

9.20.110 - Outdoor recreation activities.

- A. Outdoor recreational activities involving amplified sound, including but not limited to athletic events, sporting events, entertainment events and concerts, may create excessive noise which is detrimental to the public health, safety, welfare and the peace and quiet of the inhabitants of the city and its environs.
- B. The city's existing noise regulations, which require extended off-site measurements of the sound rather than measurements at its source, are very cumbersome and expensive to enforce, especially in connection with outdoor recreational activities.
- C. Limiting sound levels of outdoor activities to ninety (90) dba leq is necessary to protect the public health, safety, welfare and the peace and quiet of the inhabitants of the city.
- D. Limiting sound levels at the source is content neutral. It helps to avoid the problem of complaints being received, and therefore measurements being made and enforcement undertaken, only in connection with certain kinds of activities, or certain kinds of music, which some people may consider objectionable and not other kinds of activities or music which may be just as loud.
- E. A variance procedure can be devised to raise the sound limit or modify the time restrictions upon a showing that a facility, because of its design, location or other characteristics, is capable of handling higher sound levels without substantially increasing the likelihood that violations of the other provisions of this chapter will occur.
- F. It is unlawful for any person to conduct, or permit to be conducted on its property, any outdoor recreational activity, including, but not limited to, entertainment events and concerts at which amplified noise, amplified music, or amplified sound exceeding the following levels is created: ninety (90) dba leq. The noise, music or sound shall be measured at the sound booth or other reasonable location which is not more than one hundred fifty (150) feet from the source. Every person conducting, or permitting to be conducted, on its property, any outdoor recreational activity shall, upon request, permit the City of Metter Police Department, or the chief's designee, to place a sound level monitor (with or without an accompanying staff member) at a location described in this subsection to monitor sound levels.

(Ord. of 6-11-07)

9.20.120 - Permit to exceed.

- A. *Generally.* A person or persons shall be exempt from the provisions of this chapter, upon obtaining a "permit to exceed" from the city.
- B. *Action by the police chief.* The police chief or his/her designee shall act upon all applications for permits to exceed. In considering and acting upon such application, the police chief shall consider, but shall not be limited to, the following:
  - (1) The nature of the requested activity;
  - (2) The previous experience with the applicant;
  - (3) The time of the event;
  - (4) Other activities in the vicinity of the proposed location;
  - (5) The cultural or social benefits of the proposed activity;
  - (6) The effect of the activity on any adjacent residential property.
- C. *Application and permit fee.* An application for a permit to exceed must be submitted to the city at least forty-eight (48) hours prior to the event for which such permit is needed. A fee in the amount of fifteen dollars (\$15.00) must be paid at the time the application is submitted.

- D. *Security deposit.* A deposit in the amount of one hundred dollars (\$100.00) must be paid at the time an application for a permit to exceed is submitted. The purpose of this deposit is to secure the performance of the party requesting the permit to exceed. Upon the satisfaction of all of the conditions of the permit to exceed, such deposit shall be immediately refunded to the applicant. The application permit fee and security deposit should be submitted to:

Re: Permit to exceed  
Metter Police Department  
10 Candler Street  
Metter, GA 30439  
(912) 685-5437

- E. *Conditions of permits.* A permit to exceed shall specify the date, time period and location to which it applies. The permit shall also prescribe the conditions necessary to minimize the adverse effects the event may have upon the community or surrounding neighborhoods. The police chief may require, but shall not be limited to, the following conditions:
- (1) No sound speakers shall be set up more than ten (10) feet off the ground.
  - (2) That permit holders change the arrangement of the amplifying equipment or sound instruments upon the request of the city police department so as to minimize the disturbance to others resulting from the position or orientation of the amplifying equipment.
  - (3) Adequate provisions to insure the proper cleanup of any litter resulting from the event for which the permit to exceed was obtained,
  - (4) If over fifty (50) people attend the event for which the permit to exceed was obtained, adequate private security shall be provided for the purpose of crowd and traffic control. The adequacy of such private security shall be determined by the city police department.
- F. *Limit on permits.* Permits to exceed shall be subject to the following limitations:
- (1) Permits will only be granted for temporary purposes not to exceed eight continuous hours in any one time period;
  - (2) No more than two permits shall be allowed per address (person or group of persons) during any six-month period. January 1 through June 30 shall constitute one six-month period. July 1 through December 31 shall constitute the second six-month period.
  - (3) No permit shall be granted for the time period between 1:00 a.m. and 9:00 a.m.
- G. *Cooperation.* Permit holder(s) shall agree to cooperate with the city police department in enforcing the Noise Ordinance [this chapter] by having the signer(s) of the permit available at the site of the event during the entire time period for which a permit has been issued and capable of assisting the police in enforcing the Noise Ordinance.
- H. *Enforcement.* The permit to exceed shall be revoked and the security deposit forfeited if:
- (1) The signer(s) of the permit fails to be present during the entire time period for which the permit has been issued; or
  - (2) The signer(s) of the permit fails to assist the police in enforcing this chapter; or
  - (3) The signer(s) of the permit fails to comply with any of the conditions of the permit to exceed.
- I. *Effect of permit revocation.* Once the permit to exceed has been revoked, the person or group of persons that obtained the permit shall no longer be exempt from the provisions of this chapter.
- J. *Limitation on Section 9.20.130.* The provisions of this section apply only when a person or group of persons has obtained a permit to exceed, and only on the date and during the time period set forth in such permit. The provisions of this chapter apply at all other times.

