

1. Agenda

Documents:

[BOMC-1-28-19-PH-AGENDA.PDF](#)

2. Meeting Called To Order/Adoption Of Agenda
3. Receive Public Comment On Proposed Noise Ordinance

Documents:

[AE FINAL NOISE ORDINANCE.PDF](#)

4. Adjournment



**BOARD OF MAYOR AND COMMISSIONERS  
PUBLIC HEARING  
January 28<sup>th</sup>, 2019  
6:30 p.m.**

**AGENDA**

- Item No. 1            Meeting Called to Order
- Item No. 2            Adoption of Agenda
- Item No. 3            **Receive Public Comment on Proposed Noise Ordinance**  
The existing noise ordinance does not address the unique conditions in the City's Central Business District (CBD). The proposed ordinance will address the CBD.
- Item No. 4            Adjournment

**ORDINANCE NO. 19-\_\_\_\_**

**AN ORDINANCE TO AMEND CHAPTER 12 OF THE CITY'S CODE TO PROHIBIT DISTURBING THE PEACE BY THE MAKING OF DISTURBING NOISE WITHIN THE CITY; TO ESTABLISH SEPARATE CRITERIA FOR DISTURBING THE PEACE IN RESIDENTIAL AREAS AND IN COMMERCIAL AREAS; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

**WHEREAS**, the making of excessive noise tends to negatively impact the health, safety and welfare of the citizens of Avondale Estates; and

**WHEREAS**, excessive noise tends to interfere with the use and enjoyment of private property by property owners and residents of the City of Avondale Estates; and

**WHEREAS**, the Board of Mayor and Commissioners is empowered by City Charter Section 1.12(a)(11) to regulate and prohibit any act, practice, conduct, or use of property which is detrimental to the health, welfare, or safety of the inhabitants of the City and to provide for the enforcement of such standards; and

**WHEREAS**, the City's existing noise ordinance does not distinguish between the City's commercial and residential property; and

**WHEREAS**, the Board of Mayor and Commissioners finds that it is in the public interest to establish separate standards for disturbing the peace for the residential areas of the City and the commercial areas so that the quiet repose of residential areas may be protected while allowing activity in the commercial areas to generate a level of sound that might be inappropriate in the residential areas.

**NOW THEREFORE, BE IT ORDAINED BY** the City of Avondale Estates Board of Mayor and Commissioners as follows:

**SECTION 1.** City Code Section 12-4 is hereby deleted in its entirety.

**SECTION 2.** The attached document, entitled "CITY OF AVONDALE ESTATES NOISE ORDINANCE" and consisting of 5 pages is hereby adopted, to be codified as new City Code Sections 12-4, 12-4.1, 12-4.2 and 12-4.3.

**SECTION 3.** The individual provisions, subsections, paragraphs, subdivisions and clauses of the Avondale Estates Noise Ordinance are intended to be severable. Should any portion of the Ordinance be judged invalid by a Court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of the Ordinance.

**SECTION 4.** The Avondale Estates Noise Ordinance shall become effective upon its adoption by the Board of Mayor and Commissioners and shall be a public record available for inspection at City Hall during regular business hours.

**BE IT FURTHER ORDAINED** by the Board of Mayor and Commissioners that nothing in the Avondale Estates Noise Ordinance is intended to prevent the lawful exercise of the individual right to freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or the State of Georgia and said Ordinance shall not be construed to infringe upon said freedoms.

**SO ORDAINED, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019.**

**BOARD OF MAYOR AND COMMISSIONERS  
CITY OF AVONDALE ESTATES, GEORGIA**

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**Jonathan Elmore, Mayor**

**ATTEST:**

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Gina Hill, City Clerk

**APPROVED AS TO FORM:**



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Stephen G. Quinn  
Assistant City Attorney

## CITY OF AVONDALE ESTATES NOISE ORDINANCE

### **Sec. 12-4 – Disturbing the Peace; Definitions.**

*"A" weighted sound level* means the sound level reported in units of dB(A) approximating the response of human hearing when measuring sounds of low to moderate intensity as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

*ANSI* means the American National Standards Institute.

*Commercial Area* means any parcel of land which is not zoned for single-family residential use only.

*Decibel (dB)* means the unit for the measurement of sound pressure based upon a reference pressure of twenty (20) micropascals (zero (0) decibels), i.e., the average threshold of hearing for a person with very good hearing.

*Single-Family Residential Area* means any parcel of land which is zoned exclusively for single-family residential use. Under the present zoning classification system of the city, Single-Family Residential Areas are zoned R-24 and R-12.

*Sound* means any oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency. Bass reverberations constitute sound.

*Sound level meter* means an instrument that conforms to ANSI S1.4-1983 or its successors.

### **Sec. 12-4.1 - Disturbing the Peace; Public Streets and Single Family Residential Areas.**

(a) *Applicability.* This section shall apply to sound originating on any public street or Single-Family Residential Area of the city.

(b) *Prohibition.* It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual sound or noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others in the city, and which is audible to a person of normal hearing ability more than fifty (50) feet from the point of origin of the sound or noise.

(c) The following acts among others are declared to be loud, disturbing and unnecessary sound or noises 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 such signaling device and the sounding of such 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 such signaling device when traffic is held up for any reason.

(2) *Radios, phonographs, similar devices.* The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle or chamber in which such machine or device is operated and who is a voluntary listener thereto. The operation of this set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the room, building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(3) *Loudspeakers, amplifiers for advertising.* The using, 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, etc.* 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 persons in the vicinity.

