

Johnny Crist, Mayor
Brian Burchik, Post 1
Scott Batterton, Post 2



Eddie Price, Post 3
Tim Dunn, Post 4

Small town. Big difference.

**CITY COUNCIL
WORK SESSION AGENDA**

**CITY OF LILBURN, GA
340 MAIN STREET
LILBURN, GA 30047**

November 7, 2016

CITY HALL – CONFERENCE ROOM – 2nd Floor

6:30 p.m.

As set forth in the Americans with Disabilities Act of 1990, the City of Lilburn does not discriminate on the basis of disability in the admission or access to, or treatment or employment in its programs or activities. Doug Stacks, 340 Main Street, Lilburn, GA 30047 has been designated to coordinate compliance with the non-discrimination requirements contained in section 13.107 of the Department of Justice regulations, information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the ADA coordinator.

The City of Lilburn will assist citizens with special needs given proper notice (seven working days). Any requests for reasonable accommodations required by individuals to fully participate in any open meeting, program or activity of the City of Lilburn should be directed to Doug Stacks, 340 Main Street, Lilburn, GA 30047, telephone number 770-921-2210.

I. CALL TO ORDER

II. ANNOUNCEMENTS

III. AGENDA

1. STATE MANUAL FOR EROSION AND SEDIMENT CONTROL UPDATE – DIRECTOR OF PLANNING & ECONOMIC DEVELOPMENT
2. 104 FIRST AVENUE RIGHT-OF-WAY ABANDONMENT – DIRECTOR OF PLANNING & ECONOMIC DEVELOPMENT
3. **WORK SESSION ONLY** – CITY OF LILBURN NOISE ORDINANCE – DISCUSSION – CITY MANAGER

IV. ADJOURNMENT

**CITY OF LILBURN
AGENDA ITEM 3**

Date:	10/31/16	To: Mayor and Council	11/2/16
From:	Bill Johnsa	Department:	City Manager
Work Session/Reg. Mtg. Date Requested:	11/7/16	Presenter:	Bill Johnsa
Agenda Title:	City of Lilburn Noise Ordinance - Discussion		
Audio/Visual Requirements:	n/a	Deadline Date:	n/a

Agenda Item (Background/History/Details):
Staff would like to discuss the current Noise Ordinance/Control – Article III and related issues. We have experienced multiple complaints and have conducted site visits in designated areas.

Staff Recommendations:
Staff recommends the following: “For discussion only. Revisions to be made by Mayor and Council”.

Department Head Approval:	B. Johnsa
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Mayor/Council Signature Required:	YES	NO
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List Attachments:
1. Article III - Noise Control

Financial Information (For Financial Services Use Only)

Budgeted Yes/No	Fund Name & Code	Current Balance	Requested Allocation	City Manager's Initials
N/A				BJ



City of Lilburn

in Gwinnett County

State of Georgia

Ordinance

Number:

2014-466

Date of Reading and Adoption: January 13th, 2013
At the meeting of the Lilburn City Council held at 76 Main Street, Lilburn, Georgia.

AN ORDINANCE TO AMEND CHAPTER 42, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE III NOISE CONTROL, OF THE CODE OF ORDINANCES OF THE CITY OF LILBURN; TO DELETE THE ORDINANCE IN ITS ENTIRETY AND BE REPLACED; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the City Council adopted the Code of the City of Lilburn on August 8th, 2005; and,

WHEREAS, the Code of the City of Lilburn provides that the text thereof may be amended from time to time by adoption of amending ordinance by the City Council; and,

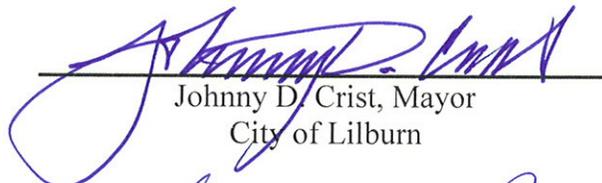
WHEREAS, the City Council finds that the following amendment to the Code of the City of Lilburn promotes the health, safety, convenience, order, prosperity and the general welfare of the present and future inhabitants of the City of Lilburn.

