

STATE OF GEORGIA

CITY OF ROSWELL

First Reading: March 24, 2014

Second Reading: April 14, 2014

ORDINANCE TO AMEND CHAPTER 13, "OFFENSES AND MISCELLANEOUS PROVISIONS" AND CHAPTER 8, "HEALTH AND PUBLIC SAFETY" OF THE CODE OF ORDINANCES OF THE CITY OF ROSWELL

WHEREAS, State law provides that the governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law; and

WHEREAS, the Mayor and Council of the City of Roswell are charged with the protection of the public health, safety and welfare; and

WHEREAS, the Mayor and Council now wish to update the Ordinance regarding noise within the City of Roswell:

NOW, THEREFORE, the Mayor and Council of the City of Roswell, pursuant to their authority, do hereby adopt the following amendment:

1.

Chapter 13, *Offenses and Miscellaneous Provisions*, of the Code of Ordinances of the City of Roswell, Georgia is hereby amended by adding a new Section to Article 13.1, *Offenses Involving Public Peace and Order* to read as follows:

Section 13.1.13. - Noise control.

(a) *Purpose*. This section is enacted to protect, preserve and promote the health, safety and welfare of the citizens of the City of Roswell through the control of noise. It is the intent of this section to establish standards that will reduce excessive community noises, which are harmful and otherwise detrimental to individuals and to the community in the enjoyment of life and property and in the conduct of business.

(b) *Sound measurement standards for law enforcement or code enforcement personnel*. For the purposes of this section, "plainly audible" shall mean any sound emanating from the specific sound-producing sources set forth below which can be heard from the distances set forth below, using the following 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 discernible. For music and other noise, bass reverberations are included.

(c) *Prohibited conduct.*

(1) *Restrictions of 300 feet for 7:00 a.m. through 11:00 p.m. Sunday through Thursday and 7:00 a.m. through 12:00 midnight on Friday and Saturday.*

- a. *Mechanical sound-making devices.* It is unlawful for any person or persons to play, use, operate, or permit to be played, used, or operated any radio receiving device, television, stereo, musical instrument, phonograph sound amplifier or other machines or devices for the producing, reproducing or amplifying of sound and/or noise at such a volume and in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 300 feet or more from the building, structure, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest, between the hours of 7:00 a.m. and 11:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 12:00 midnight on Friday and Saturday.
- b. *Human-produced sounds.* It is unlawful for any person or persons to yell, shout, hoot, whistle, or sing on the public streets or sidewalks or on private property so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 300 feet or more from the place, building, structure, 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. Sunday through Thursday and between the hours of 7:00 a.m. and 12:00 midnight on Friday and Saturday.
- c. *Commercial advertising.* It is unlawful for any person or persons to use, operate, or permit to be used or operated any radio receiving device, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract the attention of the public to any building, structure or vehicle in such a manner so as to create, or cause to be created, any

noises or sounds which are plainly audible at a distance of 300 feet or more from the source of the sound cast upon the public streets or other public property or from the building, structure, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest, between the hours of 7:00 a.m. and 11:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 12 midnight on Friday and Saturday.

- d. *Party noise.* It is unlawful for any person or persons in charge of a party or other social event that occurs on any private property to allow that party or social event to produce noise in such a manner that such noise is plainly audible at a distance of 300 feet or more from the building or structure from which the noise is emanating or in the case of real property, beyond the property limits, on which the party or social event is located, whichever is farthest, between the hours of 7:00 a.m. and 11:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 12 midnight on Friday and Saturday. For the purposes of this subsection, a "person in charge of a party or other social event" shall mean any adult person who resides in or on the premises involved in such party or social event and is present at such party or social event. For the purposes of this subsection, "noise" shall mean the same sounds, or any combination thereof, as described in paragraphs a. or b. above.

(2) *Restrictions of 100 feet for 11:00 p.m. through 7 a.m. Sunday through Thursday and 12:00 midnight through 7:00 a.m. on Saturday and Sunday.*

- a. *Mechanical sound-making devices.* It is unlawful for any person or persons to play, use, operate, or permit to be played, used, or operated any radio receiving device, television, stereo, musical instrument, phonograph sound amplifier or other machines or devices for the producing, reproducing or amplifying of sound and/or noise at such a volume and in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 100 feet or more from the building, structure, or motor vehicle or in the case of real property, beyond the property limits, in which it is located,

whichever is farthest, between the hours of 11:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday.

