

**AN ORDINANCE OF THE CITY OF PEACHTREE CORNERS, GEORGIA TO AMEND AND ADOPT CHAPTER 42 (NUISANCES), ARTICLE IV (NOISE), TO PROVIDE FOR REGULATION OF NOISE; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

**WHEREAS**, the Mayor and Council of the City of Peachtree Corners, Georgia is authorized under Article IX, Section II, Paragraph III of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, and welfare of the citizens of the City of Peachtree Corners, Georgia; and

**WHEREAS**, regulating noise within the city limits serves a public purpose and protects the public interest; and

**WHEREAS**, the Mayor and City Council have determined amending this Ordinance will foster and maintain an enjoyable environment throughout the city.

**NOW THEREFORE, IT IS HEREBY ORDAINED** by the Mayor and City Council of the City of Peachtree Corners, Georgia that the City's Code of Ordinances is amended as follows:

**SECTION I:** Chapter 42, Article IV, relating to Noise, is hereby repealed in its entirety, and will read as follows:

ARTICLE IV. – NOISE

Sec. 42-39. – Title; purpose.

(a) This article shall be known as the "Peachtree Corners Noise Ordinance."

(b) This article is enacted to protect, preserve and promote the health, safety and welfare of the citizens of the City of Peachtree Corners and to maintain an enjoyable environment in residential and commercial areas. It is the intent of this article 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.

Sec. 42-40. – Definitions and sound measurement standards.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Construction noise* shall mean noise associated with building on or developing property including, but not limited to, noise caused by the erection (including excavation), demolition, alteration, or repair of any building, as well as the operation of any earth-moving equipment, crane, saw, drill, pile driver, steam shovel, pneumatic hammer, hoist, automatic nailer or stapler, or any similar device.

*Devices used to attract attention* shall mean any horn, signaling device, radio receiving device, musical instrument, phonograph, loudspeaker, 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 which serves to attract the attention of the public to any building, structure or vehicle.

*Human produced sound* shall mean yelling, shouting, hooting, whistling, or singing on the public streets or sidewalks or on private property.

*Mechanical sound-making devices* shall mean any radio receiving device, television, stereo, musical instrument, phonograph sound amplifier or other machines or devices for the producing, reproducing or amplifying of sound or noise.

*Motorized landscape maintenance devices* shall mean any noise generating motorized equipment used to perform landscape or yard maintenance, including but not limited to, leaf blowers, lawn mowers, weed eaters, or chain saws.

*Multi-family residential units*, for the purposes of this article, shall mean apartment, condominiums, attached townhouses, attached villas, duplexes, and other such residential dwelling units that share a common wall.

*Plainly audible*, for the purposes of this article, shall mean any sound emanating from the specific sound-producing sources set forth in this article which can be heard from the distances set forth in this article, 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 discernable. For music and other noise, bass reverberations are included.

*Property line wall or boundary*, for the purposes of this article, with respect to multi-family residential units shall mean an imaginary line drawn through the points of contact of:

- (1) Adjoining apartments, condominiums, townhouses, duplexes or other such residential dwelling units with adjoining points owned, rented, or leased by different persons; or
- (2) Adjoining common areas or adjoining exterior walls. Said property line or boundary includes all points of a plane formed by projecting the property line or boundary including the ceiling, the floor, and the walls.

Sec. 42-41. – General prohibitions.

(a) *Day and evening hours.* The following prohibitions shall apply 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.

- (1) *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 mechanical sound-making devices 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 vehicle, or in the case of real property, beyond the property limits, in which it is located, whichever is farthest.
- (2) *Human-produced sounds.* It is unlawful for any person or persons to make human-produced sounds 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.

- (3) *Devices used to attract attention.* It is unlawful for any person or persons to use, operate, or permit to be used or operated any device or devices used to attract attention which are cast upon the public streets or other public property 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.
- (4) *Animal produced sounds.* It is unlawful for any person or persons to own, keep, possess or harbor any animal which howls, yelps, barks, chirps or produces other similar noises or sounds, uninterruptedly or almost uninterruptedly for more than 15 minutes in duration, and 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 offending animal is located, whichever is farthest. This section shall not apply if the animal noises or sounds are given as a warning to the presence of a person trespassing, threatening to trespass or otherwise provoking the animal.

(b) *Overnight hours.* The following prohibitions shall apply 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 Friday and Saturday.