IT IS HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LILBURN, GEORGIA, THAT CHAPTER 42, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE III NOISE CONTROL, OF THE CODE OF LILBURN SHALL BE AMENDED BY DELETING ARTICLE III IN ITS ENTIRETY AND BE REPLACED IN LIEU THEREOF THE FOLLOWING NOISE CONTROL ORDINANCE AS SET FORTH IN "ATTACHMENT A."

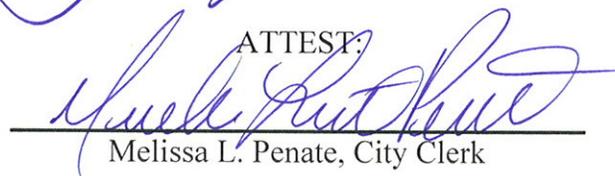
BE IT FURTHER ORDAINED that this ordinance becomes effective upon its adoption.

BE IT FURTHER ORDAINED that all regulations of parts of regulations in conflict with this Ordinance are hereby rescinded to the extent of said conflict.

SO ORDAINED this the 13th day of January, 2014



Johnny D. Crist, Mayor
City of Lilburn

ATTEST:


Melissa L. Penate, City Clerk

ARTICLE III. NOISE CONTROL

Sec. 42-51. Purpose.

Sec. 42-52. Definitions.

Sec. 42-53. Powers and duties.

Sec. 42-54. Duties and responsibilities of other departments.

Sec. 42-55. Sound measurement procedures.

Sec. 42-56. Sound level limitations.

Sec. 42-57. Exemptions.

Sec. 42-58. Specific prohibited acts.

Sec. 42-59. Temporary relief.

Sec. 42-60. Penalties.

Sec. 42-61. Severability.

Secs. 42-62—42-76. Reserved.

Sec. 42-51. Purpose.

- (a) The City of Lilburn finds that excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and, a substantial body of science and technology exists by which excessive sound may be substantially abated; and, the people have a right to, and should be ensured an environment free from excessive sound, it is the policy of the City of Lilburn to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.
- (b) This article shall apply to the control of sound originating within the limits of the City of Lilburn.

Sec. 42-52. Definitions.

The following words and terms, when used in this article, shall have the following meanings unless the context clearly indicates otherwise.

Ambient sound level is the total sound pressure level in the area of interest including the noise source of interest.

A-Weighting is the electronic filtering in sound level meters that models human hearing frequency sensitivity.

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

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

Commercial facility is any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit.

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

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

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

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

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

Emergency work is 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.

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

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

Legal holiday is a City of Lilburn legal holiday as established by the city each year.

Measuring instrument is an instrument such as a sound level meter, integrating sound level meter or dosimeter used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in the latest version of ANSI Standard S1.4-1983.

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

Muffler is a sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine.

Multiunit building is any building wherein there are two or more dwelling units.

The municipality is the City of Lilburn.

Noise is 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 Lilburn or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.

Noise investigator is a City of Lilburn Police Officer, or designee assigned to investigate and enforce the provisions of this article.

Noise disturbance is any sound that (a) endangers the safety or health of any person, (b) disturbs a reasonable person of normal sensitivities, or (c) endangers personal or real property.

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

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

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

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

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

Residential property is property legally used for human habitation, except for hotels and motels which are commercial establishments.

Sound level is the instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on slow integration speed, unless otherwise noted.

Sound pressure level (SPL) is 20 multiplied by the logarithm, to the base 10, of the measured sound pressure divided by the sound pressure associated with the threshold of human hearing, in units of decibels.

Town Center Overlay is the area designated on the Official Zoning Map of Lilburn.

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

Sec. 42-53. Powers and duties.

