

A GEORGIA MUNICIPAL CORPORATION
STATE OF GEORGIA
COUNTY OF JACKSON

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PENDERGRASS, GEORGIA, TO ESTABLISH AN ORDINANCE PERTAINING TO NOISE AND EXCESSIVE SOUNDS CONTROL, TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND FOR OTHER PURPOSES.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PENDERGRASS, AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME THAT:

Section 1. The Pendergrass City Code of Ordinances be added to by the adoption of this Ordinance, to be titled Chapter 3, "Excessive Noises and Sounds".

Section 2. This Ordinance shall be known as the City of Pendergrass "Noise Control Ordinance".

Section 3. Purpose and Intent. This Chapter is enacted to protect, preserve and promote the health, safety and welfare of the citizens of Pendergrass, Georgia, through the control of noise, a recognized form of environmental pollution. It is the intent of this Chapter to establish objective 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. It is not the intent of this Chapter to regulate noise based on its source but based upon objective volume limitations at objective distances from the source, which for purposes of this Chapter intentionally vary based upon the time of day and reasonable expectations or persons occupying the area during the relevant time period. It is not the intent of this Chapter to regulate speech, either under the Federal or Georgia Constitutions. This Chapter has been narrowly tailored as a content-neutral time, place, and manner regulation to serve a significant governmental interest while leaving open ample opportunity for communication.

Section 4. Enforcement. Whenever the police department or code enforcement official determines that a violation of any of the provisions of this article has occurred, the police department or code enforcement department may cause the issuance of a citation for infraction of this article.

Section 5. General Penalty.

(a) In this section, the term "violation of this Code" means:

(1) Doing an act that is prohibited, made, or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or

(3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b) In this section, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section or it is clear from the context that it is the intent to impose the penalty provided for in this section upon the officer or employee.

(c) Except as otherwise provided:

(1) A person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding six months, or compulsory labor for the city on the streets, sidewalks, squares, or other public places for a period not exceeding 30 days, or any combination thereof;

(2) With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense; and

(3) With respect to violations of this Code that are not continuous with respect to time, each day the violation continues is a separate offense.

(d) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise or other administrative sanctions.

(e) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief and by such other means as are provided by law. The imposition of a penalty does not prevent equitable relief.

State Law reference— Limitations on penalties, O.C. G.A. 36-35-6(a)(2); authority to punish ordinance violations by requiring labor, O.C.G.A. 36-30-8.

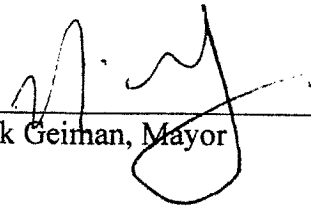
Section 6. All ordinances or parts of ordinances which conflict with the provisions of this ordinance are, to the extent of such conflict and except as hereinafter provided, hereby repealed.

Section 7. Should any provision of this ordinance be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any

provision thereof other than the provisions specifically declared to be invalid. He city council declares that it would have passed this ordinance and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses or phases may be declared invalid.

Section 8. This ordinance shall be in full force and effect upon its official adoption by the City Council and Mayor.

SO ORDAINED, Done, Ratified and Passed this
27 day of August, 2023.



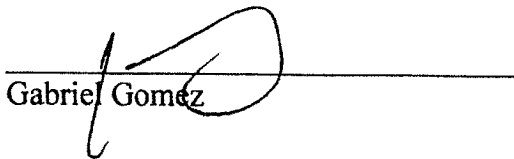
Nick Geiman, Mayor

Tara Underwood



Nathan Pruitt

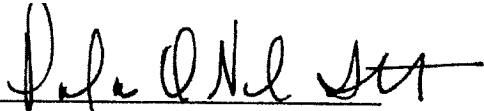
Crystal Hendrix



Gabriel Gomez

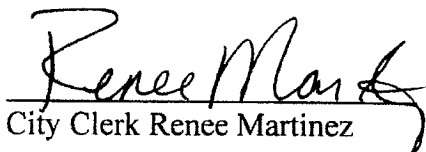
Willie Pittmon

Approved as to form and content:



City Attorney Paula Stewart

Attest:



City Clerk Renee Martinez



Chapter 97. EXCESSIVE NOISE AND SOUNDS

SECTION. 1. - Excessive sounds.

