

ORDINANCE NO. 2013-13

AN ORDINANCE DEFINING NOISE NUISANCES, SPECIFYING CERTAIN ACTS CONSTITUTING NOISE NUISANCES AND PROVIDING THE SAME SHALL NOT BE EXCLUSIVE DEFINING CERTAIN TERMS; PROVIDING A PENALTY FOR VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE AND PROVIDING OTHER MATTERS REALATING THERTO.

BE IT ORDAINED BY THE CITY COMMISSION CITY OF PENITAS, TEXAS:

SECTION 1. Any unreasonable loud, disturbing unnecessary noise which cause material distress, discomfort or injury to person of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is hereafter prohibited.

Any noise of such character, intensity and continued duration, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities, is hereby declared to be a nuisance and is hereafter prohibited.

SECTION 2. The following acts among others ,are declared to be nuisances in violation of this ordinance, but said enumeration shall not to be deemed to be exclusive, to wit:

(a) The playing of any radio, phonograph or other musical instrument in such manner or whit such volume ,particularly during the hours between 10P.M and 7A.M as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence.

(b) The use of any station loud-speaker or amplifier of such intensity that annoys and disturbs person of ordinary sensibilities in the immediate vicinity thereof; the use of any stationary loud-speaker or amplifier operated on any week day between the hours of 10:30 p.m. And 7 a.m. , or at any time on Sunday

(c) The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort and repose of any person of ordinary sensibilities in the immediate vicinity

(d) The continued or frequent sounding of any horn or signal device on any automobile motorcycle,bus,street car or other vehicle except ass a danger warn signal; the creation by means of any such signal device of any unreasonably loud or harsh device for any unnecessary and unreasonable period of time.

(e) The running of any automobile, motorcycle, street car or vehicle so out of repair so loaded or in such manner as to create loud or unnecessary grating, grinding jarring or rattling noise or vibrations.

(f) The blowing of any steam whistle attached to any stationary boiler except to give notices of the time to begin or stop work or as warning of danger.

(g) The discharge into the open air of the exhaust of any steam engine stationary internal combustion engine motor vehicle or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises the reform.

(h) The use of any mechanical device operated by compressed air, unless the noise to be created is effectively muffled and reduced.

(i) The erection, including excavation, demolition, alteration or repair work on any building other than between the hours of 7 am and 6 pm, on week days, except in case or urgent necessity in the interest of the public safety and convenience, and then only by permit from the City Council, which permit may be renewed by the Council during the time the emergency exists.

(j) The creation of any excessive noise on any street adjacent to any school or institution of learning while the same is in session or adjacent to any hospital which unreasonably interferes with the workings of such institutions, providing conspicuous signs are displayed in such manner indicating that the same is a school or hospital street.

(k) The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers.

(m) The use of any drum loud –speaker or other instrument or device for the purpose of attracting attention by the creation of noise to any performance ,show or sale of merchandise.

SECTION 3: Definitions.

A) The word “person” as used in this ordinance shall be construed to impart the singular and plural as the case demands, and shall include corporations, companies, societies, and associations.

B) The word “sound truck” as used herein shall mean any motor vehicle, or horse drawn vehicle having mounted thereon, or attached thereto, any sound amplifying equipment. See “sound amplifying equipment”. The word “sound amplifying equipment” as used herein shall mean any machine or device for the amplification of the human voice, music or any other sound. “Sound amplifying equipment” as used herein shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety.

SECTION 4: Use of sound trucks

A. License required. No person shall operate or cause to be operated any sound truck in the city of Peñitas for any purpose with sound amplifying equipment in operation unless a license has been obtained from the city secretary. The fee for said license shall be one dollar (\$1.00) for non-commercial or civic one-time use three dollars (3.00) for commercial one-time use, and twenty five dollars (\$25.00) for commercial use for year.

B. Application for license. Persons applying for the license under section 4A shall file with the city secretary an application in writing giving in said application the information requested.

C. Issuance of license. City Secretary shall issue a license under Section 4A of this ordinance upon payment of the require license fee unless the application required in section 4B reveals that applicant would violate the regulation city, which shall be valid for one year from the date issued.

D. Possession and display of license. A licensee shall keep such license in his possession in the sound truck during the time the sound truck's sound amplifying equipment is in operation. The license shall be promptly displayed and show to any policeman of the City of Peñitas upon request.

E. Regulation for use. No person shall operate or cause to be operated any sound truck in violation of the regulation set forth hereafter:

1. The only sounds permitted are music or human speech.
2. Operations are permitted for one hour each day except on Sundays and legal holidays when no operation shall be authorized. The permitted one hour of operation shall be between the hours of 4:30 p.m. And 5:30 p.m.
3. Sound amplifying equipment shall not be operated unless a sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour except when such truck is stopped or impeded by traffic. Where stopped by traffic the said sound amplifying equipment shall not be operated for longer than one minute at each such stop.
4. Sound shall not be issued within one hundred yards of hospitals, schools, or churches.
5. The human speech and music amplified shall not be profane lewd indecent or slanderous.
6. The volume of shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound truck and so that volume is not unreasonably loud raucous jarring destructions or a nuisance to person within the area of audibility.

SECTION 5. Any person violating any of the provision of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not more than \$200. Each day a violation under this ordinance continues shall constitute a separate offense.

SECTION 6. All ordinances, regulating noise or mechanic devices for the reproduction and amplification of sound including ordinances No.286 and 98A, are hereby repealed.

SECTION 7. Every section of this ordinance and every provision of each section is hereby declared to be an individual section or provision and the holding of any section or provision of any section to be void ineffective ,or unconstitutional for any cause whatever ,shall not be deemed to affect any other section or provision thereof.

READ, and CONSIDERED on First Reading this the 4 day of December, 2013 at a REGULAR CALLED MEETING OF THE CITY COMMISSION OF THE CITY OF PENITAS, TEXAS, at which a quorum was present and which was held in accordance with Chapter 551, of the Texas Government Code.

CITY OF PENITAS, TEXAS

Marcos Ochoa
MAYOR MARCOS OCHOA



ATTESTED BY:

Ana M. Valdez
CITY SECRETARY ANA VALDEZ

READ, and CONSIDERED on Second Reading this the 8 day of January, 2014 at a Regular CALLED MEETING OF THE CITY COMMISSION OF THE CITY OF PENITAS, TEXAS, at which a quorum was present and which was held in accordance with Chapter 551, of the Texas Government Code.

CITY OF PENITAS, TEXAS

Marcos Ochoa
MAYOR MARCOS OCHOA



ATTESTED BY:

Ana M. Valdez
CITY SECRETARY ANA VALDEZ

READ, CONSIDERED, and APPROVED on Third Reading this the 22 day of January, 2014 at a Regular CALLED MEETING OF THE CITY COMMISSION OF THE CITY OF PENITAS, TEXAS, at which a quorum was present and which was held in accordance with Chapter 551, of the Texas Government Code.

EXECUTED THIS 22 DAY OF January, 2014.

CITY OF PENITAS, TEXAS

Marcos Ochoa
MAYOR MARCOS OCHOA



ATTESTED BY:

Ana M. Valdez
CITY SECRETARY ANA VALDEZ