

CITY OF LOOKOUT MOUNTAIN, GEORGIA

ORDINANCE NO. 191

AN ORDINANCE

To prohibit unreasonably loud and disturbing noises within the City of Lookout Mountain, Georgia, to set specific limitations on the decibel levels of amplified sound, to authorize limited permits for additional amplification, to provide for enforcement and penalties, and for other purposes.

BE IT ORDAINED by the City Council of the City of Lookout Mountain, Georgia, and **IT IS HEREBY ORDAINED:**

SECTION 1. Loud, disturbing noises prohibited, generally.

It shall be unlawful for any person to create or assist in creating any unreasonably loud and disturbing noise in the City.

SECTION 2. Sound measurement.

For the purpose of determining the maximum sound levels permitted by this Ordinance, sound shall be measured in decibels on the A-weighting network on a sound level meter of standard design and quality, Type 2 or better, having characteristics established by the American National Standards Institute. The levels so read are designated "db(A)."

SECTION 3. Amplified sound.

(a) It shall be unlawful to operate or allow the operation of any sound amplification equipment so as to create sounds registering fifty-five (55) db(A) between 9:00 a.m. and 9:00 p.m. or fifty (50) db(A) between 9:00 p.m. and 9:00 a.m., as measured anywhere within the boundary lines of the nearest residentially occupied property, except in accordance with a permit obtained from the City Manager pursuant to Section 4 of this Ordinance.

(b) The foregoing limitations on the operation of sound amplification equipment shall not apply to the operation of horns, sirens, or other emergency warning devices actually used in emergency circumstances.

SECTION 4. Permits for additional amplification.

(a) *Application.* A special permit for additional amplification may be obtained only through the application and permitting procedure set forth in this Section 4. The application

for a permit for additional amplification shall be submitted to the City Manager at least fifteen (15) working days in advance of the planned use, except in case of emergency. The application shall designate an individual person or persons who will be in control of the sound amplification equipment and who will assure that its use complies with the terms of the permit and of this Section 4.

(b) *Notice of tentative approval.* Upon tentative approval, the applicant for a permit shall be responsible for mailing or otherwise delivering to the occupants of each property within a 2,000 foot radius of the facility for which the permit has been granted, as shown on the tax maps of the county, a notice stating the date and hours of the event. The notice shall be delivered at least seventy-two (72) hours in advance of the event. The permit shall not be actually granted and issued until the applicant submits an affidavit to the City Manager that such notices have actually been mailed or otherwise delivered.

(c) *Number of hours.* No permits shall be issued pursuant to this Section 4 which shall have the effect of allowing any property owner or other applicant more than ten (10) hours of excess amplification per year.

(e) *Denial; exceptional permit.* If any applicant has been denied a permit under this section and believes the denial is illegal by virtue of applicable state or federal law, he shall promptly submit a copy of the denied permit application together with a short statement of the reasons he believes he is entitled to a permit to the City Manager. The City Manager shall have the discretion to grant an exceptional permit waiving locational, time, and/or db(A) requirements, upon his determination that the applicant has made a substantial showing of legal entitlement. Any such exceptional permit shall be promptly reported to City Council.

SECTION 5. Enforcement and penalties.

Where there is a violation of any provisions of this Ordinance, the City, in its discretion, may take one or more of the following enforcement actions:

(1) The Chief of Police or any other police officer shall have the authority to enter onto the premises from which any unlawful noise or unlawful amplified sound is emanating and may require that the unlawful noise and/or excess amplified sound cease immediately. The

failure of any person to obey the officer's directive shall constitute a separate violation of this ordinance.

(2) The person or persons responsible for the violation(s) of this Ordinance (including but not limited to the person in charge of the premises or activity at the time the violation occurs, the property owner or official of such property owner who has authorized or is otherwise responsible for the activity, and the individuals actually creating the unreasonably loud and disturbing noise and/or excess amplified sound) may be arrested and punished as provided in Section 1-8 of the City of Lookout Mountain's Ordinance No. 1. Any such arrest shall be in accordance with Section 4-1 of the City of Lookout Mountain's Ordinance No. 5 which, among other things, provides for the immediate arrest of any person committing an offense in the presence of the Chief of Police, any other police officer or any member of the City Council.

(3) A civil action seeking a penalty of up to two thousand dollars (\$2,000.00) per day of violation plus injunction and order of abatement may be brought against any person creating or allowing the creation of any unlawful noise or excess amplified sound, including the owner or person otherwise having legal or actual control of the premises from which the noise or sound emanates. If the court grants any relief pursuant to this provision, the City shall be entitled to recover all costs and attorneys' fees incurred in bringing the action.

SECTION 6. Savings Clause.

If any of the sections, subsections, sentences, clauses or phrases of this Ordinance are for any reason held to be unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not be thereby affected since it is the express intent of the Council of the City to pass each section, phrase, paragraph and word separately.

SECTION 7. Repealer.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.


SECTION 8. Part of Code of Ordinances.

It is the intention of the Council of the City that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City, and the sections of this Ordinance may be renumbered to accomplish such intention.


SECTION 9. Effective Date.

This Ordinance shall be effective ten (10) days after its adoption and approval by at least three (3) members of the Council for the City of Lookout Mountain, Georgia, after two (2) readings at least one (1) week apart.

APPROVED ON FIRST READING ON September 14, 1999.


Member of City Council


Member of City Council


Member of City Council


Member of City Council

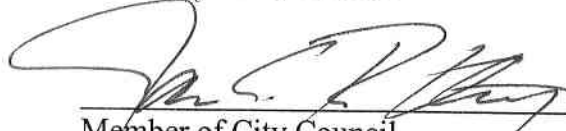

Member of City Council


Mayor of Lookout Mountain, Georgia

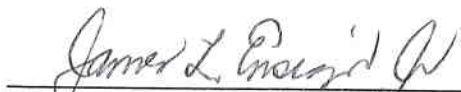
APPROVED AND ADOPTED ON SECOND READING ON _____


October 21, 1999.


Member of City Council


Member of City Council


Member of City Council


Member of City Council


Member of City Council


Mayor of Lookout Mountain, Georgia

ATTEST:

Brenda A. Miller
City Clerk