(Ord. of 6-11-07)

#### 9.20.130 - Administration.

The enforcement of this chapter shall be the responsibility of the chief of police and/or his or her designee. The police chief shall be responsible for:

- A. Training his or her staff in the proper use and maintenance of the sound level meter;
- B. Training field inspectors;
- C. Procuring measuring instruments and training inspectors in their calibration and operation.

(Ord. of 6-11-07)

#### 9.20.140 - Variance procedure.

- A. The owner or operator of a noise source which violates any of the provisions of this chapter may file an application with the city manager or his designee for a variance from the provisions thereof. The application shall set forth all actions taken to comply with this chapter, the reasons why immediate compliance cannot be achieved, a proposed method for achieving compliance and a proposed time schedule for its accomplishment. If the applicant determines that compliance cannot be feasibly achieved at all, the application shall also set forth the reasons for such determination, the actions which have been taken to comply with this chapter, a proposed method for complying as nearly as is feasible and a proposed time schedule for its accomplishment. Said application shall be accompanied by a fee in the amount established by resolution of the city council. A separate application shall be filed for each noise source provided, however, that several mobile sources under common ownership or several fixed sources on a single property may be combined into one application.
- B. The city shall hold a public hearing on the application for a variance. Notice of the application for a variance and the hearing shall be given in the same manner as notice is given of a hearing on a variance pursuant to the zoning ordinance.
- C. After the public hearing, the city council may grant a variance if the city manager or his designee finds that strict compliance with the requirement of this chapter will cause practical difficulties, unnecessary hardship or unreasonable expense. A variance may be for a limited period and may be subject to any other terms, conditions and requirements as the city council may deem reasonable to achieve maximum compliance with the provisions of this chapter. Such terms, conditions and requirements may include, but shall not be limited to, limitations on noise levels and operating hours.
- D. Each variance shall set forth the approved method of achieving maximum compliance and a time schedule for its accomplishment. The city council shall consider the magnitude of nuisance caused by the offensive noise, the uses of property within the area of impingement by the noise, the time factors related to study, design, financing and construction of remedial work, the economic factors related to age and useful life of equipment and the general public interest and welfare.
- E. The city council shall consider all facts relating to whether strict compliance with the requirement of this chapter will cause practical difficulties, unnecessary hardship or unreasonable expense.

(Ord. of 6-11-07)

#### 9.20.150 - Violations.

- A. Upon the receipt of a complaint from any person, the chief of police or their duly authorized representatives may investigate and assess whether the alleged noise levels exceed the noise standards set forth in this chapter. If such officers have reason to believe that any provision(s) of this chapter has been violated, they shall cause a citation to be served upon the alleged violator. Such citation shall specify the provision(s) of this chapter alleged to have been violated and the facts

alleged to constitute a violation, including dBA readings noted and the time and place of their detection. Upon conviction, the violation shall constitute a misdemeanor. Each such violation committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

- B. The administrative penalty for each violation of this chapter shall be five hundred dollars (\$500.00) if the violator is an individual and one thousand dollars (\$1,000.00) if the violator is a firm, association, copartnership, joint venture, corporation or other entity, public or private in nature.

In addition to the above penalty, if any firm, association, copartnership, joint venture, corporation or other entity is found guilty of violating this chapter twice within a twelve-month period, its occupational tax certificate (business license) shall be suspended for a period of thirty (30) days to begin on the date of the disposition of the second violation. A third violation within a twelve-month period shall result in an occupational tax certificate (business license) suspension for a period of one hundred eighty (180) days.

- C. Citations issued pursuant to this chapter shall be governed by the Magistrate Court of Candler County, Georgia.

(Ord. of 6-11-07)

#### 9.20.160 - Other remedies.

- A. Provisions of this chapter are to be construed as an added remedy of abatement of the public nuisance declared and not in conflict or derogation of any other action, proceedings or remedies provided by law.
- B. Any violation of the provisions of this chapter shall be, and the same is declared to be unlawful and a public nuisance, and the duly constituted authorities of the city shall, upon order of the city council, immediately commence actions or proceedings for the abatement or enjoinder thereof in the manner provided by law and shall take such steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate such nuisance.

(Ord. of 6-11-07)

#### 9.20.170 - Enactment.

This chapter shall be and remain in full force and effect from and after its date and adoption on two separate readings

(Ord. of 6-11-07)