- (1) *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 mechanical sound-making device 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.
- (2) *Human-produced sound.* It is unlawful for any person or persons to make human-produced sound 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.
- (3) *Devices used to attract attention.* It is unlawful for any person or persons to use, operate, or permit to be used or operated any device used to attract attention which is cast upon the public streets or other public property 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.
- (4) *Animal produced sounds.* It is unlawful for any person or persons to own, keep, possess or harbor any animal which howls, yelps, barks, chirps or produces other similar noises or

sounds, uninterruptedly or almost uninterruptedly for more than 15 minutes in duration, and which are plainly audible at a distance of 100 feet or more from the place, building, structure, or in the case of real property, beyond the property limits, in which the offending animal is located, whichever is farthest. This section shall not apply if the animal noises or sounds are given as a warning to the presence of a person trespassing, threatening to trespass or otherwise provoking the animal.

(c) *City sponsored events.* The prohibitions contained in this section shall not apply to city sponsored events.

Sec. 42-42. – Specific prohibitions.

(a) *Multi-family residential dwelling units.*

- (1) Except for persons within commercial enterprises that have an adjoining property line or boundary with a residential dwelling unit, it is unlawful for any person to make, continue, or cause to be made or continued any mechanical sound-making devices or human-produced sounds in such a manner as to be plainly audible to any other person a distance of 25 feet beyond the adjoining property line wall or boundary of any multi-family residential unit 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.
- (2) It is unlawful for any person to make, continue, or cause to be made or continued any mechanical sound-making devices or human-produced sounds in such a manner as to be plainly audible to any other person a distance of 10 feet beyond the adjoining property line wall or boundary of any multi-family residential unit 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) *Motorized landscape maintenance devices.* It is unlawful for any person to use or operate any noise-generating, motorized landscape maintenance devices within any residential area or within 300 feet of any residential area from 9:00 p.m. to 7:30 a.m. on weekdays and from 9:00 p.m. to 9:00 a.m. on weekends and holidays.

(c) *Construction noise.*

- (1) It shall be unlawful for any person to make, continue, or cause to be made or continued any construction noise before 7:00 a.m. and after 10:00 p.m. Monday through Friday.
- (2) It shall be unlawful for any person to make, continue, or cause to be made or continued any construction noise on Saturday, Sunday; and on the following federally-recognized holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day.
- (3) Notwithstanding this prohibition, the city manager or designee may grant a permit for construction work to be done before 7:00 a.m. and after 10:00 p.m. Monday through Friday, and between 8:00 a.m. and 8:00 p.m. Saturday, provided the loss or inconvenience that would result to any party in interest is of such a nature as to warrant special consideration, and the work does not unduly affect nearby residential property. This approval may be rescinded if complaints are received.

- (4) The prohibitions of this subsection (c) shall not apply to government road, water, sewer, stormwater construction or maintenance projects or to utility company construction or maintenance projects.
- (d) *Noises or sounds made by business entities in the normal course of such entity's operations.*
- (1) It shall be unlawful for business entities to make continue, or cause to be made or continued any noises or sounds generated in the normal course of such entity's operations through any mechanical sound-making devices, human-produced sounds, or devices used to attract attention that are plainly audible within any residential area more than 300 feet beyond the property boundary of the property from which the noises or sounds emanate between the hours of 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.
- (2) It shall be unlawful for business entities to make continue, or cause to be made or continued any noises or sounds generated in the normal course of such entity's operations through any mechanical sound-making devices, human-produced sounds, or devices used to attract attention that are plainly audible within any residential area more than 100 feet beyond the property boundary of the property from which the noises or sounds emanate between the hours of 11:00 p.m. through 7:00 a.m. Sunday through Thursday and 12:00 midnight through 7:00 a.m. on Friday and Saturday.

Sec. 42-43. – Chronic noise.

- (a) The purpose of this section is to establish a collaborative process for the city and the owner of any property identified as a source of chronic noise (i.e. “chronic noise producer”) prohibited by this chapter and to develop and implement a noise mitigation plan intended to eliminate or reduce the noise to acceptable levels.
- (b) The city manager or designee shall make "chronic noise producer" designations as described in subsection (a) above. In making such a designation, the city manager shall take into consideration the following factors:
- (1) The number and frequency of noise complaints;
  - (2) The proximity and physical relationship between the property and complaining locations;
  - (3) The severity of sound events, both observed or measured;
  - (4) The times and days of the week of sound events; and
  - (5) The property owner's history of cooperation and efforts to alleviate the problem.
- (c) Prima facie evidence of a “chronic noise producer” is established when the city manager or designee notifies the property owner in writing of three or more unrelated incidents occurring at the property within a 12-month period which resulted in citations or summons returnable to a court with jurisdiction.