The provisions of this article shall be enforced by the City of Lilburn Police Department or Gwinnett County Animal Control as appropriate.

Sec. 42-54. Duties and responsibilities of other departments.

All departments and agencies of the City of Lilburn shall carry out their programs according to law.

Sec. 42-55. Sound measurement procedures.

- (a) Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions.
- (b) All tests shall be conducted in accordance with the following procedures:

- (1) The noise investigator 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, except when the affected party is in a multiunit residential building. In such a case the sound level is measured from any point inside the affected unit.
- (3) The measuring instrument must be calibrated using a calibrator recommended by the measuring instrument manufacturer before and after each series of readings.
- (4) No outdoor measurements shall be taken:
 - a. When wind speeds (including gusts) exceed 15 mph;
 - b. Without a windscreen, recommended by the measuring instrument manufacturer, properly attached to the measuring instrument;
 - c. Under any condition that allows the measuring instrument to become wet (e.g., rain, snow, or condensation); or
 - d. When the ambient temperature is out of the range of the tolerance of the measuring instrument.
- (c) Prior to taking noise measurements the noise 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.
- (d) When measuring continuous sound, or sound that is sustained for more than one second at a time, the measuring instrument shall be set for A-weighting, slow response, and the range (if the measuring instrument is designed to read levels over different ranges) shall be set to that range in which the meter reads closest to the middle of the scale. The minimum and maximum readings shall be recorded to indicate the range of monitored values along with the central tendency average most often displayed.
- (e) The measuring instrument 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 measuring instruments manufacturer.
- (f) 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.
- (g) 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.

Sec. 42-56. Sound level limitations.

- (a) Except as authorized elsewhere in this article, no person shall cause, allow, or permit the operation of any sound 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 sound level limits set forth below unless otherwise noted. Such a sound constitutes a noise disturbance.

TABLE 1 SOUND LEVEL LIMITS BY RECEIVING PROPERTY

Receiving Property	Time	Sound Level Limit
Residential, public space, institutional, or noise sensitive facility	7:00 a.m. to 10:00 p.m. 10:00 p.m. to 7:00 a.m.	70 dBA 65 dBA
Commercial or business	7:00 a.m. to 10:00 p.m. 10:00 p.m. to 7:00 a.m.	75 dBA 70 dBA
Industrial or manufacturing	At all times	85 dBA

- (1) If the noise is an impulsive sound, the fast response setting shall be used and the daytime (7:00 a.m. to 10:00 p.m.) limits of Table 1 shall be increased by 10 dBA.
- (2) In residential multiunit buildings, the limit between 7:00 a.m. and 10:00 p.m. is 55 dBA and between 10:00 p.m. and 7:00 a.m. is 45 dBA, for sounds originating in another dwelling within the same building.

Sec. 42-57. Exemptions.

- (a) The following are exempt from the sound level limits of section 42-56:
 - (1) Noise from public safety vehicles and emergency signaling devices;
 - (2) Noise from celebrations and events with amplified or unamplified sound that are operating within the parameters set forth for approved and permitted special events within the Town Center Overlay area between the hours of 7:00 a.m. and 10:30 p.m., or as otherwise allowed by the Lilburn City Council;
 - (3) Noise 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;
 - (4) Noise that results from the activities of a sports league between the hours of 7:00 a.m. and 11:59 p.m.;
 - (5) Noise from a vehicle alarm or exterior burglar alarm of any building provided such alarm shall terminate its operation within five minutes of its activation;
 - (6) Noise from domestic power tools, lawn mowers, and agricultural equipment when operated between 7:00 a.m. and 10:00 p.m., provided such use generates less than 85 dBA at or within any real property line of a residential property;
 - (7) Sound from bells and chimes while being used in conjunction with a governmental facility, religious observance or service;
 - (8) Noise from construction activity, including the operation of tools or equipment used in construction, drilling, earthmoving, excavating, or demolition work between the hours of 7:00 a.m. and 9:00 p.m. on a weekday or when the following day is a weekday, and between 8:00 a.m. and 8:00 p.m. on a weekend day or legal holiday or when the following day is a weekend day or legal holiday, except for emergency work, by a