- b. *Human-produced sound.* It is unlawful for any person or persons to yell, shout, hoot, whistle, or sing on the public streets or sidewalks or on private property so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 100 feet or more from the place on public streets and sidewalks, or in the case of private real property, beyond the property limits, on which the person is located, whichever is farthest, between the hours of 11:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday.
- c. *Commercial advertising.* It is unlawful for any person or persons to use, operate, or permit to be used or operated any radio receiving device, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets or other public property for the purpose of commercial advertising or which serves to attract the attention of the public to any building, structure or vehicle in such a manner so as to create, or cause to be created, any noises or sounds which are plainly audible at a distance of 100 feet or more from the source of the sound cast upon the public streets or other public property or from the building, structure, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest, between the hours of 11:00 p.m. and 7:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday.
- d. *Party noise.* It is unlawful for any person or persons in charge of a party or other social event that occurs on any private property to allow that party or event to produce noise in such a manner so as to such noise is plainly audible at a distance of 100 feet or more from the building or structure from which the party noise is emanating or in the case of real property, beyond the property limits, on which the party or social event is located, whichever is farthest, between the hours of 11:00 p.m. and 7:00 a.m. Sunday

through Thursday and between the hours of 12:00 midnight and 7:00 a.m. on Saturday and Sunday. For the purposes of this subsection, a "person in charge of a party or other social event" shall mean any adult person who resides in or on the premises involved in such party or social event and is present at such party or social event. For the purposes of this subsection, "noise" shall mean the same sounds, or any combination thereof, as described in paragraphs a. or b. above.

- (3) *Animal noise.* Owners and agents of owners of domesticated animals shall not permit any vocalizations (including, but limited to barking, howling, baying, and crying or other noise) for more than ten (10) continuous minutes without interruption or thirty (30) minutes if intermittent. Each offense or occurrence will result in a separate offense

(4) *Exemptions*

- (a) Noise generated from municipally sponsored or approved celebrations and/or events shall be exempt from these provisions.
- (b) The following are also exempt from this provisions:
- (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 a burglar alarm of any building, provided such burglar alarm shall terminate its operation within five (5) minutes of its activation if the sound is not intermittent or within ten (10) continuous minutes if the sound is intermittent;
 - (3) Noise from any automobile alarm, provided such alarm shall terminate its operation within five (5) continuous minutes of its activation if the sound is not intermittent or ten (10) continuous minutes if the sound is intermittent;
 - (4) The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;
 - (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) Carillons, chimes or unamplified bells while being used in conjunction with religious services between the hours of 7:00 a.m. and 10:00 p.m.;
 - (7) Emergency work approved by the director of transportation, police chief, fire chief or the director of public works or the chief building inspector of the city;
 - (8) Surface carriers engaged in commerce by railroad;
 - (9) Organized sports league activity sponsored by a school or the City of Roswell that is otherwise in compliance with the Code of Ordinances of the City of Roswell, Georgia;
 - (10) Noise that results from landscaping and lawn maintenance between
the hours of 7:00 a.m. and 7:00 p.m.;
 - (11) Noise that results from construction both private and commercial between the hours of 7:00 a.m. and 7:00 p.m.

2.

Chapter 8, *Health and Public Safety*, of the Code of Ordinances of the City of Roswell, Georgia is hereby deleting 8.8.3(s) in its entirety and replacing it with a new Section 8.8.3(s) to read as follows:

Section 8.8.3 Types of Nuisances.

(s) Noise. Making, continuing or causing to be made or continued acts which are done or accomplished or carried on in such a manner, or with such volume and intensity, or with continued duration so as to annoy, to distress, or to disturb the quiet, comfort, or repose of any person of reasonable nervous sensibilities within the vicinity or hearing thereof

Severability. Should any court of competent jurisdiction declare any section or part of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

3.

Repeal of Conflicting Provisions. All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.

4.

Renumbering. It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Roswell, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

This Ordinance shall take effect and be in force from and after the day of its adoption, the public welfare demanding it.

The above Ordinance was read and approved by the Mayor and Council of the City of Roswell, Georgia, on the ____ day of _____ 2014.

Attest:

Jere Wood, Mayor

Marlee Press, City Clerk
(Seal)

Councilmember Jerry Orlans

Councilmember Rebecca Wynn

Councilmember Betty Price

Councilmember Richard Dippolito

Councilmember Kent Igleheart

Councilmember Nancy Diamond