STATE OF GEORGIA
COUNTY OF FULTON

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA TO AMEND CHAPTER 38 (OFFENSES AND MISCELLANEOUS PROVISIONS) OF THE CODE OF THE CITY OF SANDY SPRINGS, GEORGIA; TO AMEND PROVISIONS PERTAINING TO ADMINISTRATIVE VARIANCES FROM THE REQUIREMENTS OF DIVISION 2 OF ARTICLE III OF CHAPTER 38; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the Mayor and Council of the City of Sandy Springs ("City Council") are charged with the protection of the public health, safety, and welfare of the citizens of the City of Sandy Springs; and

WHEREAS, the City Council has determined that it is appropriate from time to time to modify the Code of Ordinances of the City of Sandy Springs (the "Code") to further protect the public health, safety, and welfare of the citizens of Sandy Springs.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Sandy Springs, Georgia that the City's Code of Ordinances is amended as follows:

SECTION I: Division 2 of Article III of Chapter 38 relating to Noise is hereby amended by changing the provisions for an administrative variance by deleting the current Division 2 of Article III of Chapter 38 in its entirety and replacing with the amended Division 2 of Article III of Chapter 38 to read as follows:

DIVISION 2. - NOISE

Sec. 38-81. - Purpose and intent.

(a). 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.

(b). In order to ensure attractive residential and commercial areas, it is necessary that an audibly satisfying environment be maintained. It is the policy of the mayor and council to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life. The city is more likely to attract permanent residents and commercial enterprises if it controls and maintains appropriate noise quality, and the residents will ultimately gain financial improvements and protection in their quality of life as a result of these regulations.

(c). This division shall apply to the control of sound originating from sources within the limits of the city.

Sec. 38-82. - Enforcement officers.

(a). The provisions of this division shall be enforced by the code enforcement officers and/or the police officers of the city.

(b). The director of the department of community development, or his/her designee, and the chief of police, or his/her designee, 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 to the effect, if any, of such actions on noise control;

3. Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this division; and

4. Grant permits for variances according to the provisions of section 38-86.

(c). A code enforcement officer or police officer shall be qualified to enforce the provisions of this division if he/she 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);

2. An instructional program in community noise from another qualified code enforcement officer or police officer; or

3. Education or experience or a combination thereof certified by the director of the department of community development or the chief of police as equivalent to the provisions of subsections (c)(1) or (2) of this section.

(d). Noise measurements taken by a code enforcement officer or police officer shall be taken in accordance with the procedures specified in section 38-85.

Sec. 38-83. - Duties and responsibilities of other departments.

(a). All departments and agencies of the municipality shall carry out their programs according to law and shall cooperate with the director of the department of community development and the chief of police in the implementation and enforcement of this division.

(b). All departments charged with new projects or changes to existing projects that may result in the production of noise shall consult with the director of the department of community development and the chief of police, prior to the approval of such projects, to ensure that such activities comply with the provisions of this division.

Sec. 38-84. - Enforcement procedures.

(a). Upon occurrence of a violation of this division, code enforcement officers or police officers having jurisdiction in the area where the violation takes place may issue a citation or summons for the violation returnable to the municipal court of the city.

(b). In lieu of issuing a citation or summons the director of the department of community development and chief of police may issue an order requiring abatement of any sound source alleged to be in violation of this division within a reasonable time period and according to guidelines that the director or chief may prescribe.

(c). No provision of this division 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 division or from other law.

Sec. 38-85. - Sound measurement and reporting.

The standards to be considered and reported in determining whether a violation of this division has occurred may include without limitation the following:

1. Origin of the noise (natural or manmade);
2. Proximity of noise to residential areas;
3. Zoning and use of the area from which the noise emanates;
4. Zoning and use of the area where noise is audible;
5. Time of day or night the noise occurs;
6. Duration of the noise.

Sec. 38-86. - Variances.

(a). Variances to the provisions contained in this division may be requested, in writing, at least 48-hours prior to the proposed operation or event, for consideration by the director of the department of community development and the chief of police. Such a request shall state the following:

1. The reasons that a variances from the provisions of this division are needed;
2. The impact that the denial of this request will have on the applicant's project or event and the surrounding properties;
3. The steps which have been taken by the applicant to communicate those needs and impacts to owners of surrounding and nearby properties;
4. The steps that have or will be taken to limit the impact of the proposed activity upon surrounding and nearby properties, activities and uses;
5. The time at which the proposed activity that requires a variance will occur; and
6. The duration of the proposed activity that requires a variance to the provisions of this division.

(b). No variance shall be approved unless the applicant presents adequate proof that:

1. Noise levels occurring during the period of the variance will not constitute a danger to public health; and
2. Compliance with this division would impose an unreasonable hardship on the applicant; or
3. Compliance with this division would prevent a benefit to the public equal to or greater than any detriment caused by non-compliance.

(c). In making the determination of granting a variance, the director of the department of community development and the chief of police shall consider the following:

1. The character and potential or actual degree of injury to, or interference with, the health and welfare of the public or the reasonable use of adjoining properties;

2. The social and economic value of the activity for which the variance is sought;
3. The ability of the applicant to apply the best practical noise control measures;
4. The time and duration of the activity for which the variance is sought; and
5. The location of the activity in relationship to adjoining properties, uses and activities

(d). If the director of the department of community development and the chief of police find that the variance application adequately demonstrates the need for a variation from the provisions of this division and adequately provides for the amelioration of the impact upon surrounding and nearby properties, an administrative variance shall be granted allowing for one variation within one 24 hour period. For commercial development, a second administrative variance may be granted for an additional 24 hour period upon demonstration of just cause and amelioration of impact upon surrounding and nearby properties. Thereafter, a residential or commercial applicant may request up to three (3) additional variances to the provisions of this division by submission to the zoning board of appeals.

