

ORDINANCE 2021-07

AN ORDINANCE OF THE CITY OF SMYRNA, GEORGIA, PROVIDING FOR THE AMENDMENT OF THE CODE OF ORDINANCES OF THE CITY OF SMYRNA, TO AMEND SECTION 50-8, ADD SECTION 50-8.1 AND AMEND SECTION 46 IN ORDER TO BETTER REGULATE CONSUMER FIREWORKS TO THE EXTENT ALLOWED BY STATE LAW.

Sec. 50-8 – On December 31, fireworks may be ignited from 10 a.m. up to and including an ending time of 1:00 a.m. on January 1. On all other days, it shall be unlawful to ignite fireworks between 12 midnight and 9:59 a.m. at any time up to and including an ending time of 1:00 a.m. On all other days, it shall be unlawful to ignite fireworks between 12 midnight and 9:59 a.m.

Sec. 50-8.1 - Special use permit for consumer fireworks

- (a) All persons desiring to use, ignite or cause to be ignited consumer fireworks on any day from 10:00 a.m. to 11:59 p.m., other than on those days allowed by O.C.G.A. § 25-10-2(b)(3)(B)(ii) & (iii), shall obtain a special use fireworks permit and be subject to all rules and regulations of this chapter as well as the provisions of section 46-1 of this Code.
- (b) All persons desiring to ignite consumer fireworks within any park, historic site, recreational area, or other property which is owned by or operated by, for, or under the custody and control of the city shall obtain written permission from the city administrator or his/her designee to do so and must also obtain a special use fireworks permit and be subject to all the rules and regulations of this chapter.
- (c) No person shall be authorized to use ignite or cause to be ignited fireworks on any day, other than on those days allowed by O.C.G.A. § 25-10-2(b)(3)(B)(ii) & (iii), from 9:00 a.m. to 11:59 p.m. until he/she obtains a special use permit from the fire marshal. All special use consumer fireworks permit applications shall be submitted electronically through the City's permit application system.
- (d) The applicant, as a condition precedent to the issuance of the permit, shall pay for the permit at the price fixed by the mayor and council.
- (e) Consumer fireworks shall be used in accordance with their affixed caution and warning labels.

- (f) Consumer fireworks shall only be used in accordance with all applicable local, state and federal laws.
 - (g) A permit under this chapter shall be valid for only the dates, times, and locations approved.
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Sec. 46-1. - Noise regulation.

All terminology used in this article not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- (a) Definitions. The following words and terms, when used in this section, shall have the following meanings:

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

Ambient sound level shall mean the A-weighted sound level of all sounds associated with a given environment, exceeded by 90 percent of the time (L90) measured and being a composite of sounds from many sources during the period of observation while the sound from the noise source of interest is not present.

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

Commercial or business property category includes 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 is any site preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

Continuous sound is a sound that has a constant or regular duration exceeding two minutes of time.

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

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

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

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

Impulsive sound is a sound having duration of less than one minute with an abrupt onset and rapid decay and an occurrence of three times in 30 minutes.

Industrial or manufacturing property category includes any property which is used primarily for manufacturing or processing.

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

Legal holidays recognized by Smyrna include New Year's Day, Martin Luther King, Jr. Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, and Christmas Day.

Mixed use district is established to provide locations for planned mixed use development of commercial, office and residential uses. The proper definition can be found in appendix A, section 720, [MU], mixed use district.

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

Multi-family dwelling is any building or other shelter that has been divided into separate units to house more than one family.

Noise is any sound which annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans.

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.

Octave band is all of the components in a sound spectrum whose frequencies are between two sine waves components separated by an octave.

Premises shall mean any building, structure, land, utility or portion thereof, including all appurtenances, and shall also include yards, lots, courts, inner yards and real properties without buildings or improvements, owned and controlled by a person.

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

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

Receptor premises shall mean all real property, including appurtenances thereon, which is owned or controlled by any governmental entity and shall include streets, alleys, parks and waterways.

Residential property category includes all property on which people live and sleep or parks or hospitals or schools or nursing homes or that which is not commercial or industrial.

Source premises shall mean the premises (residential, commercial, industrial, and multi-use district) as listed in Table 1 that is emitting noise that is crossing one or more property lines and impacting the receptor premises.

Sound level meter (SLM) is an instrument used to measure sound pressure levels conforming to Type 1 or Type 2 standards as specified in ANSI Standard S1.4-1983 or the latest version thereof.

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

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

(b) *Scope.* The provisions of this section shall apply to the control of all sound originating within the geographical limits of the city and outside the city limits, within all territory to which the jurisdiction of the city extends.

(c) *Sound level limitations.*

- (1) *[Limits by property.]* No person shall cause, suffer, allow, or permit the operation of any sound source in such a manner as to create a sound level that exceeds the continuous and impulsive sound level limits set forth in Table 1. Sound will be measured at 40 feet or the real property line of the source premises to the real property line of the receptor premises, whichever is the greatest distance. If the sound is greater than the limits contained in Table 1, the sound source would constitute a noise disturbance.

Table 1

	Receptor Premises								
	Residential		Commercial		Industrial		Mixed Use District		
Source Premises	7 am— 11 pm	11:01 pm— 6:59 am	7 am— 11 pm	11:01 pm— 6:59 am	7 am— 11 pm	11:01 pm— 6:59 am	7 am— 11 pm	11:01 pm— 4:00 am	4:01 am— 6:59 am
Residential Property	65	60	65	60	65	60	65	60	60
Commercial Property	65	60	70	65	70	65	70	65	65
Industrial Property	70	65	75	70	80	75	75	75	65
Mixed Use District	70	65	70	65	80	75	75	75	65

(2) *Exemptions.* The following are exempt from the sound level limits of subsection (c)(1):

- a. Noise from emergency signaling devices, trains, airplanes;
- b. Sound from church bells and chimes when a part of a religious observance or service;
- c. Noise from landscape and yard equipment when operated between 7:00 a.m. and 9:00 p.m. on weekdays and between 8:00 a.m. and 9:00 p.m. on weekends and legal holidays, provided all motorized equipment are equipped with functioning mufflers.

- d. The erection (including excavation and site development), demolition, alteration or repair of any building in or within 300 feet of any property zoned residential within the city, and the excavation of streets and highways in or within 300 feet of any residential zoning district in the city, other than between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and between the hours of 9:00 a.m. and 6:00 p.m. Saturday, unless such operations which are carried on in such a manner or in such a location as not to create sound exceeding 60 dB(A), when measured at or beyond the property boundary of the property from which the sound emanates.
- e. Noise generated from municipally sponsored celebrations or events shall be exempt from the provisions of this section.
- f. Sounds associated with the use of legal consumer fireworks on those days specified in O.C.G.A. § 25-10-2(b)(3)(B)(ii) & (iii) during the times specified therein.

(d) *Enforcement procedures.*

- (1) The city may prosecute noise-related violations by issuance of a city ordinance citation, in which case, the penalty for a violation shall be as set in city Code section 1-8. If the violation is of a continuing nature, each day during which it occurs shall constitute a separate violation.
- (2) In lieu of issuing a fine as provided in subsection (d)(1), the city judge may issue an order requiring immediate abatement of any sound source alleged to be in violation of this section.
- (3) No provision of this section 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 section or from other law.

This ordinance shall take effect on May 15, 2021 and is passed and duly adopted this 3rd day of May 2021.

CITY SEAL:

The Honorable Derek Norton
Mayor, City of Smyrna, Georgia

ATTEST:

Heather K. Peacon-Corn
City Clerk, City of Smyrna, Georgia

Approved as to form:

Scott Cochran, City Attorney