(5) *Animals, birds.* Anyone who keeps or maintains an animal or bird that disturbs the comfort or repose of any person because the animal or bird is emitting frequent or long-continued sound or noise, and who continues to keep, maintain or allow any animal or bird to disturb the comfort or repose of any person shall be deemed in violation of this section; provided, the person keeping or maintaining such animal or bird has been first notified in writing by certified mail, return receipt requested, by the complaining party that the animal or bird being kept by the addressee is disturbing such person's comfort or repose. This section shall be liberally construed to accomplish the objectives thereof and the person making the written notification need not use the exact words of this section to the addressee so long as the notification sufficiently informs the addressee of the nature of the disturbing noise emitted by any animal or bird.

(6) Reserved.

(7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat except through a muffler or

other device which will effectively prevent loud or explosive noises therefrom. The use of special or modified standard equipment exhaust devices on automotive vehicles to increase or modify the sound emitted by the exhaust is prohibited.

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

(9) *Loading, unloading, 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 of buildings.* The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 10:00 p.m., Monday through Saturday, except that the city may determine when the loss or inconvenience that would result to any party in interest is of such nature as to warrant special consideration, then the city may grant a permit for a period not to exceed ten (10) days or less for this work to be done within the hours of 10:00 p.m. and 7:00 a.m.

(11) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while it is in use, or adjacent to any hospital, which unreasonably interferes with the working of the institution, or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in these streets indicating that it is a school, hospital or court street.

(12) *Hawkers, peddlers, vendors.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(13) *Noises 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 upon carts, drays, cars, trucks or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of the streets or other public places.

(15) *Pile drivers, hammers, similar equipment.* The operation, between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual sounds or noises.

(16) *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 such blower or fan is muffled and the engine is equipped with a muffler device sufficient to deaden this noise.

(17) *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 such hours and in such places and with such volume as would constitute this use as a public nuisance.

(d) *Exemptions.* The provisions of this section shall not apply to or be enforced against the following:

- (1) Any vehicle of the city or county while engaged in necessary public business.
- (2) Excavations or repairs of streets by or on behalf of the city, county, or state at night when public welfare and convenience renders it impossible to perform this work during the day.
- (3) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.
- (4) Any event that is permitted by the city and specifically exempted from this ordinance in advance by the city manager.

#### **Sec. 12-4.2. Disturbing the Peace; Commercial Areas.**

(a) *Applicability.* This section shall apply to sound originating on any property within the Commercial Areas of the City, excluding public streets.

(b) *Prohibited sound levels during designated hours.* No person shall cause, suffer, allow, or permit the operation of any source of sound on any property within any Commercial Area of the city that is measured in accordance with this section to be in excess of the stated limitations during the stated periods of time:

(1) eighty (80) dB(A) between 7:01 a.m. and 10:59 p.m. every day, and between 11:00 p.m. and 11:59 p.m. on Friday and Saturday.

(2) seventy three (73) dB(A) between Midnight and 7:00 a.m. every day, and between 11:00 p.m. and 11:59 p.m. on Sunday, Monday, Tuesday, Wednesday and Thursday.

(c) *Procedures for the determination of sound levels.* All sound measurements made pursuant to the enforcement of this section shall comply with the following regulations:

(1) All sound measurements shall be made upon the affected property, at a distance of twenty (20) feet from the property line of the property upon which the noise under investigation emanates. When instrumentation cannot be placed at twenty feet from the property line, the measurement shall be made as close thereto as possible and the location of the measurement noted on any citation issued pursuant to this section.

(2) For the purposes of this ordinance, sound measurements are measured on the A-weighted sound scale of a sound level meter of standard design and quality having characteristics established by ANSI and having been properly calibrated according to accepted practice established by ANSI.

(3) The sound level meter and calibrator must be recertified annually at an accredited laboratory certified to meet the requirements of ANSI Z540-1-1994, ANSI Z540-3-2006 and



ANSI R205. A field check of meter calibration and batteries must be conducted before and after every set of measurements and shall be noted on any citation issued pursuant to this section.

(4) Whenever a citation is issued pursuant to this section, the officer issuing the citation shall measure the residual sound level at the same location which the offending sound was measured as soon as possible after the offending noise is silenced. The officer issuing the citation shall record such residual sound level and include this information on the citation issued.

(d) *Exemptions.* The provisions of this section shall not apply to or be enforced against the following:

(1) Any activity carried out by the state, city or county government while engaged in necessary public business;

(2) The erection (including excavating), demolition, alteration or repair of any building between the hours of 7:00 a.m. and 10:00 p.m., Monday through Saturday;

(3) Any event that is permitted by the city and specifically exempted from this ordinance in advance by the city manager.

#### **Sec. 12-4.3. Disturbing the Peace; Violations and Penalties.**

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

(b) Any person found to be disturbing the peace in violation of this ordinance for the first time within a given calendar year shall be issued a written warning by the police or code enforcement officer rather than a citation. Such warning shall be filed and indexed appropriately by such officer to facilitate the enforcement of this ordinance.

(c) Any person that does anything prohibited or fails to do anything required by this ordinance, whom has already received a written warning for disturbing the peace during the current calendar year, shall be issued a citation by a police officer or a code enforcement officer.

(d) Where a citation is issued for disturbing the peace in violation of this ordinance and the person so cited is convicted in municipal court for violation of this ordinance, the municipal court shall impose the following penalties:

(1) upon a first conviction for disturbing the peace within a given calendar year, the court shall impose a fine of one hundred dollars (\$100.00);

(2) upon a second conviction for disturbing the peace within a given calendar year, the court shall impose a fine of two hundred and fifty dollars (\$250.00);

(3) upon a third conviction for disturbing the peace within a given calendar year, the court shall impose a fine of five hundred dollars (\$500.00); and

(4) upon a fourth conviction for disturbing the peace within a given calendar year, the court shall impose a fine of one thousand dollars (\$1,000.00) and may also sentence the offender to up to six months of confinement if the court deems appropriate.