(e). The permit of variance may be revoked by the director of the department of community development and the chief of police if the terms of the permit of variance are violated. A variance may be revoked if there is a:

1. Violation of one or more conditions of the variance;
2. Material misrepresentation of fact in the variance application; or
3. Material change in any of the circumstances relied on in granting the variance.

(f). Upon request of the applicant no less than forty-eight (48) hours prior to the date granted for a variance, in the event of unforeseen circumstances, including without limitation forecast of inclement weather, which in the sole discretion of the director of the department of community development and the chief of police renders the approved date of the permit of variance unreasonable, impractical or impossible to carry out the stated purpose of the variance, the director of the department of community development and the chief of police shall have the authority to approve an alternative date for any permit of variance issued pursuant to this division.

Sec. 38-87. - Prohibited noises.

(a). Noises considered loud or disturbing to health deemed nuisance. It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise, or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others in the city.

(b). Acts declared violations. The following acts are declared to be loud, disturbing, and unnecessary noise in violation of this section, but this enumeration shall not be deemed to be exclusive:

1. Horns, signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place in the city except as a danger warning, the creation of any unreasonably loud or harsh sound by means of any signaling device and the sounding of any device for an unnecessary and unreasonable period of time, the use of any signaling device except one operated by hand or electricity;

the use of any horn, whistle or other device operated by engine exhaust, and the use of any signaling device when traffic is for any reason held up.

2. Radios, phonographs and similar devices. The playing, using or operating, or permitting to be played, used, or operated, of any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time with a volume louder than necessary for the convenient hearing of the person who is in the room, vehicle, or chamber, in which the machine or device is operated, and who is a voluntary listener thereto. The operation of any set, instrument, phonograph, machine, or device between the hours of 11:00 p.m. and 7:00 a.m. on weekdays and between the hours of 12:00 a.m. and 7:00 a.m. on weekends and holidays when the audibility of the prohibited noise is measured from property line of adjacent properties or the public right-of-way of the property shall be prima facie evidence of a violation of this section.

3. Loudspeakers and amplifiers for advertising. The playing, using or operating, or permitting to be played, used, or operated, of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.

4. Yelling, shouting, hooting, whistling, or singing. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel, or other type of residence or of any person in the vicinity.

5. Animals and birds. The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

6. Steam whistles. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper city authorities.

7. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motorboat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

8. Defect in vehicle or load. The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in a manner as to create loud and unnecessary grating, grinding, rattling, or other noise.

9. Loading, unloading and opening boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

10. Construction or repair.

    a. Construction of any type, including, but not limited to, the erection (including excavation), demolition, alteration, or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, stream or

electric hoist, automatic nailers or staplers, or any similar equipment attended by loud or unusual noise, shall be prohibited during the following times: Before 7:30 a.m. or after 7:30 p.m. on weekdays, and before 8:00 a.m. or after 5:00 p.m. on Saturdays, and at any time on Sundays and/or legal holidays (New Years' Day (as observed by the city), Memorial Day, Independence Day (as observed by the city), Labor Day, Thanksgiving Day and Christmas Day (as observed by the city)).

b. Landscape contractor using any type of motorized mowers or mechanical blowers and other equipment which create loud and excessive noise shall be prohibited, during the following times: Before 7:30 a.m. or after 7:30 p.m. on weekdays, and before 8:00 a.m. or after 5:00 p.m. on Saturdays, and at any time on Sundays and/or legal holidays (New Years' Day (as observed by the city), Memorial Day, Independence Day (as observed by the city), Labor Day, Thanksgiving Day and Christmas Day (as observed by the city)).

11. Schools, courts, places of worship and hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, place of worship, or court, while in use, or adjacent to any hospital which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in those streets indicating a school, hospital, or court street.

12. Hawkers, peddlers and vendors. The shouting and crying of peddlers, hawkers, and vendors which disturb the peace and quiet of the neighborhood.

13. Noise to attract attention. The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, or sale.

14. Transportation of metal rails, similar materials. The transportation of rails, pillars, or columns of iron, steel, or other material over and along streets and other public places so as to cause loud noises or as to disturb the peace and quiet of those streets or other public places.

15. Blowers. The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from the blower or fan is muffled and the engine is equipped with a muffler device sufficient to deaden the noise.

16. Sound trucks. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other commercial purposes. The use of sound trucks for noncommercial purposes during hours and in places and with volume as would constitute this use as a public nuisance, provided that the provisions of this section shall not apply to or be enforced against:

    a. Any vehicle of the city while engaged in necessary public business;

    b. Excavations or repairs of streets by or on behalf of the city, county, or state at night when the public welfare and convenience renders it impossible to perform such work during the day; or

    c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.

Secs. 38-88—38-117. - Reserved.

SECTION II: It is the intention of the City Council and it is hereby ordained by the authority of the City Council that the provisions of this Ordinance shall become and be made a part of The Code of the City of Sandy Springs, Georgia, and the codifier is authorized to make the specified deletions, insertions, additions, and to insert headings, article numbers and section numbers as and where appropriate.

SECTION III: All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION IV: If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, 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, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained therein.

SECTION IV: This Ordinance shall become effective immediately upon adoption.

APPROVED AND ADOPTED this the 7h day of February, 2017.

Approved:

Russell K. Paul, Mayor

Attest:

Michael D. Casey, City Clerk

(Seal)