(a) Prohibited. 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 unreasonably or unnecessarily either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others in the city.

(b) Exceptions. The provisions of this section shall not apply to or be enforced against:

- (1) Any vehicle of the city 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 such work during the day. (3) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.

SECTION 2 - Unlawful acts or behavior.

The following acts, among others, shall constitute a violation of this article, but such enumeration shall not be deemed to be exclusive:

- (1) Horns, signaling devices, etc. 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 such signaling device and the sounding of any such device for an unreasonable period of time; the use of any signaling device, except a police whistle or one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any such signaling device when traffic is held up for any reason.
- (2) Radios, television, phonographs, etc. The playing, using or operating, or permitting to be played, used or operated, of any radio receiving set, television 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 any such 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 50 feet from the building, structure or vehicle in which it is located, shall be prima facie evidence of a violation of this section.
- (3) Loudspeakers, amplifiers, etc., for advertising. The playing, using or operating, or permitting to be played, used or operated, of any radio receiving set, musical instruments, 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 without a special permit from the city clerk or city council. 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 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 any person in the vicinity.
- (5) Animals, birds, etc. The keeping of any animal or bird which will disturb the comfort or repose of any persons in the vicinity by making long, continual or frequent noise.
- (6) Steam whistle or horn. The blowing of any train whistle, steam whistle or horn attached to any stationary boiler or locomotive 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, motorboat or motor vehicle, 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 such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (9) Loading, unloading, opening boxes. The creation of 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 repairing of buildings. The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays, except on urgent necessity in the interest of public health and safety, and then only with a permit from the city building inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed by the city council for periods of three days or less while the emergency continues. If the city administrator or Mayor determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways from 8:00 p.m. to 7:00 a.m., and further determines that loss or inconvenience would result to any party in interest, the city administrator or Mayor may grant permission for such work to be done from 8:00 p.m. to 7:00 a.m., upon application made at the time the permit for the work is applied for or during the progress of the work.
- (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 the same are in session or adjacent to any hospital, and which unreasonably interferes with the work of such institution, or which disturbs or unduly annoys patients in the hospital; provided, that conspicuous signs are displayed about such institutions indicating the presence of such institutions.
- (12) Hawkers, peddlers, etc. The shouting and crying of peddlers, hawkers and vendors which disturb 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 to any performance, show or sale by creation of noise.
- (14) Transportation of metal rails, etc. 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 such streets or other public places.
- (15) Piledrivers, hammers, etc. The operation from 8:00 p.m. to 7:00 a.m. of any piledriver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise without a special permit from the city council.
- (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 such engine is equipped with a muffler device sufficient to deaden such 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 or in such places or with such volume as would constitute such use a public nuisance.
- (18) Mechanical music machines. The playing, using or operating, or permitting to be played, used or operated, of any mechanical music machine, jukebox or other noise making device for the producing or reproducing of sound, in such a 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 and appropriate hearing for the person or persons in the room or building in which such machine or device is operated and who is a voluntary listener thereto. The operation of any such machine or device between the hours of 11 p.m. and 7:00 a.m., in such a manner as to be plainly audible from a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

SECTION 3. PENALTIES.

- (a) First Offense. An initial warning regarding any violation of this Chapter shall be given to the violator by the Police Department. Such warning may be oral or written.
- (b) Second Offense. The offending person shall be cited by the Police Department, and upon conviction, such person shall be fined fifty dollars (\$50.00).
- (c) Third Offense. The offending person shall be cited by the Police Department, and upon conviction, such person shall be fined One Hundred and Fifty Dollars (\$150.00).
- (d) Fourth and any subsequent Offenses. The offending person shall be cited by the Police Department, and upon conviction, such person shall be fine Five Hundred Dollars (\$500.00).