 a.m., sound-making devices shall not be operated in a public space or public right-of-way at such a volume and in such a manner as to create, or cause to be created, any noise or sounds which are plainly audible at a distance of 50 feet in any direction from the sound-making device, or in the case of real property, beyond the property limits in which the device is located, whichever is farthest.*

H. Human-Produced Sound.

1. *Human-produced sound shall be unlawful in public space, on the public streets or sidewalks, or on private property if it creates, or causes to be created, any human noises or sounds which are plainly audible at a distance of 100 feet in any direction from the person producing the noises or sounds, or in the case of real property, beyond the property limits in which the person is located, whichever is farthest, between the hours of 7:00 a.m. and 11:00 p.m.*
 2. *Between the hours of 11:00 p.m. and 7:00 a.m. human-produced sound shall be unlawful in public space, on the public streets or sidewalks, or on private property if it creates, or causes to be created, any human noises or sounds which are plainly audible at a distance of 50 feet in any direction from the person producing the noises or sounds or in the case of real property, beyond the property limits in which the person is located, whichever is farthest.*
- I. Every motor vehicle shall, at all times, be operated with a muffler in good working order and in constant operation to prevent excessive or harmful noise. No person shall operate a motor vehicle, nor shall the owner of any vehicle allow the vehicle to be operated, at any time, or under any condition of grade, load, acceleration, or deceleration, in such a manner as to exceed the following noise limit based on a distance of 50 feet from the center of the lane of travel within the speed limit:*
1. *In speed zones of 35 miles per hour or less, not more than 86 dbA; and*
 2. *In speed zones of more than 35 miles per hour, not more than 90 dbA.*

Sec. 33-132. Noise control administrator.

There shall be created a noise control administrator who shall be the City Manager, or designee, who shall have the power and authority to:

- A. *Coordinate the noise control activities of all departments of the City of Canton and cooperate with all other public bodies and agencies to the extent practicable.*
- B. *Review the actions of the City of Canton and advise the city of the effect, if any, of such actions on noise control.*
- C. *Review public and private projects, upon request of other departments or boards, for compliance with this chapter.*
- D. *Promulgate and publish rules and procedures to establish techniques for measuring noise, and to provide for clarification, interpretation, and implementation of this article.*

- E. *Delegate the duties and functions of noise control officer to any duly qualified individual under Sec. 33-133.*

Sec. 33-133. Procedures for the determination of sound levels.

In so far as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including, but not limited to, design, maximum and fluctuating rates. All noise measurements shall be made at or within the property line of the impacted site, unless otherwise directed in this chapter. When instrumentation cannot be placed at or within the property line, the measurement shall be made as close thereto as is reasonable. For the purposes of this chapter, noise measurements are measured on the A- or C-weighted sound scale, as applicable, of a sound level meter of standard design and quality having characteristics established by ANSI.

Sec. 33-134. Requests for temporary relief or stay.

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

Sec. 33-135. Enforcement procedures.

- A. The city may prosecute noise related violations by issuance of a city ordinance citation. If an ordinance violation citation is issued to the owner and it is determined by the municipal court that this chapter has been violated, the person may be punished as provided in Sec 1-12.*
- B. In addition to any other punishment, or in lieu thereof, the municipal court judge may issue an order requiring immediate abatement of any sound source alleged to be in violation of this section. Failure to abate such noise may result in contempt of court.*
- C. No provision of this section shall be construed to impair any common law or statutory cause of action, or legal remedy therefore, of any person for injury or damage arising from any violation of this section or from other law.*

Sec. 33-136. Severability.

A determination of the invalidity or unconstitutionality by a court of competent jurisdiction of any section, clause, sentence, paragraph, subsection or part of this chapter shall not affect the validity of the remaining part of this chapter.

2. If any portion of this Ordinance be declared invalid or unconstitutional by any court or competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid. It is hereby declared to be the intent of the City Council to provide for separable and divisible parts and does hereby adopt any and all parts hereof as may not be held invalid for any reason.

3. This Ordinance shall become effective on the date the Mayor signs the ordinance indicating approval, ten days after the adoption of the ordinance if the Mayor has not signed nor vetoed, or immediately upon an affirmative vote of the City Council after the Mayor's veto, whichever shall first occur.

Attest:

Annie Fortner, City Clerk

Bill Grant, MAYOR

Date:

Approved as to form:

Robert M. Dyer, City Attorney

ORDINANCE NO. _____

First Reading _____

Adopted by Council _____

Approved by Mayor _____

Veto by Mayor _____

Second Vote by Council _____

Effective Date _____

Annie Fortner, City Clerk