- waiver issued pursuant to section 42-39, or when the sound level does not exceed any applicable limit specified in section 42-56;
- (9) Noise from snow blowers, snow throwers, and snow plows when operated with a muffler for the purpose of snow removal;
 - (10) Noise from emergency work;
 - (11) Noise from surface carriers engaged in commerce by railroad;
 - (12) Noise from garbage cans, refuse, or similar collection, or the compacting of refuse by persons engaged in garbage collection, whether private or municipal, between the hours of 7:00 a.m. and 8:00 p.m. on a weekday or when the following day is a weekday, and between 8:00 a.m. and 8:00 p.m. on a weekend day or legal holiday or when the following day is a weekend day or legal holiday, or when the sound level does not exceed any applicable limit specified in section 42-56;
 - (13) Noise from a commercial vehicle in motion on a public roadway. Nothing in this code section nor any regulation based thereon shall conflict with the Georgia Traffic Code, Georgia Public Service Commission, or Georgia Board of Public Safety regulations applying to the securing of loads and the regulating of equipment on motor vehicles.

Sec. 42-58. Specific prohibited acts.

- (a) No person shall cause, allow, or permit to be made verbally or mechanically any noise disturbance, as defined in section 42-56;
- (b) Notwithstanding the provisions of section 42-56, 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 similar device that reproduces or amplifies sound in such a manner as to create a noise disturbance (as defined in section 42-56) for any person other than the operator of the device;
 - (2) Noise created by animals when it violates the standards adopted in the Gwinnett County Animal Control Ordinance.
 - (3) Owning, possessing, or harboring any animal or bird that, frequently or for continued duration, generates sounds that create a noise disturbance (as defined in section 42-56) across a residential property line;
 - (4) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, liquids, or similar objects, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, between 9:00 p.m. and 7:00 a.m. on a weekday or when the following day is a weekday, and between 9:00 p.m. and 9:00 a.m. on a weekend day or legal holiday or when the following day is a weekend day or legal holiday, when the sound therefrom creates a noise disturbance (as defined in section 42-56) across a residential property line;
 - (5) Operating or permitting the operation of any motor vehicle whose manufacturer's gross weight rating is in excess of 10,000 pounds, 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, on a public

right-of-way or public space within 150 feet of a residential area between 7:00 p.m. and 7:00 a.m.

Sec. 42-59. Temporary relief.

- (a) Any person may apply to the city for a temporary relief from one or more of the provisions of this article. Temporary waivers not exceeding 30 consecutive days may be administratively approved the Lilburn City Manager, or designee. Extended waivers, those exceeding 30 consecutive days, but in no case longer than 12 consecutive months, shall be reviewed and considered by the Lilburn City Council. The city shall establish rules and procedures for reviewing any waiver. Applications for a permit of variance shall supply information including, but not limited to:
- (1) The nature, time and location of the noise source for which such application is made;
 - (2) The reason for which the permit of variance is requested, including the hardship that will result to the applicant or the public if the permit of variance is not granted;
 - (3) The level of noise that will occur during the period of the variance.
- (b) Waivers may be revoked if there is a violation of conditions of the waiver, misrepresentation of fact by the applicant, or material change in any of the circumstances surrounding the application.

Sec. 42-60. Penalties.

Each violation under this article shall constitute a separate and distinct offense. Such offense shall be punishable by a fine not to exceed \$1,000.00, imprisonment in the city or county jail not exceeding six months, or both a fine and sentence of imprisonment; and all sentences may be in the alternative and fines may be imposed with the alternative of sentence to imprisonment if the fines are not paid.

Sec. 42-61. Severability.

If any provision of this article is held to be unconstitutional, preempted by federal law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this article shall not be invalidated.

Secs. 42-62—42-76. Reserved.