(d) Upon designation, the city manager or designee shall inform the property owner in writing that the property is designated a chronic noise producer and the city manager or designee shall request an initial meeting with the property owner to review the information that formed the basis of the designation and hear any evidence or information concerning the complained of noise provided by the property owner. Following the initial meeting, the city manager or designee shall determine whether a noise mitigation plan is warranted in order to protect public health, safety and welfare. If the city manager or designee determines that a noise mitigation plan is not warranted, no further action shall be taken under this section.

(e) If the city manager or designee determines that a noise mitigation plan is warranted, the city manager or designee shall develop a written noise mitigation plan for the property owner's review and execution. The plan may include, among other things:

- (1) Specific steps to eliminate or otherwise bring the noise producing activity into compliance with this chapter;
- (2) Restrictions on days of week or hours of noise producing activity;
- (3) Self-monitoring and reporting requirements;
- (4) A schedule for implementation; and
- (5) A schedule for review for possible revision or termination of the plan.

(f) In the event that the owner of a property designated as a chronic noise producer: (i) fails or refuses to participate in good faith in the development of a noise mitigation plan; (ii) refuses to agree to a noise mitigation plan; or (iii) fails to implement or comply with an agreed to noise mitigation plan, the city manager or designee may designate the property owner as non-cooperative and shall notify the mayor and city council of that determination. Should a property owner designated as non-cooperative cure the basis for the designation, the city manager shall remove the designation and notify the property owner and the mayor and city council of that determination.

(g) In the event that further noise enforcement action is taken against a property designated as a chronic noise producer, evidence regarding the property owner's participation in the development and implementation of and compliance with the noise mitigation plan shall be relevant to any prosecution or administrative or judicial review or appeal of the enforcement action. Specifically, such participation and compliance shall be a mitigating factor and may, but is not required to be, a justification for dismissing the enforcement action. A property owner designated as non-cooperative shall not be entitled to the benefits of this subsection unless the designation has been removed.

(h) *Appeals.* A property owner may appeal a chronic noise producer or non-cooperative designation issued by the city manager provided said appeal is made in writing and within ten days after receiving written notice of such designation. Appeals shall be heard by the mayor and city council at a regularly scheduled meeting and within 90 days of receipt of the written appeal. The appellant shall have the right to present evidence at said hearing. A ruling on appeal is subject to review in the superior court of the county by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within 30 days after notice of the decision has been sent to the appellant.

Sec. 42-44. - Exceptions.

The provisions of this article shall not apply to or be enforced against:

- (1) Except as otherwise prohibited in subsection Sec. 42-42(d), noises or sounds caused to be made by business entities in the normal course of such entity's operations.
- (2) Noise from vehicles engaged in necessary city business, personnel performing necessary city functions, or emergency signaling devices.
- (3) Noise from exterior security or burglar alarms of any building or automobile, provided such alarm terminates its operation within 30 minutes of activation.
- (4) Noise from areas designated by the city as entertainment districts, where sound levels shall abide by and be measured in accordance with the provisions of section 6-411.
- (5) Noise from the performance of any work or action necessary to deliver essential services, including but not limited to, water or sewer projects, and other public works related projects; repairing gas, electric, telephone and public transportation facilities; removing fallen trees or debris from the public rights-of-way; or abating emergency conditions threatening the public health, safety or general welfare.
- (6) Noise generated from celebrations, outdoor festivals, or other such event which were approved by the city by contract, permit or otherwise.

Sec. 42-45. - Enforcement.

The provisions of this article shall be enforced by the police department and the City of Peachtree Corners Code Enforcement Division.

Sec. 42-46. - Penalties.

Any person, firm, company, corporation or other entity who violates any provision of this article may be subject to arrest or summoned to appear in a court of competent jurisdiction and, upon conviction or other finding of guilt, be punished by a fine of up to \$1,000.00 or imprisonment for a term not exceeding six months, or any combination thereof.

**SECTION II:** Sections 42-47 - 42-53 of Article IV of Chapter 42 are hereby Reserved.

**SECTION III:** It is the intention of the City Council and it is hereby ordained by the authority of the City Council that the provisions of this Ordinance shall become and be made a part of The Code of the City of Peachtree Corners, Georgia, and the codifier is authorized to make the specified deletions, insertions, additions, and to insert headings, article numbers and section numbers as and where appropriate.

**SECTION IV:** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION V:** If any section, subsection, provision, or clause of any part of this Ordinance is declared invalid or unconstitutional, or, if the provisions of any part of this Ordinance as applied to

any particular situation or set of circumstances is declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained therein.

**SECTION VI:** This Ordinance shall become effective immediately upon adoption.

SO ORDAINED AND EFFECTIVE, this 26<sup>th</sup> day of May, 20  .

Approved:

Mike Mason  
Mike Mason, Mayor

ATTEST:

Kym Chereck  
Kym Chereck, City Clerk

